State Damage Prevention Law Summary

State: Louisiana

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

Summary Date: 8/7/2017

	Excavator Requirments
Excavation: Definition	Louisiana Revised Statute (R.S.), Title 40, §1749:12.(4) "Demolition" means the total or partical wrecking, razing, rendering, moving, or removing of any building or structure, movable or immovable (6) "Excavation" or "excavate" means any operation causing movement or removal of earth, rock, or other materials in or on the ground or submerged in a marine environment that could reasonably result in damage to underground or submerged utilities or facilities by the use of powered or mechanical or manual means, including but not limited to pile driving, digging, blasting, augering, boring, back filling, dredging, compaction, plowing-in, trenching, ditching, tunneling, land-leveling, grading, and mechanical probing. Excavation" or "excavate" shall not include manual probing or any force majeure, act of God, or act of nature.
Excavator: Definition	R.S. 40:1749:12.(1) "Agricultural excavator" means a person who owns or operates a farm and is directly involved in the cultivation of land or crops or who raises livestock (3) "Demolisher" means any person engaged in the act of demolishing as defined in Paragraph (2) of this Section (7) "Excavator" means any person who engages in excavation operations. (8) "Forestry excavator" means an excavator who is a logger, prescribed burner, site preparation operator, or tree planter for commercial forestry operations.
Excavator Notice to One Call Required (Yes / No)	Yes
Excavator Notice Minimum # Working Days Before Digging	2
Excavator Notice (Specific Language)	R.S. 40:1749.13.A. Except as provided in this Section, no person shall excavate or demolish in any street, highway, public place, or servitude of any operator, or near the location of an underground facility or utility, or on the premises of a customer served by an underground facility or utility without having first ascertained, in the manner prescribed in Subsection B of this Section, the specific location as provided in R.S. 40:1749.14(D) of all underground facilities or utilities in the area which would be affected by the proposed excavation or demolition. B.(1) Except as provided in R.S. 40:1749.15, prior to any excavation or 26 demolition, each excavator or demolisher shall serve telephonic or electronic notice of the intent to excavate or demolish to the regional notification center or centers serving the area in which the proposed excavation or demolition is to take place. Such notice shall be given to the notification center at least forty-eight hours, but not more than one hundred twenty hours, excluding weekends and holidays, in advance of the commencement of any excavation or demolition activity. Holidays shall consist of the following: (4) Notice shall be given and shall include a specific location request for excavation or demolition work to be performed at least forty-eight hours, but not more than one hundred twenty hours, excluding weekends or demolition purposes only (5) The excavator or demolisher shall wait at least forty-eight hours, beginning at 7:00 a.m. on the next working day, following notification, unless mutually agreed upon and documented by the excavator and operator to extend such time, before commencing any excavation or demolition activity, except in the case of an emergency as defined in the provisions of this Part or if informed by the regional notification center that no operators are to be notified.
Ticket Life (# of days)	20 days, or 30 days for a forestry excavator or agricultural excavator (R.S. 40:1749.14.(C) (1) (b) (iii) and (v)).
White-Line Required (Yes / No)	No (R.S. 40:1749:13.D.)
Tolerance Zone	18" (R.S. 40:1749:14.D.)
Special Digging Requirements Within Tolerance Zone (Specific Language)	Special digging requirements within a tolerance zone are not specified. However, the following is specified for each excavation: R.S. 40:1749.16. In addition to the notification requirements in R.S. 40:1749.13 and 1749.14 and the emergency notification requirements in R.S. 40:1749.15, each person responsible for an excavation or demolition operation shall do the following: (1) Plan the excavation or demolition to avoid damage to or minimize interference with underground facilities in and near the construction area. (2) Maintain a safe clearance between the underground utilities or facilities and the cutting edge or point of any power or mechanized equipment, taking into account the known limit of control of the cutting edge or point to avoid damage to utilities or utilities or facilities. (3) Provide support for underground facilities or utilities in and near the construction area, during excavation and back filling operations, as may be reasonably necessary to protect the utility or facility. (4) Dig test pits to determine the actual location of facilities or utilities handling electricity, gas, natural gas, oil, petroleum products, or other flammable, toxic, or corrosive fluids/gases if these facilities or utilities are to be exposed.
Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)	No

Preserve / Maintain Marks	Yes
Required (Yes / No)	(R.S. 40:1749:14.C. (1) (b) (iv))
Call Again If No Response from	
Operator Or Signs Of Unmarked	Νο
Facilities (Yes / No)	× ·
Notify One-Call if Marks Moved or	
No Longer Visible (Yes / No)	(R.S. 40:1749:14.C.(1) (b) (iii))
Special Language Regarding	N
Trenchless Technology (Yes / No)	Νο
Separate Locate Request	
Required for Each Excavator (Yes	Yes
/ No)	(R.S. 40:1749:13.B.(1))
Notify Operator of Damage (Yes /	Yes
No)	(R.S. 40:1749:17.A)
Notify One Call Center of Damage	
(Yes / No)	No
Call 911 if Hazardous Materials	Yes
Released (Yes / No)	(R.S. 40:1749:17.B.(1))
Notice Exemptions (Yes / No)	Yes
	R.S. 40:1749.12.(6)"Excavation" or "excavate" shall not include manual probing or any force majeure, act of God, or act of nature.
Notice Exemptions (Specific Language))	§1749.13.(5).C. This Part shall not apply to activities by operators or land on probing of any force majorite, act of God, or act of nature. §1749.13.(5).C. This Part shall not apply to activities by operators or land owners excavating their own underground utilities or facilities on their own property or operators' exclusive right-of-way provided there is no encroachment on the rights-of-way of any operator §1749.15.A. The notice required pursuant to R.S. 40:1749.13 shall not apply to any person conducting an emergency excavation. Oral notice of the emergency excavation shall be given as soon as practicable to the regional notification center or each operator having underground utilities and facilities located in the area and, if necessary, emergency assistance shall be requested from each operator in locating and providing immediate protection to its underground utilities and facilities.
	Operator Response
Minimum # Days for Operator to	
Respond After Receiving Notice (Generally)	2
Operator Requirements to Respond to Locate Notification (Specific Language)	R.S. 40:1749.12.(10) "Mark-by time" is the date and time provided by the regional notification center by which the utility or facility operator is required to mark the location or provide information to enable an excavator or demolisher, using reasonable and prudent means, to determine the specific location of the utility or facility as provided for in R.S. 40:1749.14(D). The mark-by time may be extended if mutually agreed upon and documented between the excavator and operator §1749.14. C. (1) Each operator of an underground facility or utility, after having received the notification request from the regional notification center of an intent to excavate, shall supply, prior to the proposed excavation, the following information to the person responsible for the excavation: (a) The specific location and type of all of its underground utilities or facilities which may be damaged as a result of the excavation or demolition. If the surface over the buried or submerged line is to be removed, supplemental offset markings may be used. Offset markings shall be on a uniform alignment and shall clearly indicate that the actual facility is a specific distance away. (b)(i) Unless otherwise required by federal or state statutes, the specific location and type of underground utility or facilities, the operator shall provide information to enable an excavator using reasonable and prudent means to determine the approximate location of the utility or facility. The information provided by the operator shall include a contact person and a specific telephone number for the excavators to call. After the operator to the excavator prior to excavation. (3) In the event of inclement weather as defined in this Part, the mark by time shall be extended by a duration equal to the duration of the inclement weather. The owner or operator shall notify the excavator or demolisher before the expiration of the mark by time of the need for such extension.
Minimum Standards for Locator Qualifications (Yes / No)	No
Minimum Standards for Locator Qualifications	Not addressed
(Specific Language)	

Law Specifies Marking Standards Other Than Color (Yes / No)	Yes
Law Specifies Marking Standards Other Than Color (Specific Language)	R.S. 40:1749.14.C.(1) (a) The specific location and type of all of its underground utilities or facilities which may be damaged as a result of the excavation or demolition. If the surface over the buried or submerged line is to be removed, supplemental offset markings may be used. Offset markings shall be on a uniform alignment and shall clearly indicate that the actual facility is a specific distance away. (b) (i) Unless otherwise required by federal or state statutes, the specific location and type of underground utility or facility may, at the operator's option, be marked to locate the utilities or facilities. If the utilities or facilities are visibly marked by the operator, they shall be marked by the operator by color coded paint, flags, or stakes or similar means using the American Public Works Association color code. (ii) The location of underground fiber optic cables shall be identified in accordance with the provisions of this Subparagraph and such identification shall also include an added special marking that is uniquely associated with fiber optic cables.
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)	Νο
Positive Response Required - Operator Contact Excavator (Specific Language)	Not addressed
Positive Response Required - Operator Contact One Call Center (Yes / No)	No
Positive Response Required - Operator Contact One Call Center (Specific Language)	Not addressed
Positive Response - One-Call Automated (Yes / No)	No
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Yes / No)	No
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Specific Language)	The Louisiana Revised Statutes do not address the specific requirement for member opeators to provide the one call notification center with information on the location of the operator's buried facilities. R.S. 40:1749.14.A. states, "Each operator of an underground utility or facility, including all state agencies and political subdivision of the state, shall become a member of, participate in, and share the cost of a regional notification center, except as provided for in R.S 40:1749.19. Each regional notification center shall have the capability to receive emergency locate requests twenty-four hours a day and to disseminate the information as soon as it is received to the appropriate operators and all affected regional notification centers in this state. Operator membership applications to Louisiana One Call (LOC) for either class of regular membership require mapping information so that the LOC can add the operator's facility locations to the LOC computer database. (See http://www.laonecall.com/join_us.htm) LOC offers online forms for members to update information. (http://www.laonecall.com/update/index.html)
Operator Must Update Information On Locations of Buried Facilities (Yes / No)	Νο

Operator Must Update Information On Locations of Buried Facilities (Specific Language)	The Louisiana Revised Statutes do not address the specific requirement for member opeators to provide the one call notification center with information on the location of the operator's buried facilities. R.S. 40:1749.14.A. states, "Each operator of an underground utility or facility, including all state agencies and political subdivision of the state, shall become a member of, participate in, and share the cost of a regional notification center, except as provided for in R.S 40:1749.19. Each regional notification center shall have the capability to receive emergency locate requests twenty-four hours a day and to disseminate the information as soon as it is received to the appropriate operators and all affected regional notification centers in this state. Operator membership applications to Louisiana One Call (LOC) for either class of regular membership require mapping information so that the LOC can add the operator's facility locations to the LOC computer database. (See http://www.laonecall.com/join_us.htm) LOC offers online forms for members to update information. (http://www.laonecall.com/update/index.html)
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
One Call Membership Exemptions (Yes / No)	Yes
One Call Membership Exemptions (Specific Language)	R.S. 40:1749.14.A. Each operator of an underground utility or facility, including all state agencies and political subdivisions of the state, shall become a member of, participate in, and share the cost of a regional notification center, except as provided for in R.S. 40:1749.19. §1749.19. §1749.19. A. Each incorporated municipality or parish government which owns or operates, in its own right or through a special district or districts created pursuant to constitutional or statutory authority, a drainage system, a sewer system, drainage, water or water system, traffic control system, an electrical energy system and/or a gas or natural gas system underground facility within its local jurisdiction which would otherwise be included in R.S. 40:1749.14, and which does not desire to be so included, shall adopt an ordinance indicating this desire by December 31, 1998. The ordinance shall be filed with the subject to the provisions of this Part on and after December 31, 1998.
One-Call Law Addresses Board Make-Up (Yes / No)	No
Make-Up (Specific Language)	Neither the Louisiana Revised Statutes (R.S. 40:1749.11 to .26) nor the LA Administrative Code (Chapter 21) address the board make-up of the regional notification centers. The Louisiana One Call (LOC) Bylaws, ARTICLE VII, BOARD OF DIRECTORS, Section 1, reads: The property, affairs and business of the Corporation will be managed by a Board of Directors, which will consist of nine (9) employees of member companies, elected or appointed to occupy a seat on the Board. The Board will consist of six (6) persons representing Principal members, two (2) persons representing Affiliate members, and one (1) person representing a Political Subdivision member. At the discretion of the elected Board of Directors, one (1) "At-Large" Director may be appointed, or dismissed by majority vote of the elected Board of Directors. The "At-Large" Director will have no voting privileges and the term of service will be one year. At that time the "At Large" Director will be re-appointed or dismissed.
Separate Body Designated to Advise Enforcement Authority (Yes / No)	Yes

Separate Body Designated to Advise Enforcement Authority (Specific Language)	Louisiana Administrative Code (LAC), Title 55 §2101 The purpose of this rule is to further provide for the enforcement of the Louisiana Underground Utilities and Facilities Damage Prevention Law. An advisory committee composed of representatives from the relevant industries, state government, and the regional notification centers shall be formed to assist in implementation of these rules. B. The advisory committee referenced in Subsection A above is hereby established and shall be composed of the following members: 1. a representative of each certified Louisiana regional notification center; 2. a representative of the Department of Public Safety; 3. a representative of the Department of Environmental Quality; 4. a representative of the Right-to-Know Unit, Office of State Police; 5. a representative of the Department of Natural Resources, Pipeline Division; 6. a representative of the Office of the State Fire Marshal; 7. a representative of the Public Service Commission; 8. a representative of the Louisiana Forestry Association; 9. a representative of the Louisiana Gas Association; 10. a representative of the Louisiana Municipal Association; 11. a representative of the Louisiana Forestry Association; 12. a representative of the Louisiana Home Builders Association; 13. a representative of the Louisiana Rural Water Association; 14. a representative of the Louisiana Cable and Telecommunications Association; 15. a representative of the Louisiana Electric Cooperatives Association; 16. A representative of the Mid Continent Oil and Gas Association; 17. a representative of the Louisiana Farm Bureau Federation; 18. a representative of the Louisiana Associated General Contractors; 19. a representative of the Louisiana Common Ground Alliance; 20. a representative of offshore facility owners and operators.
Penalties / Fines Excavators (Yes / No)	Yes
Penalties / Fines Excavators (Specific Language)	R.S. 40:1749.20.B. An excavator or demolisher who violates the provisions of R.S. 40:1749.13, 1749.16, or 1749.17(B) shall be subject to the following: (1) For the first violation, a warning letter shall be given. (2) For a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than two hundred fifty dollars. (3) For a third violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than one thousand dollars. (5) For a fifth and each subsequent violation of a similar nature within a two-year period from the previous violation, a civil penalty of not less than two thousand nor more than twenty-five thousand dollars. (6) For any violation involving hazardous materials as defined in Title 30 of the Louisiana Revised Statutes of 1950, a civil penalty of not less than two thousand dollars nor more than twenty-five thousand dollars. (7) An excavator or demolisher who is issued a citation for a violation shall immediately stop all excavation or demolition activity until the requirements of this Part are met. Failure to do so shall subject the excavator or demolisher to an additional citation and civil penalty of not more than twenty-five thousand dollars (2) For a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than fifty dollars. (2) For a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than fifty dollars. (2) For a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than fifty dollars. (3) For a furth violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than fifty dollars. (4) For a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than fifty dollars. (4) For a forth a t
Penalties / Fines Operators (Yes / No)	Yes

Penalties / Fines Operators (Specific Language)	R.S. 40:1749.20.A. (1) A person who is required by this Part to become a member of, participate in, or share the cost of, a regional notification center and who fails to do so shall be subject to a civil penalty of not more than two hundred fifty dollars for the first violation and not more than one thousand dollars for each subsequent violation. A subsequent violation shall be deemed to have occurred if the person fails to become a member of, participate in, o share the cost of, a regional notification center and who fails to mark or provide information regarding the location of underground utilities and facilities used to store, transport, or convey that which is not regulated pursuant to Chapter 16 of Subtitle II of Title 30 of the Louisiana Revised Statutes of 1950, otherwise known as the Hazardous Materials Information Development, Preparedness, and Response Act, shall be subject to a civil penalty of not more than one thousand dollars. A subsequent violation shall be deemed to have occurred if a person fails to provide information or markings within two years of the issuance of a prior citation for the same or similar conduct. (3) A person who is required by law to participate in a regional notification center and who fails to provide information or markings to indicate hazardous material as defined in Title 30 of the Louisiana Revised Statutes of 1950 shall be subject to the following: (a) For the first violation, a warning letter shall be given. (b) For a second violation, a civil penalty of not more than one thousand dollars. (c) For a third violation, a civil penalty of not more than five hundred dollars. (b) For a fourth violation, a civil penalty of not more than one thousand dollars. (c) For a fifth and each subsequent violation, a civil penalty of not more than two thousand dollars nor more than twe hundred fifty dollars. (c) § 1749:27.D.(1) (b) All civil penalties or other civil remedies assessed by the commissioner pursuant to this Part shall be assessed in the same manner as prescribed by R.S.
Penalties / Fines Other (Yes / No)	Νο
Penalties / Fines Other (Specific Language)	Not addressed
Enforcement Authority Identified	R.S. 40:1749.12 (17) "Commissioner" means the commissioner of conservation. (18) "Pipeline" means all intrastate and interstate pipeline facilities defined by 49 CFR 192.3 and 49 CFR 195.2. § 1749:23.A Except as provided in R.S. 40:1749.27, the provisions of this Part 26 may be enforced by the [Louisiana] Department of Public Safety and Corrections or any local law enforcement agency. § 1749:27.A.(1) Notwithstanding the provisions of R.S. 40:1749.23, the commissioner shall have exclusive authority to enforce the provisions of this Part as it applies to the prevention of damage to pipelines B. For the prevention of damage to pipelines, the powers of the commissioner shall include but are not limited to the following: (1) Monitoring any excavation or demolition, including requests for the excavator or demolisher to provide the locate request number issued by a regional notification center. (2) Issuing citations or ordering other penalties or remedies. (3) Seeking restraining orders, injunctions, or any other available civil remedies. (4) Utilizing any other enforcement powers that may be provided by law D.(1)(a) The commissioner shall adjudicate a violations involving the prevention of damage to pipelines and assess civil penalties or other civil remedies for those violations of this Part.
Damage Investigation Required by Enforcement Authority (Yes / No)	Yes, (R.S. 40:1749.23.D., and § 1749.27.C (3))
Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)	Νο
Mandatory Reporting by Excavators to State Entity or Department (Yes / No)	No
Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)	Νο
Law and Regulation	

Statute / Law (Name & Link)	Louisiana Revised Statute (R.S.), Title 40, §§ 40:1749.11 to27, Louisiana Underground Utilities and Facilities Damage Prevention Law. (http://www.legis.state.la.us/lss/lss.asp?doc=97827) See Notes regarding June 2017 Act No. 218. The changes to the Louisiana Revised Statute enrolled in the Act may not yet be reflected in the above link. (https://legiscan.com/LA/text/HB389/2017) Also see One-Call Center Website for Information on State Law.
Date of Last Revision to Statute / Law	June 4, 2017
Administrative Rules / Regulations (Yes / No)	Yes
	Louisiana Administrative Code (LAC), Title 55 – Public Safety, Part 1 – State Police, Chapter 21. Underground Utilities, §§2101 - 2117. Last amended May 2017. (http://doa.louisiana.gov/osr/lac/books.htm) Also, R.S. 40:1749.27.C states, "The commissioner or his designee shall promulgate rules and regulations in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., for the necessary and proper implementation and administration of the provisions of this Part," As noted in Act No. 218, Section 3, "Prior to complete implementation of the provisions of this Act, particularly the exclusive enforcement responsibilities as provided in R.S. 40:1749.27(A)(1), the office of conservation of the Department of Natural Resources shall enter into a Memorandum of Understanding with the office of state police of the Department of Public Safety and Corrections to delineate shared responsibilities through a transition period until such time as the office of conservation has promulgated and finally adopted the rules required by R.S. 40:1749.27(A). At such time as the office of conservation has finally adopted the rules required by R.S. 40:1749.27(A). At such time as the office of conservation shall have exclusive authority to enforce the provisions of R.S. 40:1749.27." At the time of this work, related rules of the Office of Conservation of the Department of Natural Resources (Title 43) were last amended in June 2012. Amended rules as a result of Act No. 218 could not be identified. (See Notes)
State One Call Center(s) (Name & Link)	Louisiana One Call (http://www.laonecall.com)
	Miscellaneous Notes
Notes	Louisiana House Bill 389 was signed by the Louisiana Governor on June 14, 2017, effective on that date. Upon the Governor's signature, HB 389 became Act No. 218. The Act authorizes the commissioner of conservation of the Louisiana Department of Natural Resources to enforce the La. Underground Utilities and Facilities Damage Prevention (OneCall) law as it applies to pipelines. (See https://legiscan.com/LA/bill/HB389/2017) In summary, as noted in the Act (see https://legiscan.com/LA/text/HB389/2017) the Act amends and reenacts R.S. 30:21(B)(2)(a) and R.S. 40:1749.23(A and enacts R.S. 30:4(S) and R.S. 40:1749.12(17) and (18) and 1749.27, relative to the Louisiana Underground Utilities and Facilities Damage Prevention Law; to provide for the authority of the commissioner of conservation to enforce laws for the prevention of damage to pipelines; to provide for and require certain procedures; to provide for adjudication of violations; to provide for penalties and other remedies; to provide for effectiveness; and to provide for related matters. The changes brought about by Act No. 218 are reflected in the data/information provided in this spreadsheet, as known at the time of its preparation
State Damage Prevention / One- Call Law Recently Revised With Future Implementation Dates	0