

State Damage Prevention Law Summary

State: Hawaii

(Link to State law provided in Law & Regulation section below)

Summary Date: 8/7/2017

Excavator Requirements	
Excavation: Definition	Hawaii Revised Statutes (HRS), Chapter 269, § 269E-2 "Demolition" means the wrecking, razing, rendering, movement, or removal of a structure or mass of material by means of tools, equipment, or the placement and discharge of explosives. "Excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of tools, equipment, or explosives, including but not limited to the following: grading, trenching, digging, ditching, boring, drilling, auguring, tunneling, scraping cable or pipe plowing and driving, demolition, and dredging. "Excavation" shall not include any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of tools, equipment, or explosives as part of an existing principal place of residence for one or two families, or improving or constructing an appurtenance thereto, on a parcel of land two acres or less in size, zoned for residential use, which is used or occupied or is developed, devoted, intended, or permitted to be used or occupied as a principal place of residence for one or two families.
Excavator: Definition	HRS, Chapter 269, § 269E-2 "Excavator" means any person, including an operator, who performs any excavation, other than an operator whose employees are performing maintenance work on the operator's subsurface installation.
Excavator Notice to One Call Required (Yes / No)	Yes
Excavator Notice Minimum # Working Days Before Digging	5
Excavator Notice (Specific Language)	HRS, §269E-7 (a) Except in an emergency, every excavator planning to conduct an excavation on public or private property shall notify the center of the excavation at least five working days but not more than twenty-eight calendar days prior to commencing excavation. The excavator shall provide to the center a description of the excavation site that includes the county, place, and address or description of where the excavation will take place, including but not limited to the nearest intersecting street, side of street, footages, or other tie-in measurements as needed. An excavator need not contact the center if the excavation is: (1) On private property that is owned exclusively by the excavator; and (2) No operator has been authorized to use the property for any subsurface installation.
Ticket Life (# of days)	28 (HRS, §269E-7 (b))
White-Line Required (Yes / No)	Yes (HRS, §269E-8 (a))
Tolerance Zone	30" (HRS, § 269E-2 "Approximate location of subsurface installation")
Special Digging Requirements Within Tolerance Zone (Specific Language)	HRS §269E-12 (a) The excavator shall exercise reasonable care when excavating in the vicinity of a subsurface installation. (b) Before using any power-operated or power-driven excavating equipment, the excavator shall determine the exact location of subsurface installations in conflict with the excavation by first excavating down to the depth of the excavation with the appropriate hand tools within the area of the approximate location of the subsurface installations; provided that power-operated or power-driven excavating may be used: (1) For the removal of any existing pavement if there are no subsurface installations contained in the pavement; or (2) Within the approximate location of a subsurface installation by mutual agreement between the operator and the excavator. (c) If after making every reasonable effort to locate the subsurface installation, the excavator cannot determine the exact location by hand excavation as set forth in subsection (b), the excavator shall request that the operator provide additional information through the center to locate the subsurface installation. The operator, within two working days, shall provide any information that is available to the operator to aid the excavator in determining the exact location. (d) If after making every reasonable effort to locate the subsurface installation with the additional information provided pursuant to subsection (c) the excavator still cannot determine the exact location of the subsurface installation by hand excavation, the excavator shall notify the center. The center shall then: (1) Require the operator to determine the exact location of the operator's subsurface installation with appropriate hand tools; or (2) Allow the excavator to use powered equipment to continue the excavation, with or without on-site supervision by the operator; provided that this subsection shall not be construed as affording the excavator any immunity or protection from claims for damages or injuries relating to the excavation.
Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)	Yes (HRS, § 269E-12 (a))
Preserve / Maintain Marks Required (Yes / No)	Yes (HRS, § 269E-11 (a))

Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)	Yes (HRS, § 269E-9 (b); § 269E-11)
Notify One-Call if Marks Moved or No Longer Visible (Yes / No)	Yes (HRS, § 269E-11 (b))
Special Language Regarding Trenchless Technology (Yes / No)	No
Separate Locate Request Required for Each Excavator (Yes / No)	Yes (HRS, § 269E-7 (a))
Notify Operator of Damage (Yes / No)	Yes (HRS, § 269E-12 (e))
Notify One Call Center of Damage (Yes / No)	No
Call 911 if Hazardous Materials Released (Yes / No)	Yes (HRS, § 269E-12 (f))
Notice Exemptions (Yes / No)	Yes
Notice Exemptions (Specific Language))	HRS, § 269E-2 Definitions. As used in this [chapter], unless the context clearly requires otherwise: "Excavation" means ... "Excavation" shall not include any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of tools, equipment, or explosives as part of an existing principal place of residence for one or two families, or improving or constructing an appurtenance thereto, on a parcel of land two acres or less in size, zoned for residential use, which is used or occupied or is developed, devoted, intended, or permitted to be used or occupied as a principal place of residence for one or two families. "Excavator" means any person, including an operator, who performs any excavation, other than an operator whose employees are performing maintenance work on the operator's subsurface installation. § 269E-7 (a) ... An excavator need not contact the center if the excavation is: (1) On private property that is owned exclusively by the excavator; and (2) No operator has been authorized to use the property for any subsurface installation.
Operator Response	
Minimum # Days for Operator to Respond After Receiving Notice (Generally)	5
Operator Requirements to Respond to Locate Notification (Specific Language)	HRS, § 269E-9 (a) Any operator who receives timely notification from the center of any proposed excavation work pursuant to section 269E-7(b) shall within five working days of that notification or before the start of the excavation work, whichever is later, or at a later time mutually agreeable to the operator and the excavator: (1) Advise the excavator that the operator does not operate any subsurface installations that may be affected by the excavation; (2) Advise the excavator of the approximate location of the operator's subsurface installations that may be affected by the excavation to the extent and degree of accuracy that the information is available in the records of the operator; (3) Make available to the excavator, for inspection and copying at the excavator's expense, information in that specific operator's or agency's records on the approximate location of that specific operator's or agency's subsurface installations that may be affected by the excavation to the extent and degree of accuracy that the information is available in that specific operator's or agency's records; or (4) Locate and field mark in conformance with the American Public Works Association Uniform Color Code the approximate location and the number of subsurface installations that may be affected by the excavation to the extent and degree of accuracy that the information is available as determined through the use of standard locating techniques or based on the records of the operator. The operator shall promptly notify the center when the operator has fulfilled the requirements of this section.
Minimum Standards for Locator Qualifications (Yes / No)	No
Minimum Standards for Locator Qualifications (Specific Language)	Not addressed.
Law Specifies Marking Standards Other Than Color (Yes / No)	Yes

Law Specifies Marking Standards Other Than Color (Specific Language)	<p>HRS, § 269E-9 (a) Any operator who receives timely notification from the center of any proposed excavation work pursuant to section 269E-7(b) shall within five working days ... (4) Locate and field mark in conformance with the American Public Works Association Uniform Color Code the approximate location and the number of subsurface installations that may be affected by the excavation to the extent and degree of accuracy that the information is available as determined through the use of standard locating techniques or based on the records of the operator.</p> <p>Hawaii Administrative Rules (HAR), Title 6, Chapter 83, § 6-83-3. "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American Public Works Association. Markings shall include identification letters indicating the specific type of the underground facility.</p>
Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)	No
Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)	No
Operator Must Locate Abandoned Facilities (Specific Language)	Not addressed.
Positive Response Required - Operator Contact Excavator (Yes / No)	Yes
Positive Response Required - Operator Contact Excavator (Specific Language)	<p>HRS, § 269E-9 (a) Any operator who receives timely notification from the center of any proposed excavation work pursuant to section 269E-7(b) shall within five working days of that notification or before the start of the excavation work, whichever is later, or at a later time mutually agreeable to the operator and the excavator: (1) Advise the excavator that the operator does not operate any subsurface installations that may be affected by the excavation; (2) Advise the excavator of the approximate location of the operator's subsurface installations that may be affected by the excavation to the extent and degree of accuracy that the information is available in the records of the operator; (3) Make available to the excavator, for inspection and copying at the excavator's expense, information in that specific operator's or agency's records on the approximate location of that specific operator's or agency's subsurface installations that may be affected by the excavation to the extent and degree of accuracy that the information is available in that specific operator's or agency's records; or (4) Locate and field mark in conformance with the American Public Works Association Uniform Color Code the approximate location and the number of subsurface installations that may be affected by the excavation to the extent and degree of accuracy that the information is available as determined through the use of standard locating techniques or based on the records of the operator. The operator shall promptly notify the center when the operator has fulfilled the requirements of this section.</p>
Positive Response Required - Operator Contact One Call Center (Yes / No)	Yes
Positive Response Required - Operator Contact One Call Center (Specific Language)	<p>HRS, § 269E-9 (a) Any operator who receives timely notification from the center of any proposed excavation work pursuant to section 269E-7(b) shall within five working days of that notification or before the start of the excavation work, whichever is later, or at a later time mutually agreeable to the operator and the excavator: ... The operator shall promptly notify the center when the operator has fulfilled the requirements of this section.</p>
Positive Response - One-Call Automated (Yes / No)	No
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Yes / No)	Yes
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Specific Language)	<p>HRS, § 269E-5 (b) Pursuant to rules adopted by the commission, all operators shall furnish to the center information relating to subsurface installations that the center may use to identify operators known to have subsurface installations in the area of a proposed excavation; provided that operators shall not be required to furnish to the center information relating to subsurface installations that are deemed confidential or proprietary.</p>
Operator Must Update Information On Locations of Buried Facilities (Yes / No)	Yes

Operator Must Update Information On Locations of Buried Facilities (Specific Language)	HAR, Title 6, Chapter 83, § 6-83-43, Subsurface facility information updates. (a) Once each year, a subsurface facility operator shall be notified by the center that it should submit updated subsurface installation information to the center in a form compatible with the mapping and data system capabilities of the center. (b) If the operator's information relating to its subsurface facilities has not changed during the course of the previous calendar year, the operator need not respond to the center request for updates.
New Facilities Must Be Locatable Electronically (Yes / No)	No
New Facilities Must Be Locatable Electronically (Specific Language)	Not addressed.
Design Request (Yes / No)	No
One Call, Enforcement, and Reporting	
Mandatory One Call Membership (Yes / No)	Yes (HRS, § 269E-5 (b))
One Call Membership Exemptions (Yes / No)	No
One Call Membership Exemptions (Specific Language)	Not addressed
One-Call Law Addresses Board Make-Up (Yes / No)	No
One-Call Law Addresses Board Make-Up (Specific Language)	Not addressed
Separate Body Designated to Advise Enforcement Authority (Yes / No)	Yes
Separate Body Designated to Advise Enforcement Authority (Specific Language)	HRS, § 269E-4 One call center advisory committee. (a) The commission shall establish a one call center advisory committee as a governmental entity as defined under chapter 662D to advise the commission in implementing this chapter. The committee shall consist of seventeen voting members and one ex officio nonvoting member. Of the voting members: (1) Eleven shall be appointed by the commission to serve until successors are appointed by the commission. The appointments shall be as follows: (A) One from the gas utility industry; (B) One from the electric utility industry; (C) One from the telecommunications utility industry; (D) One from the pipeline operator industry; (E) Two from the General Contractors Association of Hawaii; (F) Two from the Building Industry Association of Hawaii; (G) One from the cable service industry; (H) One from the water utility industry; and (I) One from the wastewater industry; (2) One shall be the representative of the city and county of Honolulu designated by the mayor of the city and county of Honolulu; (3) One shall be the representative of the county of Hawaii designated by the mayor of the county of Hawaii; (4) One shall be the representative of the county of Maui designated by the mayor of the county of Maui; (5) One shall be the representative of the county of Kauai designated by the mayor of the county of Kauai; (6) One shall be the director of the state department of transportation, or the director's representative; and (7) One shall be the executive director of the division of consumer advocacy, department of commerce and consumer affairs, or the executive director's representative. A representative of the center shall serve as an ex officio nonvoting member of the committee. (b) No member shall receive any compensation for the member's services. (c) The committee shall advise the commission on: (1) The establishment of rules; (2) The setting of appropriate fees and assessments for the administration and operation of the center; (3) The selection of the center provider; (4) The enforcement of this chapter; and (5) Other aspects regarding the establishment and operation of the center; provided that the committee shall not advise the commission in the exercise of the commission's quasi-judicial, adjudicatory functions, or participate in the commission's deliberations. The committee shall be exempt from chapter 92.
Penalties / Fines Excavators (Yes / No)	Yes
Penalties / Fines Excavators (Specific Language)	HRS, § 269E-14 (a) An action for the enforcement of penalties pursuant to this chapter shall be brought before the commission by the State, county, excavator, or any operator. (b) Any excavator or operator who negligently violates, neglects, or fails in any particular instance to conform to or comply with any requirement of this chapter or any order or rule of the commission: (1) Shall be subject to a civil penalty not to exceed \$5,000 per day for each day such violation, neglect, or failure continues, to be assessed by the commission after a hearing in accordance with chapter 91; provided that the maximum penalty for related violations arising out of the same act, omission, or occurrence shall not exceed \$100,000; and (2) May be required, at the expense of the violator, to participate in an educational program conducted by the center; provided that any excavator who negligently violates section 269E-7(a) shall be required, at the expense of the excavator, to participate in an educational program conducted by the center....

Penalties / Fines Operators (Yes / No)	Yes
Penalties / Fines Operators (Specific Language)	HRS, § 269E-14 (a) An action for the enforcement of penalties pursuant to this chapter shall be brought before the commission by the State, county, excavator, or any operator. (b) Any excavator or operator who negligently violates, neglects, or fails in any particular instance to conform to or comply with any requirement of this chapter or any order or rule of the commission: (1) Shall be subject to a civil penalty not to exceed \$5,000 per day for each day such violation, neglect, or failure continues, to be assessed by the commission after a hearing in accordance with chapter 91; provided that the maximum penalty for related violations arising out of the same act, omission, or occurrence shall not exceed \$100,000; and (2) May be required, at the expense of the violator, to participate in an educational program conducted by the center; provided that any excavator who negligently violates section 269E-7(a) shall be required, at the expense of the excavator, to participate in an educational program conducted by the center....
Penalties / Fines Other (Yes / No)	No
Penalties / Fines Other (Specific Language)	Not addressed.
Enforcement Authority Identified	Hawaii Public Utilities Commission
Damage Investigation Required by Enforcement Authority (Yes / No)	No. (HAR, Title 6, Chapter 83, § 6-83-93 (a) The commission may at any time investigate)
Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)	No
Mandatory Reporting by Excavators to State Entity or Department (Yes / No)	No
Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)	No
Law and Regulation	
Statute / Law (Name & Link)	Hawaii Revised Statute, Chapter 269E, One Call Center; Advance Warning to Excavators, §§ 269E-1 to -17 (http://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0269E/HRS_0269E-.htm) Also see One-Call Center Website for Information on State Law.
Date of Last Revision to Statute / Law	May 26, 2009
Administrative Rules / Regulations (Yes / No)	Yes
Administrative Rules / Regulations (Name & Link)	Chapter 6-83, Hawaii Administrative Rules (HAR), entitled Hawaii One Call Center Subsurface Installation Damage Prevention Program (http://puc.hawaii.gov/wp-content/uploads/2013/04/Chapter-6-83.pdf)
State One Call Center(s) (Name & Link)	Utility Notification Center (http://www.callbeforeyoudig.org/)
Miscellaneous Notes	
Notes	0
State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates	0