

## State Damage Prevention Law Summary

State: **Arkansas**

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

Summary Date: 8/7/2017

<b>Excavator Requirements</b>	
<b>Excavation: Definition</b>	Arkansas Code Annotated, 14-271-102. (3) "Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by means of any powered tools, powered equipment, exclusive of transportation equipment, or discharge explosives; (4) "Excavate" or "excavation" means to dig, compress, or remove earth, rock, or other materials in or on the ground by use of mechanized equipment, tools manipulated only by human or animal power, or blasting, including without limitation augering, boring, backfilling, drilling, grading, pile-driving, plowing in, pulling in, trenching, tunneling, and plowing;
<b>Excavator: Definition</b>	Arkansas Code Annotated, 14-271-102. (9) "Person" means any individual, any corporation, partnership, association, improvement district, property owners association, property developer, public agency, or any other entity organized under the laws of any state or any subdivision or instrumentality of a state, and any employee, agent, or legal representative thereof;
<b>Excavator Notice to One Call Required (Yes / No)</b>	Yes
<b>Excavator Notice Minimum # Working Days Before Digging</b>	2
<b>Excavator Notice (Specific Language)</b>	Arkansas Code Annotated, 14-271-112. Notice of intent to excavate or demolish. (a) Except as provided in § 14-271-109, no person may engage in excavation or demolition activities without having first notified the One Call Center in accordance with the provisions listed in this section. (b) (1) Each person responsible for any excavation or demolition operation shall serve written or telephonic notice of intent to excavate or demolish at least two (2), but not more than ten (10), full working days before commencing this activity. (2) The notice of intent shall be delivered to the One Call Center.
<b>Ticket Life (# of days)</b>	20
<b>White-Line Required (Yes / No)</b>	Yes. (Arkansas Code Annotated, 14-271-111. (b))
<b>Tolerance Zone</b>	18" (Arkansas Code Annotated, 14-271-102. (1))
<b>Special Digging Requirements Within Tolerance Zone (Specific Language)</b>	Arkansas Code Annotated, 14-271-110 (a) (4) (A) When excavating within the approximate location of an underground facility, the excavator shall uncover the facility using a method approved by the operator. (B) No power-driven tools or equipment shall be used without the express approval of the operator.
<b>Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)</b>	Yes. (Arkansas Code § 14-271-110. (a) (4) (B))
<b>Preserve / Maintain Marks Required (Yes / No)</b>	No
<b>Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)</b>	No
<b>Notify One-Call if Marks Moved or No Longer Visible (Yes / No)</b>	No
<b>Special Language Regarding Trenchless Technology (Yes / No)</b>	No
<b>Separate Locate Request Required for Each Excavator (Yes / No)</b>	Yes (Arkansas Code Annotated, 14-271-112. (b))
<b>Notify Operator of Damage (Yes / No)</b>	No (Arkansas Code § 14-271-113. (a)(1))

<b>Notify One Call Center of Damage (Yes / No)</b>	Yes (Arkansas Code § 14-271-113. (a)(1))
<b>Call 911 if Hazardous Materials Released (Yes / No)</b>	Yes. (Arkansas Code § 14-271-113. (b))
<b>Notice Exemptions (Yes / No)</b>	Yes
<b>Notice Exemptions (Specific Language)</b>	Arkansas Code Annotated, 14-271-109 (a) Compliance with notice requirements of § 14-271-112 is not required for: (1) The moving of earth that is not on a right-of-way or within an easement of an operator by tools manipulated only by human or animal power; (2) The moving of earth by an operator that is on a right-of-way or within an easement of the operator by tools only manipulated by human power and exclusively for the purposes of system maintenance and leak detection; (3) Any agricultural purposes, including any form of cultivation for agricultural purposes, digging for postholes on private property, construction and maintenance of farm ponds, land clearing, or other normal agricultural purposes, that are not on a right-of-way of an operator; (4) The opening of a grave in a cemetery that is not on a right-of-way of an operator; or (5) Routine road work and general maintenance as performed in the right-of-way by state or county maintenance departments, but excluding any work or maintenance involving any demolition or excavation. (b) (1) Compliance with notice requirements of § 14-271-112 is not required of persons responsible for repair or restoration of service, or to ameliorate an imminent danger to life, health, property, or public safety. (2) However, those persons shall give, as soon as practicable, oral notice of the emergency excavation or demolition to the One Call Center and request emergency assistance from the One Call Center in locating and providing immediate protection to its underground facilities. (3) An imminent danger to life, health, property, or public safety exists whenever there is a substantial likelihood that loss of life, health, or property will result before the procedures under § 14-271-112 can be fully complied with.
<b>Operator Response</b>	
<b>Minimum # Days for Operator to Respond After Receiving Notice (Generally)</b>	2
<b>Operator Requirements to Respond to Locate Notification (Specific Language)</b>	Arkansas Code Annotated, 14-271-110 (a) (2) (A) Unless otherwise agreed to between the excavators and the operator, within two (2) working days after notification from the One Call Center, the operator shall identify the approximate location of the facilities by field-marking on the surface by paint, dye, stakes, or any other clearly visible marking which designates the horizontal course of the facilities. (B) If the operator has no facilities in the area, the operator shall so inform the person proposing the activity, either by contacting that person or by leaving such information at the site. (3) When an underground facility is being located, the operator shall furnish the excavator information which identifies the approximate center line, approximate or estimated depth, when known, and dimensions of the underground facility.
<b>Minimum Standards for Locator Qualifications (Yes / No)</b>	No
<b>Minimum Standards for Locator Qualifications (Specific Language)</b>	Not addressed.
<b>Law Specifies Marking Standards Other Than Color (Yes / No)</b>	Yes
<b>Law Specifies Marking Standards Other Than Color (Specific Language)</b>	Arkansas Code Annotated, 14-271-110 (a) (3) When an underground facility is being located, the operator shall furnish the excavator information which identifies the approximate center line, approximate or estimated depth, when known, and dimensions of the underground facility.
<b>Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)</b>	No
<b>Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)</b>	Yes

<b>Operator Must Locate Abandoned Facilities (Specific Language)</b>	Arkansas Code Annotated, 14-271-108 (a) (1) Each member operator having underground facilities, including those facilities that have been abandoned in place by the member operator but not yet physically removed and that can be identified, shall file a notice with the One Call Center that the member operator has underground facilities. (2) The notice shall include a list of the geographic areas where facilities are located... (d) Member operators shall maintain records and drawings of all changes and additions to their underground facilities. 14-271-110 (a) (2) (A) Unless otherwise agreed to between the excavators and the operator, within two (2) working days after notification from the One Call Center, the operator shall identify the approximate location of the facilities by field-marking on the surface by paint, dye, stakes, or any other clearly vis ble marking which designates the horizontal course of the facilities.
<b>Positive Response Required - Operator Contact Excavator (Yes / No)</b>	No
<b>Positive Response Required - Operator Contact Excavator (Specific Language)</b>	Not addressed.
<b>Positive Response Required - Operator Contact One Call Center (Yes / No)</b>	No
<b>Positive Response Required - Operator Contact One Call Center (Specific Language)</b>	Not addressed
<b>Positive Response - One-Call Automated (Yes / No)</b>	No
<b>Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Yes / No)</b>	Yes
<b>Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Specific Language)</b>	Arkansas Code Annotated, 14-271-108 (a) (1) Each member operator having underground facilities, including those facilities that have been abandoned in place by the member operator but not yet physically removed and that can be identified, shall file a notice with the One Call Center that the member operator has underground facilities. (2) The notice shall include a list of the geographic areas where facilities are located, providing as much specific information as reasonably possible, the name of the member operator, and the name, title, address, and telephone number of its representative designated to respond to notices of intent to excavate.
<b>Operator Must Update Information On Locations of Buried Facilities (Yes / No)</b>	Yes
<b>Operator Must Update Information On Locations of Buried Facilities (Specific Language)</b>	Arkansas Code Annotated, 14-271-108 (b) Changes to any of the information contained in the notice filed in accordance with subsection (a) of this section shall be filed with the One Call Center within thirty (30) days of the change.
<b>New Facilities Must Be Locatable Electronically (Yes / No)</b>	Yes
<b>New Facilities Must Be Locatable Electronically (Specific Language)</b>	Arkansas Code Annotated, 14-271-111 (a) (2) In addition to the foregoing, all underground facilities installed after January 1, 1996, shall be permanently marked with tracing wires of appropriate durability or in other manner which will enable the operator to trace the specific course of the underground facility.
<b>Design Request (Yes / No)</b>	No
<b>One Call, Enforcement, and Reporting</b>	
<b>Mandatory One Call Membership (Yes / No)</b>	Yes. (Arkansas Code § 14-271-107. (a))
<b>One Call Membership Exemptions (Yes / No)</b>	Yes

<b>One Call Membership Exemptions (Specific Language)</b>	<p>Arkansas Code Annotated, 14-271-107 (a) All operators of underground facilities shall become members of the One Call Center; however, the commission may provide, by rule or by orders, for such exemptions or waivers concerning some or all of the requirements of membership as may appear reasonable and proper, as long as the exemption or waiver is not prohibited by statute or federal law.</p> <p>14-271-102 (13) (B) "Underground facility" does not include: (i) Privately owned service lines: (a) Used solely for the purpose of transporting communications, data, electricity, gas, heat, water, steam, chemicals, television or radio transmissions or signals, or sewage for the operation of a residence or business; and (b) Wholly located on or beneath private property; or (ii) Residential or agricultural underground irrigation systems; (14) "Underground pipeline facilities" means any underground pipeline facility used to transport natural gas or hazardous liquids. However, this definition does not apply to persons, including operator's master meters, whose primary activity does not include the production, transportation, or marketing of gas or hazardous liquids or to master-metered systems whose underground facilities do not cross property other than their own or are not located under public rights-of-way....</p>
<b>One-Call Law Addresses Board Make-Up (Yes / No)</b>	<p>No</p>
<b>One-Call Law Addresses Board Make-Up (Specific Language)</b>	<p>Not addressed.</p>
<b>Separate Body Designated to Advise Enforcement Authority (Yes / No)</b>	<p>No</p>
<b>Separate Body Designated to Advise Enforcement Authority (Specific Language)</b>	<p>Not addressed.</p>
<b>Penalties / Fines Excavators (Yes / No)</b>	<p>Yes</p>
<b>Penalties / Fines Excavators (Specific Language)</b>	<p>Arkansas Code Annotated, 14-271-104 (a) (1) Except as provided in subdivision (a) (2) of this subsection, any person who violates any provisions of this chapter shall be subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation. (2) Operators of underground pipeline facilities and excavators shall, upon violation of any applicable requirements of 49 C.F.R. Part 198, Subpart C, or 49 U.S.C. § 60114(b) concerning marking facilities, § 60114(d) concerning applicability to excavators, or § 60118(a) concerning general waivers, as in effect on February 2013, unless excepted under § 14-271-109, and damage of an interstate or intrastate natural gas pipeline facility or an interstate or intrastate hazardous liquid pipeline facility, be subject to civil penalties in an amount not to exceed two (2) times the amount of property damage to the interstate or intrastate natural gas pipeline facility or an interstate or intrastate hazardous liquid pipeline facility up to a maximum of two hundred thousand dollars (\$200,000) for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed two million dollars (\$2,000,000) for any related series of violations.</p> <p>Also, regarding pipelines and pipeline facilities, the 2013 legislation that amended the Arkansas Underground Facility Damage Prevention Law also amended Arkansas Code Title 5, Chapter 69, A.C.A. § 5-69-103 (2014), to add an additional section that specifies that a person is, upon conviction, guilty of a felony that person knowingly violate § 14-271-112(a) of the Arkansas Underground Facilities Damage Prevention Act (i.e., fails to notify) and damages or destroys interstate or intrastate natural gas pipeline facilities or intrastate hazardous liquid pipeline facilities.</p> <p>(<a href="http://www.lexisnexis.com/hottopics/arcodes/Default.asp">http://www.lexisnexis.com/hottopics/arcodes/Default.asp</a>)</p>
<b>Penalties / Fines Operators (Yes / No)</b>	<p>Yes</p>
<b>Penalties / Fines Operators (Specific Language)</b>	<p>Arkansas Code Annotated, 14-271-104 (a) (1) Except as provided in subdivision (a) (2) of this subsection, any person who violates any provisions of this chapter shall be subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation. (2) Operators of underground pipeline facilities and excavators shall, upon violation of any applicable requirements of 49 C.F.R. Part 198, Subpart C, or 49 U.S.C. § 60114(b) concerning marking facilities, § 60114(d) concerning applicability to excavators, or § 60118(a) concerning general waivers, as in effect on February 2013, unless excepted under § 14-271-109, and damage of an interstate or intrastate natural gas pipeline facility or an interstate or intrastate hazardous liquid pipeline facility, be subject to civil penalties in an amount not to exceed two (2) times the amount of property damage to the interstate or intrastate natural gas pipeline facility or an interstate or intrastate hazardous liquid pipeline facility up to a maximum of two hundred thousand dollars (\$200,000) for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed two million dollars (\$2,000,000) for any related series of violations.</p> <p>Also, regarding pipelines and pipeline facilities, the 2013 legislation that amended the Arkansas Underground Facility Damage Prevention Law also amended Arkansas Code Title 5, Chapter 69, A.C.A. § 5-69-103 (2014), to add an additional section that specifies that a person is, upon conviction, guilty of a felony that person knowingly violate § 14-271-112(a) of the Arkansas Underground Facilities Damage Prevention Act (i.e., fails to notify) and damages or destroys interstate or intrastate natural gas pipeline facilities or intrastate hazardous liquid pipeline facilities.</p> <p>(<a href="http://www.lexisnexis.com/hottopics/arcodes/Default.asp">http://www.lexisnexis.com/hottopics/arcodes/Default.asp</a>)</p>

<b>Penalties / Fines Other (Yes / No)</b>	Yes.
<b>Penalties / Fines Other (Specific Language)</b>	<p>Arkansas Code Annotated, 14-271-104 (a) (1) Except as provided in subdivision (a) (2) of this subsection, any person who violates any provisions of this chapter shall be subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation. ... (f) Neither the State Highway Commission, nor the Arkansas State Highway and Transportation Department, nor their officers or employees nor the county judges or their road departments are subject to the provisions of this section.</p> <p>Also, regarding pipelines and pipeline facilities, the 2013 legislation that amended the Arkansas Underground Facility Damage Prevention Law also amended Arkansas Code Title 5, Chapter 69, A.C.A. § 5-69-103 (2014), to add an additional section that specifies that a person is, upon conviction, guilty of a felony that person knowingly violate § 14-271-112(a) of the Arkansas Underground Facilities Damage Prevention Act (i.e., fails to notify) and damages or destroys ineterstate or intrastate natural gas pipeline facilities or intrastate hazardous liquid pipeline facilities. (<a href="http://www.lexisnexis.com/hottopics/arcodes/Default.asp">http://www.lexisnexis.com/hottopics/arcodes/Default.asp</a>)</p>
<b>Enforcement Authority Identified</b>	Arkansas Code Annotated, 14-271-104 (b) (1) Actions to recover the penalties provided for in this section shall be brought by the Attorney General of Arkansas, the county prosecutor, or the city attorney, at the request of any person, in the circuit court in the county in which the cause, or some part thereof, arose or in which the defendant has its principal place of business or resides. (c) The Attorney General of Arkansas, the county prosecutor, or the city attorney shall, at the request of any person, bring an action in a court of competent jurisdiction to enjoin any violation of 49 C.F.R. Part 198, Subpart C, committed by operators of underground pipeline facilities and excavators.
<b>Damage Investigation Required by Enforcement Authority (Yes / No)</b>	No
<b>Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)</b>	No
<b>Mandatory Reporting by Excavators to State Entity or Department (Yes / No)</b>	No
<b>Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)</b>	No
<b>Law and Regulation</b>	
<b>Statute / Law (Name &amp; Link)</b>	<p>Arkansas Code Annotated (A.C.A.), Title 14, Subtitle 16, Chapter 271: Underground Facilities Damage Prevention Act Sections 14-271-01 to -115. (<a href="http://www.arkonecall.com/wp-content/uploads/2016/01/state-laws.pdf">http://www.arkonecall.com/wp-content/uploads/2016/01/state-laws.pdf</a>). Also, A.C.A., Title 5, Chapter 69, A.C.A. § 5-69-103. (<a href="http://www.lexisnexis.com/hottopics/arcodes/Default.asp">http://www.lexisnexis.com/hottopics/arcodes/Default.asp</a>) Also see One-Call Center Website for Information on State Law.</p>
<b>Date of Last Revision to Statute / Law</b>	March 17, 2015
<b>Administrative Rules / Regulations (Yes / No)</b>	Yes
<b>Administrative Rules / Regulations (Name &amp; Link)</b>	<p>Arkansas Code Annotated § 14-271-113(a)(1) was revised in 2015 to require notification to the one-call center of damage to an underground facility. The requirement to notify the operator was removed.</p> <p>Arkansas Public Service Commission, Arkansas Gas Pipeline Code, adopts and prescribes Federal Pipeline Safety Regulation 49 CFR 192.614 as the requirements for pipeline damage prevention programs. (<a href="http://www.apscservices.info/Rules/arkansas_gas_pipeline_code.pdf">http://www.apscservices.info/Rules/arkansas_gas_pipeline_code.pdf</a>) The Arkansas Gas Pipeline Code is a mandatory requirement for pipeline operators and subjects violators to civil penalties not to exceed \$100,000 for each violation for each day the violation continues, except that the maximum civil penalty may not exceed \$1,000,000 for any related series of violations. In 1989 the Arkansas PSC established the Arkansas One Call Center Rules (<a href="http://www.apscservices.info/Rules/arkansas_one_call_center_rules.pdf">http://www.apscservices.info/Rules/arkansas_one_call_center_rules.pdf</a>).</p>

<b>State One Call Center(s) (Name &amp; Link)</b>	<a href="http://www.arkonecall.com">Arkansas One Call(http://www.arkonecall.com)</a>
<b>Miscellaneous Notes</b>	
<b>Notes</b>	<p>Arkansas Code Annotated § 14-271-113(a)(1) was revised in 2015 to require notification to the one-call center of damage to an underground facility. The requirement to notify the operator was removed.</p> <p>Arkansas Public Service Commission, Arkansas Gas Pipeline Code, adopts and prescribes Federal Pipeline Safety Regulation 49 CFR 192.614 as the requirements for pipeline damage prevention programs. (<a href="http://www.apscservices.info/Rules/arkansas_gas_pipeline_code.pdf">http://www.apscservices.info/Rules/arkansas_gas_pipeline_code.pdf</a>)</p> <p>The Arkansas Gas Pipeline Code is a mandatory requirement for pipeline operators and subjects violators to civil penalties not to exceed \$100,000 for each violation for each day the violation continues, except that the maximum civil penalty may not exceed \$1,000,000 for any related series of violations.</p> <p>In 1989 the Arkansas PSC established the Arkansas One Call Center Rules (<a href="http://www.apscservices.info/Rules/arkansas_one_call_center_rules.pdf">http://www.apscservices.info/Rules/arkansas_one_call_center_rules.pdf</a>).</p>
<b>State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates</b>	0