

State Damage Prevention Law Summary
State: New Hampshire
(Link to State law provided in Law & Regulation section below)
Summary Date: 8/7/2017

Excavator Requirments	
Excavation: Definition	New Hampshire Revised Statutes Annotated (RSA) § 374:48 III. "Excavate", "excavating", or "excavation" means any operation conducted on private property or in a public way, right-of-way, easement, public street, or other public place, in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosive, and includes but is not limited to drilling, grading, boring, milling, trenching, tunneling, scraping, tree and root removal, cable or pipe plowing, fence or sign post installation, pile driving, wrecking, razing, rending, or moving any structure or mass material, but does not include the tilling of soil for agricultural purposes, landscaping and maintenance of residential property performed with non-mechanized equipment, landscaping activities performed with mechanized equipment that are intended to cut vegetation, including lawn edging, aeration, and de-thatching, excavations permitted or grandfathered under RSA 155-E, or replacement of department-of-transportation-installed delineator posts in the same location. ... VIII. "Blasting" means excavation by means of explosives.
Excavator: Definition	RSA § 374:48 IV. "Excavator" means any person performing excavation. ... V. "Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, United States government or any agency thereof, political subdivision of the state, or any interstate body.
Excavator Notice to One Call Required (Yes / No)	Yes
Excavator Notice Minimum # Working Days Before Digging	3
Excavator Notice (Specific Language)	RSA § 374:51 I. No person shall perform an excavation within 100 feet of an underground facility, except in an emergency, without first giving notification as required by this section. In an emergency, notification shall be given at the earliest practicable moment. II. At least 72 hours before a proposed excavation, but not including Saturdays, Sundays and legal holidays, each person required to give notice of an excavation shall notify the damage prevention system referred to in RSA 374:49. Such notice shall occur no more than 30 days before the proposed excavation is to be made. ... VII. If an excavator is aware that blasting will be required during an excavation, the excavator shall inform the damage prevention system when providing notice of the excavation. If an excavator determines during the effective term of the excavator's notification that blasting is required within the area premarked in accordance with paragraph IV, the excavator shall notify the damage prevention system of the need to blast. Notification shall be made at least 24 hours prior to any blasting, not including Saturdays, Sundays, and legal holidays. In the case of unanticipated obstructions that prevent further excavation without blasting, the excavator shall provide separate notice of such blasting not less than 4 contiguous hours in advance of such blasting, not including the hours of 4:00 p.m. to 6:00 a.m. weekdays, or all of Saturdays, Sundays, and legal holidays.
Ticket Life (# of days)	30 (RSA 374:51 VI.)
White-Line Required (Yes / No)	Yes (RSA 374:51 IV.)
Tolerance Zone	18" (New Hampshire Code of Administrative Rules Puc 802.16)

Special Digging Requirements Within Tolerance Zone (Specific Language)	<p>Puc § 805.02 (a) Any person conducting excavation activity that affects the tolerance zone surrounding an underground facility shall exercise at all times such reasonable care as is necessary to protect the underground facility from damage. (b) Except as provided in (c) below, in order to locate and identify an underground facility, the excavator shall excavate by methods limited to: (1) Hand digging; (2) Pot holing; (3) Soft digging; (4) Vacuum excavation; (5) Other mechanical methods with the approval of the underground facility owner or operator; or (6) Other methods accepted in the industry consistent with the alternatives listed in (1) through (5) above, which clearly will not affect the integrity of the underground facility. (c) For bituminous pavement and concrete travel surface removal an excavator shall not be limited to hand digging and the other non-invasive methods cited in (b) above. (d) For parallel type excavations, such as excavation along an existing underground facility at an approximately equal distance when measured periodically, the excavator shall expose the existing underground facility at intervals as often as necessary to avoid damage. (e) For perpendicular type excavations in which the markings are completed in accordance with 806.01 (a) (2), the excavator shall expose the existing underground facility using methods listed in (b) above within the defined tolerance zone. (f) In the event the excavator exposes what appears to be the underground facility that is offset from the centerline: (1) The excavator shall not assume there are no other underground facilities having the same function within the tolerance zone; and (2) The excavator shall continue using methods listed in (b) above through remainder of the tolerance zone unless the verification of the existence or non-existence of underground facilities is determined by the operator. (g) For trenchless excavations, such as horizontal drilling, boring, pneumatic jacking, tunneling, and pavement reclamation, reasonable care for purposes of Puc 805.02(a) shall include determining the exact depth of the underground facility and clearances required by the operator and incorporating location details into the trench less excavation procedure so as to avoid any potential damage of the underground facility.</p>
Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)	<p style="text-align: center;">Yes (Puc 805.02 (b))</p>
Preserve / Maintain Marks Required (Yes / No)	<p style="text-align: center;">Yes (RSA 374:53)</p>
Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)	<p style="text-align: center;">No</p>
Notify One-Call if Marks Moved or No Longer Visible (Yes / No)	<p style="text-align: center;">No</p>
Special Language Regarding Trenchless Technology (Yes / No)	<p style="text-align: center;">Yes (Puc 805.02 (g))</p>
Separate Locate Request Required for Each Excavator (Yes / No)	<p style="text-align: center;">No (Reference Puc § 805.01 (d)(3) and § 805.01 (k))</p>
Notify Operator of Damage (Yes / No)	<p style="text-align: center;">Yes (Puc § 805.05)</p>
Notify One Call Center of Damage (Yes / No)	<p style="text-align: center;">Yes (Puc § 805.05)</p>
Call 911 if Hazardous Materials Released (Yes / No)	<p style="text-align: center;">Yes (Puc § 805.05)</p>
Notice Exemptions (Yes / No)	<p style="text-align: center;">Yes</p>
Notice Exemptions (Specific Language)	<p>Puc § 802.05 "Excavation" means "excavation" as defined in RSA 374:48, III, ... but does not include the tilling of soil for agricultural purposes, landscaping and maintenance of residential property performed with non-mechanized equipment, landscaping activities performed with mechanized equipment that are intended to cut vegetation, including lawn edging, aeration, and de-thatching, excavations permitted or grand fathered under RSA 155-E or replacement of department-of-transportation-installed delineator posts in the same location.</p>
Operator Response	
Minimum # Days for Operator to Respond After Receiving Notice (Generally)	<p style="text-align: center;">3</p>

Operator Requirements to Respond to Locate Notification (Specific Language)	<p>RSA § 374:53 Within 72 hours after receipt of notice from a proposed excavator or from the system of a proposed excavation, but not including Saturdays, Sundays, and legal holidays, an operator shall mark the location of its underground facilities in the area of the proposed excavation. An operator and an excavator may by agreement fix a later time for the operator's marking of its facilities. Once an operator has marked the location of its facilities in the area of an excavation, the excavator shall be responsible for maintaining the markings. An operator who participates in an underground facility damage prevention system shall not be required to locate underground facilities not owned by the operator; underground facilities which the owner shall not be required to locate may include, but shall not be limited to, facilities running from a house to a garage or other outbuilding.</p> <p>Puc 806.05 (a) Upon completing the installation of new underground facilities within an area that has been subject to excavator notification and premarking pursuant to Puc 805.01, an operator shall make reasonable efforts to communicate the existence of such new facilities if they are covered with soil or other material that impairs their visibility. (b) For purposes of (a) above, reasonable efforts shall include: (1) Marking the tolerance zone in accordance with Puc 806.01, 806.02, 806.03, and 806.04; (2) Contacting the excavator with information regarding the presence of the newly constructed underground facilities; or (3) Leaving a tag or marker clearly indicating the presence of the newly constructed underground facilities with contact information</p>
Minimum Standards for Locator Qualifications (Yes / No)	<p>Yes</p>
Minimum Standards for Locator Qualifications (Specific Language)	<p>Puc § 804.03 (a) Locators shall be trained in accordance with the National Utility Locating Contractors Association (NULCA) Professional Competence Standards for Locating Technicians, Fourth Edition 2015, available as noted in Appendix B, including the competencies as described in (b) below. (b) To meet the requirements of (a), training programs for locators shall include, at a minimum, the following competencies: (1) Electromagnetic locating; (2) Instruction in the use of transmitters and receivers; (3) Procedures for marking underground facilities; (4) Training in the identification of facilities; (5) Safety procedures; (6) Operator map and record reading; and (7) Familiarity with the rules in this chapter.</p>
Law Specifies Marking Standards Other Than Color (Yes / No)	<p>Yes</p>
Law Specifies Marking Standards Other Than Color (Specific Language)	<p>Puc § 806.03 (a) (a) When an operator marks its underground facility it shall indicate: (1) The width of the underground facility for all facilities greater than 1 inch nominal diameter; (2) The specific owner or operator of the underground facility; and (3) The function of the underground facility. (b) For purposes of Puc 806.03 (a)(3) functions shall be marked by using: (1) The letter E for underground facilities conveying electricity; (2) The letter G for underground facilities conveying gas; (3) The letters PP for underground facilities conveying oil; (4) The letters ST for underground facilities conveying steam; (5) The letters CH for underground facilities conveying chemicals; (6) The letter T for underground facilities containing telephone wires or cable; (7) The letters CATV for underground facilities conveying cable television signals; (8) The letters TC for underground facilities conveying traffic control information or signals; (9) The letters FA for underground facilities conveying fire alarm information or signals; (10) The letter W for underground facilities conveying water (11) The letters RW for underground facilities conveying reclaimed water; (12) The letter S for underground facilities conveying sewage; (13) The letters SS for underground facilities conveying storm sewage; and (14) The letters SD shall be used for underground facilities used for storm drainage. (c) An operator shall identify with markings any changes in direction or terminations occurring within the immediate area of the proposed excavation with arrows or other appropriate indicators.</p>
Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)	<p>No (Reference RSA § 374:53)</p>
Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)	<p>No</p>
Operator Must Locate Abandoned Facilities (Specific Language)	<p>Not addressed (Reference Puc 804.01 (f))</p>
Positive Response Required - Operator Contact Excavator (Yes / No)	<p>No</p>
Positive Response Required - Operator Contact Excavator (Specific Language)	<p>Not addressed</p>

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)	Not addressed
Operator Must Update Information On Locations of Buried Facilities (Yes / No)	No
Operator Must Update Information On Locations of Buried Facilities (Specific Language)	Not addressed
New Facilities Must Be Locatable Electronically (Yes / No)	No
New Facilities Must Be Locatable Electronically (Specific Language)	Not addressed
Design Request (Yes / No)	No (Reference Puc 805.01 (m))
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)	<p>RSA § 374:49 Each operator shall participate in an underground facility damage prevention system.</p> <p>§ 374:48 IV-a. Operator means any public utility as defined by RSA 362:2 or RSA 362:4, any cable television system as defined by RSA 53-C:1, and any liquefied petroleum gas company operating any jurisdictional facility or facilities as defined by the Natural Gas Pipeline Safety Act (49 U.S.C. chapter 601) that owns or operates underground facilities.</p> <p>§ 362:2 I. The term public utility shall include every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court, except municipal corporations and county corporations operating within their corporate limits ... over which on September 1, 1951, the public utilities commission exercised jurisdiction.</p> <p>§ 362:4 I. Every corporation, company, association, joint stock association, partnership, or person shall be deemed to be a public utility by reason of the ownership or operation of any water or sewage disposal system or part thereof ... the commission may exempt any such water or sewer company from any and all provisions of this title whenever the commission may find such exemption consistent with the public good.... [See more details regarding sewer/water company exemptions at Chapter 362, Definition of Terms; Utilities Exempted, http://www.gencourt.state.nh.us/rsa/html/XXXIV/362/362-4.htm]</p>
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)	No
Separate Body Designated to Advise Enforcement Authority (Specific Language)	Not addressed
Penalties / Fines Excavators (Yes / No)	Yes
Penalties / Fines Excavators (Specific Language)	RSA § 374:55 II. Any excavator who does not give notice of or identify the proposed excavation area as required by RSA 374:51 or rules of the commission regarding tolerance zones and marking procedures shall be subject to the penalties in paragraph VIII, in addition to any liability for the actual damages. . V. If marked underground facilities are damaged, the excavator shall be subject to the penalties in paragraph VIII and liable for the cost of repairs for the damage. VI. Any excavator who damages an underground facility and fails to notify the operator, or backfills the excavation without receiving permission, as required by RSA 374:54, shall be subject to the penalties in paragraph VIII. VII. ... Any excavator or operator that violates this subdivision shall be subject to the penalties in paragraph VIII. In addition, the commission may assess the excavator for expenditures made to collect the civil penalty. Any excavator or operator which suffers damage resulting from violation of this subdivision may petition the commission to initiate an enforcement action. VIII. Any excavator or operator that does not comply with RSA 374:51 through 374:54 shall be required either to complete an underground facility damage prevention program approved by the commission, or to pay a civil penalty of up to \$500. The civil penalty may be up to \$5,000 if the excavator or operator previously violated RSA 374:51 through 374:54 within the prior 12 months or if the violation results in bodily injury or property damages exceeding \$50,000, excluding utility costs. This paragraph shall not apply to a homeowner excavating on his or her own property or to a legal occupant of residential property excavating on the property of his or her primary residence with the permission of the owner.
Penalties / Fines Operators (Yes / No)	Yes
Penalties / Fines Operators (Specific Language)	RSA § 374:55 III. Any operator which does not mark the location of its underground facilities as required by RSA 374:53 or rules of the commission regarding tolerance zones and marking procedures shall be subject to the penalties in paragraph VIII. IV. If underground facilities are damaged because an operator does not mark its underground facilities as required by RSA 374:53, the operator shall be subject to the penalties in paragraph VIII, liable for damages sustained to its facilities and, in addition, shall be liable for any damages incurred by the excavator as a result of the operator's failure to mark such facilities.... VII. ...Any excavator or operator that violates this subdivision shall be subject to the penalties in paragraph VIII. ... VIII. Any excavator or operator that does not comply with RSA 374:51 through 374:54 shall be required either to complete an underground facility damage prevention program approved by the commission, or to pay a civil penalty of up to \$500. The civil penalty may be up to \$5,000 if the excavator or operator previously violated RSA 374:51 through 374:54 within the prior 12 months or if the violation results in bodily injury or property damages exceeding \$50,000, excluding utility costs.
Penalties / Fines Other (Yes / No)	No
Penalties / Fines Other (Specific Language)	Not addressed.
Enforcement Authority Identified	RSA § 374:55 VII. The commission [New Hampshire Public Utilities Commission] or any commission employee, involved in an underground facility damage prevention program approved by the commission and designated by the commission, may enforce violations of this subdivision.
Damage Investigation Required by Enforcement Authority (Yes / No)	Yes (Puc 807.01)
Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)	Yes (Puc 804.01)
Mandatory Reporting by Excavators to State Entity or Department (Yes / No)	Yes (Puc 805.05)
Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)	No
Law and Regulation	

Statute / Law (Name & Link)	New Hampshire Revised Statutes Annotated (NH RSA), Chapter 374, Underground Facility Damage Prevention System, §§ 374:48 - 374:56 (http://www.puc.nh.gov/Regulatory/Rules/PUC800.PDF) Also see One-Call Center Website for Information on State Law.
Date of Last Revision to Statute / Law	June 1, 2010
Administrative Rules / Regulations (Yes / No)	Yes
Administrative Rules / Regulations (Name & Link)	New Hampshire Code of Administrative Rules, Chapter Puc 800 – Underground Utility Damage Prevention Program, Parts 801 to 807, inclusive (http://www.puc.nh.gov/Regulatory/Rules/PUC800.PDF)
State One Call Center(s) (Name & Link)	Dig Safe Systems (http://www.digsafe.com/)
Miscellaneous Notes	
Notes	0
State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates	0