

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

Excavator Requirements	
Excavation: Definition	New Mexico Statutes Annotated (NMSA) § 62-14-2. B. "blasting" means the use of an explosive to excavate; ... F. "excavate" means the movement or removal of earth using mechanical excavating equipment or blasting and includes augering, backfilling, digging, ditching, drilling, grading, plowing in, pulling in, ripping, scraping, trenching, tunneling and directional boring;
Excavator: Definition	NMSA § 62-14-2. G. "excavator" means a person that excavates;
Excavator Notice to One Call Required (Yes / No)	Yes
Excavator Notice Minimum # Working Days Before Digging	2
Excavator Notice (Specific Language)	<p>NMSA § 62-14-2. A. "advance notice" means two working days;</p> <p>NMSA § 62-14-3. A person who prepares engineering plans for excavation or who engages in excavation shall: C. provide telephonic advance notice of the commencement, extent and duration of the excavation work to the one-call notification system operating in the intended excavation area, and to the owners or operators of any existing underground facility in and near the excavation area that are not members of the local one-call notification center, in order to allow the owners to locate and mark the location of the underground facility as described in Section 62-14-5 NMSA 1978 prior to the commencement of work in the excavation area, and shall request reaffirmation of line location every ten working days after the initial request to locate;</p> <p>New Mexico Administrative Code (NMAC) § 18.60.5.10. An excavator shall make an excavation locate request for all projects involving excavation, including road maintenance. Although not required under the Excavation Damage Law, Sections 62-14-1, et seq. NMSA 1978, or this rule, locate requests are encouraged for excavation projects involving purely non-mechanical means. A. (1) An excavator shall submit an excavation locate request to each one call notification system: (a) by telephone or in person during normal business hours Monday to Friday, excluding holidays; or (b) by facsimile or electronicall twenty-four hours a day, seven days a week. (2) An excavator shall also submit an excavation locate request to each non-member UFO.</p> <p>§ 18.60.5.11 An excavator who expects a project to take more than ten (10) working days to complete shall either request separate locates which meet the requirements of Subsection B of 18.60.5.10 NMAC or follow the conference procedure set forth in this section.</p>
Ticket Life (# of days)	10 (NMSA § 62-14-3. C.)
White-Line Required (Yes / No)	Yes. (NMAC § 18.60.5.10 B.)
Tolerance Zone	18"
Special Digging Requirements Within Tolerance Zone (Specific Language)	<p>NMSA § 62-14-3. A person who prepares engineering plans for excavation or who engages in excavation shall: ... D. prior to initial exposure of the underground facility, maintain at least an estimated clearance of eighteen inches between existing underground facilities for which the owners or operators have previously identified the location and the cutting edge or point of any mechanical excavating equipment utilized in the excavation and continue excavation in a manner necessary to prevent damage;</p> <p>NMAC § 18.60.5.15 B. (2) If excavation activity encroaches within eighteen (18) inches either side of a marking made by a UFO, an excavator shall, prior to excavating, expose the underground facility by non-mechanical means or mechanical vacuum excavation methods.</p>
Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)	Yes. (NMAC § 18.60.5.15 B. (2))
Preserve / Maintain Marks Required (Yes / No)	Yes. (NMAC § 18.60.5.15 B. (3))
Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)	Yes. (NMAC § 18.60.5.15)
Notify One-Call if Marks Moved or No Longer Visible (Yes / No)	No

Special Language Regarding Trenchless Technology (Yes / No)	No
Separate Locate Request Required for Each Excavator (Yes / No)	Yes. (NMAC § 18.60.5.10)
Notify Operator of Damage (Yes / No)	Yes. (NMAC § 18.60.5.16 A. (2))
Notify One Call Center of Damage (Yes / No)	Yes. (NMAC § 18.60.5.16 A. (2))
Call 911 if Hazardous Materials Released (Yes / No)	Yes. (NMAC § 18.60.5.16 A. (2))
Notice Exemptions (Yes / No)	Yes
Notice Exemptions (Specific Language)	<p>NMSA § 62-14-7.1. D. Excavators shall give advance notice to the one-call notification system operating in the intended excavation area and provide information established by rule of the commission, except when excavations are by or for a person that: (1) owns or leases or owns a mineral leasehold interest in the real property on which the excavation occurs; and (2) operates all underground facilities located in the intended excavation area.</p> <p>NMAC § 18.60.5.10. An excavator shall make an excavation locate request for all projects involving excavation, including road maintenance, with the exception of subsurface potholing or vacuum excavation activities conducted solely for the purpose of physically exposing or locating underground facilities. However, this exception does not preclude compliance with 18.60.5.18 NMAC. Although not required under the Excavation Damage Law, Sections 62-14-1 et seq. NMSA 1978, or this rule, locate requests are encouraged for excavation projects involving purely non-mechanical means.</p>
Operator Response	
Minimum # Days for Operator to Respond After Receiving Notice (Generally)	2
Operator Requirements to Respond to Locate Notification (Specific Language)	<p>NMSA § 62-14-5. A. A person owning or operating an underground facility shall, upon the request of a person intending to commence an excavation and upon advance notice, locate and mark on the surface the actual horizontal location, within eighteen inches by some means of location, of the underground facilities in or near the area of the excavation so as to enable the person engaged in excavation work to locate the facilities in advance of and during the excavation work. B. If the owner or operator of the underground facility finds that the owner or operator has no underground facilities in the proposed area of excavation, the owner or operator shall provide a positive response and, at the option of the owner or operator of the underground facility mark the area as "Clear" or "No Underground Facilities" in the appropriate color code as specified in Section 62-14-5.1.</p> <p>NMAC § 18.60.5.13 B. (1) A UFO [underground facility operator] shall mark underground facilities for excavation purposes in accordance with the APWA standards. (2) A UFO shall locate and mark its underground facilities within two (2) working days from the effective date of the ticket. (3) If it does not have underground facilities at the excavation site, a UFO may write "clear" or "no underground facilities" and the UFO's name at the site in the appropriate color. Alternatively, a UFO that is a member of the one-call notification system for the intended excavation area, or non-member UFO may contact the one-call notification system within two (2) working days to report it has no underground facilities in the proposed area of excavation.</p> <p>§ 18.60.5.14 In response to an excavation locate request for road maintenance, a UFO shall physically mark its underground facilities that are parallel to the road, as provided in Subsection A, and shall either physically mark or locate by marker its underground facilities that cross the road, as provided in Subsection B.</p>
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)	No
Law Specifies Marking Standards Other Than Color (Specific Language)	Marking standards other than color not addressed. (Reference NMSA 62-14-5.1; NMAC § 18.60.5.13 B. (1) and § 18.60.5.14)

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)	No
Positive Response Required - Operator Contact Excavator (Specific Language)	Not addressed
Positive Response Required - Operator Contact One Call Center (Yes / No)	Yes
Positive Response Required - Operator Contact One Call Center (Specific Language)	<p>NMSA § 62-14-2. N. "positive response" means a response, within the advance notice period, initiated by owners or operators of pipelines and underground facilities by reliable means of communication, to the one-call notification system's positive response registry system.</p> <p>§ 62-14-5. B. If the owner or operator of the underground facility finds that the owner or operator has no underground facilities in the proposed area of excavation, the owner or operator shall provide a positive response...</p> <p>§ 62-14-7.1. F. After receiving advance notice, owners and operators of pipeline facilities and other underground facilities shall locate and mark their facilities in the intended excavation area and shall provide a positive response. The one-call notification center shall make available to the commission appropriate positive response records for investigations of alleged violations of Chapter 62, Article 14 NMSA 1978.</p> <p>NMAC § 18.60.5.13 B. (3) If a UFO determines it does not have underground facilities within the proposed limits of the excavation site, a UFO shall provide positive response to the one-call notification's positive response registry system ... (5) A UFO shall provide appropriate positive response to the one-call notification's positive response registry system for all advance notifications, including wide area, design, bid, standard, and road maintenance locate requests or conferences.</p>
Positive Response - One-Call Automated (Yes / No)	No (See Notes, Note 1)
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)	Yes. (NMAC § 18.60.5.12)
One Call, Enforcement, and Reporting	
Mandatory One Call Membership (Yes / No)	Yes. (NMSA § 62-14-7.1. A.)
One Call Membership Exemptions (Yes / No)	Yes
One Call Membership Exemptions (Specific Language)	NMSA § 62-14-2 ... P. "underground facility" means any tangible property described in Subsections C, M and Q of this section that is underground, but does not include residential sprinklers or low-voltage lighting; and Q. "underground utility line" means an underground conduit or cable, including fiber optics and related facilities for transportation and delivery of electricity, telephonic or telegraphic communications or water, sewer and fire protection lines, with the exception of master meter systems and operators. § 62-14-7.1. A. An owner or operator of an underground facility subject to Chapter 62, Article 14 NMSA 1978 shall be a member of a one-call notification system operating in the region with the exception of private underground facilities owned by a homeowner and operated and located on residential property
One-Call Law Addresses Board Make-Up (Yes / No)	Yes
One-Call Law Addresses Board Make-Up (Specific Language)	NMSA § 62-14-7.1. C. ... The board may include representatives of excavators or other persons deemed eligible to participate in the system who are not owners or operators.
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)	NMSA § 62-14-8. In addition to any other liability imposed by law, an excavator, after a formal hearing and upon a finding, who has failed to comply with Subsection C of Section 62-14-3 NMSA 1978 is subject to an administrative penalty of up to five thousand dollars (\$5,000) for a first offense as assessed by the commission. Thereafter, the commission may assess an administrative penalty of up to a maximum of twenty-five thousand dollars (\$25,000) for subsequent violations of Subsection C of Section 62-14-3 NMSA 1978.
Penalties / Fines Operators (Yes / No)	Yes
Penalties / Fines Operators (Specific Language)	NMSA § 62-14-8. ... In addition to any other penalty imposed by law, an operator of underground pipeline facilities or underground utilities, excavator or operator of a one-call notification system, after formal hearing and upon a finding, who has willfully failed to comply with Chapter 62, Article 14 NMSA 1978 shall be subject to an administrative penalty of up to five thousand dollars (\$5,000) for a first offense as assessed by the commission. Thereafter, upon finding that a violation of Chapter 62, Article 14 NMSA 1978 has occurred, the commission may, upon consideration of the nature, circumstances, gravity of the violation, history of prior violations, effect on public health, safety or welfare and good faith on the part of the person in attempting to remedy the cause of the violation, assess an administrative penalty up to a maximum of twenty-five thousand dollars (\$25,000) per violation consistent with federal law.
Penalties / Fines Other (Yes / No)	Yes
Penalties / Fines Other (Specific Language)	NMSA § 62-14-8. ... In addition to any other penalty imposed by law, an operator of underground pipeline facilities or underground utilities, excavator or operator of a one-call notification system, after formal hearing and upon a finding, who has willfully failed to comply with Chapter 62, Article 14 NMSA 1978 shall be subject to an administrative penalty of up to five thousand dollars (\$5,000) for a first offense as assessed by the commission. Thereafter, upon finding that a violation of Chapter 62, Article 14 NMSA 1978 has occurred, the commission may, upon consideration of the nature, circumstances, gravity of the violation, history of prior violations, effect on public health, safety or welfare and good faith on the part of the person in attempting to remedy the cause of the violation, assess an administrative penalty up to a maximum of twenty-five thousand dollars (\$25,000) per violation consistent with federal law.

Enforcement Authority Identified	NMSA 62-14-2. D. "commission" means the public regulation commission; § 62-14-9. If any person excavates or intends to excavate in violation of Chapter 62, Article 14 NMSA 1978, the commission or any interested or affected owner or operator of an underground facility may file, in the district court of the county in which the excavation is occurring or intended, an action seeking to enjoin the excavation.
Damage Investigation Required by Enforcement Authority (Yes / No)	No. (Reference NMAC 18.60.5.20 B.)
Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)	Yes. (NMAC 18.60.5.18)
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)	New Mexico Statutes Annotated (NMSA) §§ 62-14-1 to 62-14-10, Excavation Damage to Pipelines and Underground Utility Lines (http://public.nmcompcomm.us/nmnextadmin/NMPublic.aspx) Also see One-Call Center Website for Information on State Law.
Date of Last Revision to Statute / Law	April 1, 2013
Administrative Rules / Regulations (Yes / No)	Yes
Administrative Rules / Regulations (Name & Link)	New Mexico Administrative Code (NMAC) Title 18, Chapter 60, Part 5: Pipeline Safety Excavation Damage Prevention, and Part 6: One Call Notification Systems Requirements for 811 Services. (http://www.nmcp.state.nm.us/nmac/title18/T18C060.htm) NOTE: NMAC Title 18, Chapter 60, parts 2, 3, and 4 address pipeline safety but are not specific to damage prevention.
State One Call Center(s) (Name & Link)	New Mexico 811 Damage Prevention Center (http://www.nm811.org/)
Miscellaneous Notes	
Notes	(1) Last noted revision of NMAC 18.60.5 was on 12/30/2014. (2) 811 was implemented under NMAC Title 17, Chapter 11, Part 26, on 2/28/2007.
State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates	0