

**§ 87-122. Excavator responsibilities.**

(a) Before commencing any excavation or demolition operation, the person responsible for the excavation or demolition shall provide or cause to be provided notice to the Notification Center of his or her intent to excavate or demolish. Notice for any excavation or demolition that does not involve a subaqueous facility must be given within three to 12 full working days before the proposed commencement date of the excavation or demolition. Notice for any excavation or demolition in the vicinity of a subaqueous facility must be given within 10 to 20 full working days before the proposed commencement date of the excavation or demolition. Notice given pursuant to this subsection shall expire 15 full working days after the date notice was given. No excavation or demolition may continue after this 15-day period unless the person responsible for the excavation or demolition provides a subsequent notice which shall be provided in the same manner as the original notice required by this subsection. When demolition of a building is proposed, the operator shall be given a reasonable time in which to remove or protect the operator's facilities before the demolition commences.

(b) The notice required by subsection (a) of this section shall, at a minimum, contain all of the following:

- (1) The name, address, and telephone number of the person providing the notice.
- (2) The anticipated starting date of the proposed excavation or demolition.
- (3) The anticipated duration of the proposed excavation or demolition.
- (4) The type of proposed excavation or demolition operation to be conducted.
- (5) The location of the proposed excavation or demolition by one of the following:
  - a. A single parcel that may exceed 1/4 mile in linear length identified by a single address.
  - b. The lesser of five adjoining parcels identified by addresses, not to exceed 1/4 mile in linear length or an area not to exceed 1/4 mile in linear length.
- (6) Whether or not explosives are to be used in the proposed excavation or demolition.

(c) An excavator shall comply with the following:

- (1) When the excavation area cannot be clearly and adequately identified within the area described in the notice, the excavator shall designate the route, specific area to be excavated, or both by premarking the area before the operator performs a locate. Premarking shall be made with soluble white paint, white flags, or white stakes.
- (2) Confirm through the Notification Center's positive response system prior to excavation or demolition that all operators have responded and that all facilities that may be affected by the proposed excavation or demolition have been marked.
- (3) Plan the excavation or demolition to avoid damage to or minimize interference with facilities in or near the construction area.
- (4) Begin excavation or demolition prior to the specified waiting period only if the excavator has confirmed that all operators have responded with an appropriate positive response.
- (5) If the operator declares extraordinary circumstances, the excavator shall not excavate or demolish until after the time and date that the operator has provided in the operator's response.
- (6) If an operator fails to respond to the positive response system, the excavator may proceed if there are no visible indications of a facility at the proposed excavation or demolition area, such as a pole, marker, pedestal, meter, or

valve. However, if the excavator is aware of or observes indications of an unmarked facility at the proposed excavation or demolition area, the excavator shall not begin excavation or demolition until an additional notice is made to the Notification Center detailing the facility and an arrangement is made for the facility to be marked by the operator within three hours from the time the additional notice is received by the Notification Center.

- (7) Beginning on the date provided in the excavator's notice to the Notification Center, the excavator shall preserve the staking, marking, or other designation until they are no longer required. When a mark is no longer visible or is destroyed, but the excavation or demolition continues in the vicinity of the facility, the excavator shall request a re-mark from the Notification Center to ensure the protection of the facility.
- (8) When demolition of a building is proposed, the excavator shall give the operator a reasonable time in which to remove or protect the operator's facilities before demolition commences.
- (9) An excavator shall not perform any excavation or demolition within the tolerance zone unless the excavator complies with all of the following conditions:
  - a. The excavator shall not use mechanized equipment, except noninvasive equipment specifically designed or intended to protect the integrity of the facility, within the marked tolerance zone of an existing facility until:
    1. The excavator has visually identified the precise location of the facility or has visually confirmed that no facility is present up to the depth of excavation;
    2. The excavator has taken reasonable precautions to avoid any substantial weakening of the facility's structural or lateral support, or both, or penetration or destruction of the facilities or their protective coatings; and
    3. The excavator may use mechanical means, as necessary, for the initial penetration and removal of pavement or other materials requiring use of mechanical means of excavation but only to the depth of the pavement or other materials. For parallel type excavations within the tolerance zone, the existing facility shall be visually identified at intervals not to exceed 50 feet along the line of excavation to avoid damages. The excavator shall exercise due care at all times to protect the facilities when exposing these facilities.
  - b. The excavator shall maintain clearance between a facility and the cutting edge or point of any mechanized equipment, taking into account the known limit of control of the cutting edge or point, as may be reasonably necessary to avoid damage to the facility.
  - c. The excavator shall provide support for facilities in and near the excavation or demolition area, including backfill operations, as may be reasonably required by the operator for the protection of the facilities.
- (10) The excavator shall not use mechanized equipment within 24 inches of a facility that is an oil, petroleum products, or highly volatile liquid pipeline system, a gas transmission line, or an electric transmission line unless the facility operator has consented to the use in writing and the operator's representative is on site during the use of the mechanized equipment. For

purposes of this subdivision, the term "oil, petroleum products, or highly volatile liquid pipeline system" has the same meaning as the term "pipeline system" in Title 49 C.F.R. § 195.2, the term "gas transmission line" has the same meaning as the term "transmission line" in Title 49 C.F.R. § 192.3, and the term "electric transmission line" has the same meaning as the term "transmission line" in G.S. 62-100(7). (2013-407, s. 2; 2019-189, s. 1.)