

# Notice of Disclaimer

This publication is for informational purposes only. It is your responsibility to know and comply with the provisions of New Mexico law, the Public Regulation Commission's rules and federal regulations in their entirety, including any modifications made subsequent to this publication. Some or all of the methods or procedures described may not be applicable or appropriate for use by your organization. In any event and regardless of errors, inaccuracies, or omissions in this guide, New Mexico 811, and the Public Regulation Commission assume no liability of any kind arising out of any use or reliance upon this information by you or anyone in your organization, including, but not limited to, any liability for any injury to persons or any damage to property.

*Published in cooperation by the New Mexico Public Regulation Commission, Department of Transportation Pipeline Safety Bureau and New Mexico One Call, Inc. DBA New Mexico 811 2004, 2007, 2009, 2012, 2016, 2019*

## **Pipeline Safety Bureau**

NM Public Regulation Commission  
P.O. Box 1269 • Santa Fe, NM 87504-1269  
[www.nmprc.state.nm.us/transportation/  
pipeline-safety.html](http://www.nmprc.state.nm.us/transportation/pipeline-safety.html)

## **New Mexico 811**

1021 Eubank Blvd NE • Albuquerque, NM 87112  
[www.nm811.org](http://www.nm811.org)

# Table of Contents

|  |           |
|--|-----------|
| <b>Preface .....</b>                                   | <b>4</b>  |
| <b>Introduction .....</b>                              | <b>5</b>  |
| Who we are .....                                       | 5         |
| <b>Preparing To Make A Locate Request ..</b>           | <b>6</b>  |
| Preparing plans for excavation .....                   | 6         |
| Planning your excavation .....                         | 7         |
| Collecting information for<br>the locate request ..... | 7         |
| <b>Making The Locate Request .....</b>                 | <b>9</b>  |
| When to contact NM811.....                             | 9         |
| Contacting NM811.....                                  | 10        |
| <b>The Standard Locate Request .....</b>               | <b>11</b> |
| When you call NM811 .....                              | 11        |
| Legal matters.....                                     | 13        |
| <b>What Happens After You Call.....</b>                | <b>13</b> |
| After you contact NM811 .....                          | 13        |
| Locating all underground facilities .....              | 14        |
| Positive response .....                                | 14        |
| Barricading .....                                      | 15        |
| <b>Dig Safely.....</b>                                 | <b>16</b> |
| Dig safely around facilities .....                     | 16        |
| Preserve line location and markings.....               | 16        |
| Tolerance Zone:The 18-inch rule .....                  | 17        |
| Supporting the underground facilities..                | 18        |
| Backfill in a careful manner .....                     | 18        |
| Relocates .....  | 19        |
| Precautions when working<br>around gas pipelines.....  | 19        |
| Typical pipeline markers.....                          | 20        |
| Your right to contact.....                             | 21        |
| If you damage an underground<br>facility .....         | 21        |

|  |           |
|--|-----------|
| What to do if you damage a gas pipeline .....                          | 22        |
| Evacuation .....   | 23        |
| <b>Other Types Of One-Call Ticket.....</b>                             | <b>23</b> |
| Design conference.....   | 23        |
| Design locate .....  | 24        |
| Bid conference.....  | 24        |
| Bid locate.....  | 25        |
| Wide area locate process.....  | 25        |
| Wide area conference.....  | 25        |
| Wide area locate.....  | 26        |
| Road maintenance locates.....  | 27        |
| <b>Responsibilities Of Facility Owners ...</b>                         | <b>27</b> |
| State law requirements for facility owners or operators.....           | 27        |
| Marking the facilities.....  | 28        |
| What happens if a UFO's facility is damaged? .....                     | 28        |
| Communication regarding locate status (positive response) clears ..... | 29        |
| Positive Response.....   | 29        |
| Approved colors and marking standards.....                             | 30        |
| Moving or obliterating markings .....                                  | 31        |
| Reporting damages .....  | 31        |
| Emergency locate requests.....   | 31        |
| Guidelines for determining an emergency.....                           | 32        |
| <b>Appendix A-The Law.....</b>   | <b>34</b> |
| <b>Appendix B-The Rules .....</b>                                      | <b>48</b> |
| <b>Appendix C-White Lining</b>   |           |
| Marking Guidelines.....  | 77        |
| <b>Appendix D-Marking Guidelines .....</b>                             | <b>82</b> |

# PREFACE

Excavation is a regulated activity in New Mexico. The Public Regulation Commission, Pipeline Safety Bureau (PSB) has statutory authority to administer New Mexico's Excavation Law Chapter 62, Article 14 NMSA 1978, including the assessment of fines for violations of the excavation law. This publication has been prepared for New Mexico's contractors, excavators and underground facility owners/operators (UFOs) as a reference for complying with the New Mexico Excavation law and interacting with New Mexico 811 (NM811).

A copy of this publication should be provided to all employees who regularly contact NM811 or participate in planning or conducting excavation activities. Familiarity with its contents is essential for successful communication between the NM811 customer service representative and the caller.

There is no copyright on the material in this publication. You have permission to copy part or all of it for fellow employees. Additional copies of this handbook may be requested from New Mexico 811, or the New Mexico Public Regulation Commission.

*NOTE: The contents of this guide are subject to change without notice.*

# INTRODUCTION

## Who we are

New Mexico One Call, Inc. DBA New Mexico 811 (NM811) is a statewide one-call notification center that was formed in 1990. Our mission is to serve as the state's communication hub promoting safe excavation and damage prevention.

All underground facility owners/operators (UFOs) are required by New Mexico state law to be a member of a one-call notification system. This includes all state and local government agencies, quasi governmental organizations, private corporations and non-profit entities owning and/or operating pipelines, gas distribution, telecommunications, cable, water, sewer and electric underground facilities within the state of New Mexico.

Striking any one of these lines can cause service interruptions, injury and, potentially death!

New Mexico state law requires everyone involved in any excavation utilizing mechanical means to provide at least two working days' notice to UFOs. This notification is accomplished by contacting the one-call center at least two working days prior to beginning your excavation. The UFOs are then required to mark the locations of their underground lines within the two working days.

# PREPARING TO MAKE A LOCATE REQUEST

## Preparing plans for excavation

New Mexico excavation law requires a person who prepares engineering plans for excavation to provide certain underground utility information on the plans to prevent damage by the person who will be doing the actual digging. Plans, in a broad sense, include engineering construction documents (plans/specifications), work orders, maintenance orders, or any other format that provides instructions to the person digging. The requirements include determining the location of existing underground facilities, planning the excavation to avoid or minimize the interference with the existing facilities, providing support for existing facilities, and providing for select backfill when necessary to prevent damage to existing facilities. The design or bid locate process is the method(s) used by the preparer of the plans to gather the information regarding the facilities, which must be included in the plans, **prior to excavation**. A preparer may select, after completing the conference process, either a design or bid locate request for obtaining information on the location of underground facilities. However, the preparer may not switch methods once having made a choice. For an explanation of the design or bid tickets, please see the section of this handbook titled “Other Types of One-Call Tickets.”

## **Planning your excavation**

New Mexico excavation law requires excavators to plan every excavation to minimize interference and prevent damage to underground facilities in or near the excavation area. Standard locate requests should only include the amount of work that can be reasonably completed in 15 working days.

Excavators are required by law, with limited exceptions, and it is an industry best practice, to mark the excavation site in white paint, flags, stakes, whiskers or other appropriate white markings before requesting a locate. White Lining should include the name of the company doing the excavation work. *See Appendix C for White-lining Marking Guidelines.*

## **Collecting information for the locate request**

New Mexico's excavation law requires excavators to provide certain information to the one-call center. If you do not supply the necessary information, your request may be delayed or denied until the necessary information is provided. As you plan for the request, be prepared to provide the following information:

1. Excavator's name (company), a contact person (first and last name), contact's daytime phone number, mailing address. Contact should be the "Boots on the Ground".
2. Alternate contact information and daytime phone number.

3. A brief description and purpose for the type of work to be done. For example: “Repairing sewer line,” or “New electric service,” or “Installing new signs.”
4. The name of the person or company for whom the work is being done.
5. Whether or not the excavation site is premarked in white. If required by law that the dig site be marked in white, you must provide this information. Having the site marked in white using paint or flags or stakes etc. can make the spotting instructions in number 8, below easier to describe. It will also make it easier for the spotter to locate your dig site.
6. An accurate physical description of the location and size of the excavation location. For example: a street address or GPS coordinates (with degrees in decimal format), or TRSQ legals are all good location descriptions. Reference to a plat of a subdivision is not a sufficient description. The one-call customer service representative will also ask for the nearest cross streets. This greatly helps in locating the dig site in the mapping system.
7. Driving instructions to a rural excavation site or a site within a city or town that needs additional directions. These should start from an easily describable location. For example: a city or town, an intersection or mile marker on a major highway or the intersection of two mapped roads. Landmarks such as a restaurant, gas station, casino or a tree are not usable for driving directions.
8. Spotting instructions: accurately describe the actual dig area that needs to be spotted,



such as “a white-lined bore path” with the width included. Dig locations should be specific in size and location(s) describing where the actual digging is going to take place on a location or property. Sites pre-marked in white per Appendix C make it much easier to say, “Spot the area marked in white,” or “Spot a 25-ft radius of stake with white flag.” “Spotting the entire property” is not a good description because the spotter needs to know where on the property you are going to be digging. PSB recommends always requesting flags and whisks for the entire excavation area.

9. Any appropriate remarks regarding access to or hazards at the excavation site. This should include comments about animals, locked gates or other hazards the locators should know about.
10. Rural locations need to either be white-lined or provide GPS coordinates.

## **MAKING THE LOCATE REQUEST**

### **When to contact NM811**

If you plan on digging, excavating, blasting or moving earth in any way, contact New Mexico 811 and all non-members two working days prior to starting excavation. Non-members include homeowners, master meter systems, non-jurisdictional members (i.e. Native American reservations, and federal facilities).

New Mexico 811 is open from 7:00 am to 5:00 pm, Monday thru Friday, except holidays. The one-call center observes and is closed on the following holidays:

New Year's Day  
Martin Luther King, Jr. Birthday,  
Memorial Day,  
Independence Day,  
Labor Day,  
Thanksgiving Day,  
The day after Thanksgiving,  
and Winter Holiday, Dec. 24th, & Dec. 25th.

If any of the holiday(s) fall on a weekend, NM811 will post the holiday closures at [nm811.org](http://nm811.org).

## **Contacting NM811**

When requesting line locates, NM811's preference is for you to call by telephone or enter your requests at [nm811.org](http://nm811.org). Calls to New Mexico 811 (NM811) are free.

### **NM811 can be reached:**

Toll free from anywhere in New Mexico:

**Call 811**

Toll free from anywhere in the United States:

**1-800-321-2537**

Standard locate requests can be submitted online 24 hours a day, seven days a week. Locate requests made online during the hours of 8 am and 4 pm are processed within three working hours. Requests received after 4 pm or on weekends or holidays will not be processed until the next normal business day (Monday

- Friday, 7:00 am to 5:00 pm). To access the online entry form, visit [nm811.org](http://nm811.org).

## **The Standard Locate Request**

The standard locate request is the most common form of locate request. The request must be made at least two working days before the start of the excavation and is valid for a 15 working day period. Regulations require that you only request a standard locate for the amount of work that can reasonably be completed in 15 working days. You must also pre-mark your intended dig site in white. If you suspect your project is going to take longer than 15 working days, you may want to consider using the wide area locate process to schedule and coordinate your work, or break the work up into multiple 15 working day increments.

The wide area locate process may be used for any work that exceeds 15 working days. A general rule of thumb for deciding which process to use is, if the project is more than 30 days in length or more than 30 acres in size, it is probably more beneficial to use the wide area process. If it is less than this, it is probably easier to use the standard 15 day ticket process. The difference between the two processes is that the excavator assumes the role of scheduling and coordinating the work among the UFOs for the wide area process.

## **When you call NM811**

At the time of your call, the New Mexico 811 customer service representative will ask for the information needed for your locate ticket. When the ticket is complete, the customer service

representative will process the ticket and read you the list of companies that will be notified. They will also inform you of the start work date and time and the date the ticket expires. You will also be given a unique ticket number for your request. You should record this information and have it available at your dig site. Pipeline Safety Bureau personnel could stop at your dig site and request that information. At your choosing, the customer service representative can also send you a confirmation copy of your ticket by email.

During the process of collecting your ticket information, the one-call customer service representative will also read back all pertinent information from the request. Please listen carefully to this verification and make corrections as necessary. If the caller verifies incorrect information, the excavator is liable for any damages to unmarked facilities due to the incorrect information dispatched. If, at any time, it is discovered that incorrect information was provided to New Mexico 811, the excavator should immediately notify New Mexico 811. A customer service representative will assist you in creating a new ticket if the situation warrants it. A corrected request will require two working days from the time of the correction request to allow UFOs to mark their facilities. Corrections will only be accepted from the company or person that originated the ticket.

For online requests, a confirmation will be returned to the excavator, and it is the excavator's responsibility to immediately verify that the information is correct. If you find any errors, contact the one-call center immediately.

Please note, when locates are requested after 4:00 pm or on weekends or holidays, they will not be processed until the next normal

business day (Monday–Friday 7:00 am – 5:00 p.m.). For work being planned on a weekend, locate requests must be made prior to 4:00 pm Wednesday.

## **Legal matters**

NM811 records all telephone conversations with the one-call customer service representatives and maintains a copy for five years. NM811 can provide copies of these records in case of disputes. In some cases, there may be a fee involved for archived record retrieval. New Mexico law requires that UFOs and the one-call center maintain records related to excavation for five years. It is also recommended that excavators, engineers and designers also maintain records related to excavation and planning for five years.

# **WHAT HAPPENS AFTER YOU CALL**

## **After you contact NM811**

Once you've contacted New Mexico 811, the UFOs that may be affected by your excavation will be notified. Within two working days, the UFOs will either clear the ticket, or will mark any underground facilities using the standard APWA marking guidelines. These marks are valid for 15 working days. If an excavation is delayed due to circumstances beyond your control (i.e. weather, access restrictions), then you may request an additional standard locate for the scope of work remaining only.

## **Locating all underground facilities**

New Mexico law requires the excavator to physically expose (via non-mechanical means) all underground facilities in conflict with the excavation area when encroaching the 18 inch minimum tolerance zone of a marked facility. After you make your locate request, the one-call center will provide a list of all UFOs being notified.

Service lines from the UFO's meter, or other demarcation point, to the home or business usually belong to the homeowner or business. It is the excavator's responsibility to ensure service lines and private lines are marked before digging. Typically, homeowners and businesses do not have knowledge of this requirement nor do they have knowledge of the location of their facilities.

Private line locating services may be used to assist in these circumstances and a list of providers can be obtained at [nm811.org](http://nm811.org). UFOs are required to locate and mark the location of the underground facilities within 18 inches. The depth of underground facilities is not required to be provided.

## **Positive response**

Underground facility owners/operators (UFOs) have two working days to provide a positive response to the one-call center. An excavator is required to verify that all underground facilities have been marked and a positive response has been provided prior to commencing excavation. If the excavator determines that underground facilities have not been marked and positive response has not been provided, then the excavator is required to call the one-call center to verify that advance notice

was transmitted to the UFO, the two working days have expired and response has not been received.

The excavator is not permitted to dig until all the facilities have been marked or cleared. If an excavator is delayed or incurs costs because a UFO failed to mark or provide a “positive response” within the two working day marking period, the excavator may recover the reasonable “downtime” costs incurred from the UFO under the law. The UFO may also be subject to additional penalties and enforcement action from the PSB.

If a UFO fails to respond or mark a facility, the excavator should document the incident and notify the Pipeline Safety Bureau for compliance assistance. The Pipeline Safety Bureau may assess enforcement actions including civil penalties for failure to provide positive response within 48 hours.

## **Barricading**

Often the area to be marked encompasses one or more traffic lanes of a heavily traveled street or highway. In this type of environment, it may be necessary to take extra precautions, including barricading, to protect the locators. If a UFO deems barricades are necessary prior to marking, it is recommended they contact the excavator and arrange to mark the area after the excavator’s construction barricades are erected. This does not relieve the UFO from marking within the two working days. If necessary the UFO will need to make arrangements with their own company to ensure safety. The Pipeline Safety Bureau recommends notifying excavator that barricades will be needed within four - six hours of receiving a locate ticket.

# DIG SAFELY

## Dig safely around facilities

1. Only begin excavation after the area is marked or cleared and positive response has been provided by all UFOs and the two working day marking period has expired.
2. State law requires the excavator to preserve line location markings or provide an offset mark before obliterating a locate mark.
3. Maintain the required minimum tolerance zone (18 inches on either side of the mark) until the underground facility has been exposed (by hand digging or vacuum excavation) and can be clearly seen.
4. Provide the required support for exposed underground facilities during the excavation as necessary.
5. Use the proper procedures to backfill with care and avoid damage to existing underground facilities.

## Preserve line location and markings

The excavator is required by law not to fabricate markings, move or obliterate markings made by the UFOs without first providing offset marks. UFOs and excavators are encouraged to keep and maintain their own records to show their compliance with marking and preserving marks in the field. The use of offset marks may be necessary to reconstruct actual locate marks, especially in a damage investigation. Excavators may request chalk, paint, flags, stakes or whiskers, for marking a site to withstand the construction activity

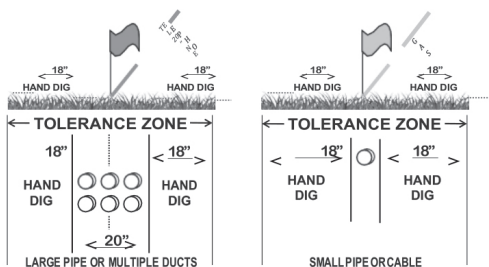


occurring at the site. The excavator is usually responsible for cleaning the excavation site of any locate marks after construction. When multiple excavators are on the same job site it is recommended that each company identifies their own intended excavation area. For example, white flags or paint showing company initials. In addition, project managers should have coordination meetings on preserving locate marks throughout the project. This is especially important in congested areas with multiple excavators on the same project.

## Tolerance Zone: The 18-inch rule

The excavator is required by law to maintain a clearance of 18 inches from the cutting edge of his mechanical equipment, including mechanical boring, to the edge of the underground facility as determined by the horizontal mark on the surface of the ground. Depth of facilities is not provided.

## TOLERANCE ZONE



## **Expose conflicts**

Where conflicts with the planned excavation and existing underground facility lines exist, the excavator is required to expose the marked facility line using non-invasive techniques, such as vacuum or hydro excavation, or by hand digging.

After the excavator has completely exposed the underground facility in the tolerance zone sufficient to maintain all applicable clearance requirements, he is allowed to enter the tolerance zone with his mechanical equipment. This is especially important where the excavator uses directional boring or tunneling techniques. In these situations, an excavator must pothole any utility crossings and watch the drill head and back reamer pass by the facility.

## **Supporting the underground facilities**

The excavator is required to provide support for existing facilities in or near the excavation area as necessary to prevent damage to them. In some cases, the excavator may need to, or may be required to, enlist the help of the UFO who has the expertise, the equipment and the qualifications to work near or on hazardous facilities to ensure the safety of the excavator's workers.

## **Backfill in a careful manner**

The excavator is required by law to fill all excavations in a manner and with select materials as may be necessary to prevent damage to and provide reliable support during and following backfilling activities for pre-existing underground

facilities in or near the excavation area.

## **Relocates**

Standard locate tickets are valid for 15 working days. An excavator is not permitted to request a relocate for failure to complete the work in 15 working days. This will require a new standard locate and the excavator may only make a request for the scope of work remaining. The PSB recommends that an excavator wait the full 15 working days before requesting a relocate.

An excavator may request relocates for the same area and scope of work only if justified by circumstances outside of the excavator's control and the markings have been compromised. The reason for the relocate must be stated and will be added to the relocate ticket. UFOs will have two working days to remark their facilities, and provide a positive response. During this time excavation must cease and the excavator is not permitted to dig until all the facilities have been marked or cleared and the two working day period has expired. A Relocate ticket will supersede any prior ticket.

## **Precautions when working around gas pipelines**

During construction, when working in or near an area containing underground gas facilities, be alert to the following signs of a potential hazard:

1. Natural gas odor in or near your excavation site.
2. Apparent or suspected damage to pipes that have been broken, pulled, dislodged or gouged.
3. Brown patches in vegetation on or near a right-of-way.

4. Dry spots in moist earth.
5. Evidence of blowing (gas) noise, blowing dirt or bubbling mud or water.
6. Fire coming from the ground or burning above the ground.

**Immediately notify the gas UFO if you observe any of the above and call 911 if appropriate!**

## Typical Pipeline Markers

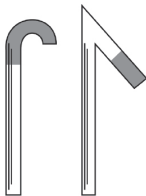
Pipeline markers are used to let you know there are underground pipelines in the area. **Do not use pipeline markers for line-locating purposes.** The markers indicate the presence of a pipeline within a right-of-way, not the exact location of the pipeline in the right-of-way. Excavators must contact NM811 and



**Pipeline Markers**  
Located near roads, railroads, fences and along pipeline right-of-way



Marker for pipeline patrol plane



Pipeline casing vents



Test station

request a line locate to determine where the line is actually located.

## **You have the right to contact the Pipeline Safety Bureau**

UFOs, excavators and one-call center(s) are encouraged to work together to resolve any issues. However, if the problem has not been resolved to your mutual satisfaction, you have the right and are encouraged to contact the PSB at:

**New Mexico Pipeline Safety Bureau**  
PO Box 1269, Santa Fe, NM 87504-1269  
*[www.nmprc.state.nm.us/transportation/pipeline-safety.html](http://www.nmprc.state.nm.us/transportation/pipeline-safety.html)*

(505) 476-0298

For emergencies only, call (505) 490-2375.

## **If you damage an underground facility**

If an underground facility is damaged during excavation, you must stop excavation, call 911 if appropriate, notify the UFO immediately, and call 811 to report the damage. Damage may include nicks, dents, gouges, cuts, scrapes or scratches to the coating, insulating jacket, or tracer wire. New Mexico law requires the excavator contact the utility to report the damage.

Contacting the UFO allows them the opportunity to examine and correct potential future hazards. Failure to notify the UFO of any damage could result in future corrosion and/or failure or other life threatening situations and is a violation of the state law.

The excavator must stop work until the UFO

determines it is safe to resume work. Damage may not only occur at the point of contact but may also occur at one or both ends of the pipe, cable or wire by damaging the termination points where the facilities enter buildings or are fed from other facilities. If you need contact information for a UFO for damage reporting purposes, please contact NM811.

## **What to do if you damage a gas pipeline**

In the event an underground gas facility is damaged, the excavator (machine operator) should take immediate action to minimize the hazard:

- If you can do so safely, turn off equipment to prevent possible ignition of any gas and abandon the equipment immediately.
- If the motor stalls, **DO NOT** attempt to restart it.
- **CLEAR THE IMMEDIATE AREA.** Avoid use of cellular phones, machinery and other devices that may be an ignition source. **DO NOT** cover the damaged pipe with dirt as a means of stopping the leak. **DO NOT** crimp plastic gas facilities. **DO NOT** attempt to plug damaged pipes. Allow the gas to vent into the atmosphere.
- If natural gas ignites, let it burn. **DO NOT** put out the flame – burning gas will **NOT** explode.
- Move away from the area and immediately call 911 to seek the aid of local law enforcement officers and fire departments.
- Notify the owner of the gas pipeline.

- Notify 811 of the damaged pipeline.

## Evacuation

In an emergency, when gas is escaping from a broken pipe, it is the excavator's responsibility to evacuate everyone to an area upwind from the damage until the emergency responders arrive. If you, the excavator, have damaged a gas line and suspect leaking gas may be entering or blowing into a building, you should take immediate action:

- Be certain 911 and the gas facility owner have been notified.
- Evacuate the occupants and leave the doors open.
- Inform occupants they must not return to the building for any reason.
- **DO NOT** operate light switches, door bells, or use telephones in the building.
- **PROHIBIT** smoking in the area.
- Keep people far away from the leak area.
- **PROHIBIT** the operation of machinery. Prompt action by you could save lives or prevent serious injury or property damage. **NEVER** leave a potentially hazardous situation to chance.

## OTHER TYPES OF ONE-CALL TICKETS

### Design conference

Allows the designer/engineer to obtain locate data directly from the UFO(s). The designer/

engineer must provide the date, time, and location of the conference when requesting the ticket. The UFOs are required to be represented at the design conference. Otherwise, UFOs are required to notify the designer/engineer and reschedule a conference within 5 working days from the proposed conference date. The requester and the UFOs will continue working together until the project is awarded and an excavation locate ticket is requested.

This type of request is useful when it is more practical to exchange information than to have a site marked. No relocates are allowed for this type of ticket.

## **Design locate**

Allows the designer/engineer to have a site marked for the purpose of capturing the locate ticket information. The UFOs have two working days to complete the marking. The ticket is valid for 15 working days. No relocates are allowed for this type of ticket.

## **Bid conference**

Allows the project owner to obtain locate information directly from the UFO to be used by the project bidders. The project owner must provide the date, time, and location of the conference when requesting the ticket. The UFOs are required to be represented at the bid conference. Otherwise, UFOs are required to notify the project owner and reschedule a conference within 5 working days from the proposed conference date. The project owner and UFOs will continue working together until the bid for the project is awarded and an excavation locate ticket is requested. No



relocates are allowed for this type of ticket.

## **Bid locate**

The project owner has the underground facilities marked at the project site so that the persons bidding on the project can capture the location information of the underground facilities. The UFOs have two working days to complete the marking. The bidders have 15 working days to capture the locate information. No relocates are allowed for this type of ticket.

## **Wide area locate process**

The wide area locate process is designed for handling large areas or long-term projects that will take longer than 15 working days to complete. A rule of thumb is to use the process for projects that are longer than 30 days in length or greater than 30 acres in size.

## **Wide area conference**

The process starts with the excavator calling the one-call center to request a wide area conference and provides a date, time and location for the conference. The UFOs are required to be represented at the wide area conference. If necessary, the UFOs are required to notify the excavator and reschedule a conference within 5 working days from the proposed conference date. The excavator will develop a written wide area work plan prior to the wide area conference. The plan should include the ten things required for a standard locate ticket and a schedule of what needs to get spotted by who and by when. At the conference, the excavator will present each UFO with the wide area work plan including the scope of work and constraints they are under. All parties must agree to the final

work plan, sign it, and receive a final copy of the work plan. Once the UFOs have received the work plan, they must provide positive response. The excavator is responsible for ensuring the communication between the excavator and UFOs properly occurs and is documented in the work plan. In the event of an incident, the work plan is the governing document for determining violations of the excavation law. A template of a work plan can be found on NM811's web site [nm811.org](http://nm811.org).

## **Wide area locate**

When all parties have signed off to approve the work plan, then the excavator will contact the one-call center 2 working days prior to starting the excavation project and request a wide area locate ticket. The excavator must provide the ticket number that was issued for the wide area conference by the one-call center. The wide area locate ticket will reference the wide area conference ticket number and cite the work plan as the description of the work to be performed. Once the positive responses are confirmed by the one call, a wide area locate ticket is issued by the one-call center, this informs the UFOs that the project's excavation will start after two working days and follows the work plan.

Updates or revisions to the work plan shall be agreed to and put in writing and signed by all parties. The wide area locate ticket must be reaffirmed by the excavator prior to its expiration every 15 working days to maintain a valid ticket for the duration of the project. The wide area locate ticket expires if it is not reaffirmed and the excavator must begin the wide area locate process again with a wide area conference. Unless the excavator communicates to the UFOs that the existing markings are

sufficient for the time being, the UFOs shall verify that existing markings are still visible, refresh them if needed, and continue to locate according to the work plan.

## **Road maintenance locates**

Road maintenance requires a valid locate request. Road maintenance is defined as the routine grading (depth of no more than four inches) of non-paved roads and includes recovery of material from a borrow (bar) ditch. It does not include activities associated with road construction or reconstruction.

If a UFO has facilities in the area but deems their facilities are not in conflict with the road maintenance activity, they may “clear” the ticket. A non-conflicted facility is covered by at least 24 inches of earth. Otherwise, the UFO must mark the location of all their facilities. A UFO may install permanent physical markers for facilities that cross the road.

# **RESPONSIBILITIES OF UNDERGROUND FACILITY OWNERS/ OPERATORS**

## **State law requirements for UFOs**

New Mexico state law requires all UFOs to be a member of a one-call notification system. The UFO shall join a one-call center that is operating statewide or within a region of the state. All of a UFO's underground facilities must be covered by one or more one-call notification systems. UFOs must respond to

all notifications for locates, conferences, and damages.

## **Marking the facilities**

Unless it is an emergency excavation, the UFO has two working days from the time the excavator called the one-call center to mark their underground facilities. The law requires the UFO to locate the facility by some means. In many cases, locating a facility is more art than science and requires trained personnel to accurately determine the facility's location. In instances where plastic lines are used and there is no tracer wire or the wire has been damaged, it may be necessary for the UFO to perform subsurface exploration to ensure it is properly located.

The UFO must mark the location of the underground facility, within 18 inches of the actual location of the underground facility, otherwise it is considered mis-marked. Failure to locate the line before an excavation is scheduled to start, or neglect marking a facility location is a violation of the excavation law, and the UFO may be subject to penalties, as well as additional costs incurred by the excavator (i.e., downtime.)

## **What happens if a UFO's facility is damaged?**

If an excavator damages an underground facility, it is the excavator's responsibility under the law to immediately notify by telephone the UFO that may have been damaged or dislocated, and to immediately report the damage to the one-call center.

The UFO is required by law to respond immediately and assess the situation. If not contacted directly, the UFO may need to contact emergency responders (911). The first priority is to make the damage site safe. If the UFO determines that an emergency condition exists and must excavate, the UFO shall request an emergency locate, and all UFOs in the area shall respond within two hours and mark their facilities. The UFO/excavator must take all necessary and reasonable precautions to avoid or minimize interference with or damage to underground facilities in and near the site while excavating.

## **Communication regarding locate status (positive response) clears**

When a UFO receives a locate request from an excavator and the UFO has determined that they have no facilities in the area, and does not provide service to a private facility, the UFO is required to register a “clear” with the one-call center’s positive response system and may write “clear” or “no underground facilities” and the UFOs name at the excavation site. The appropriate positive response when a UFO has no conflicting facilities but provides service to a private facility in the area of excavation is “Privately Owned Facility.” This provides the excavator with a positive response so the excavator will know the UFO has no conflicting facilities. The facility owner must inform the one-call center of the “clear” within the two-working-day marking period.

## **Positive Response**

Positive Response is a requirement of the excavation law and is a best practice. UFOs

must register the status of a locate with NM811's "positive response registration system." Permissible status for a locate can be registered as "UFO Cleared," "Site Marked," "Site Marked Not White-lined," "No Access/Not Marked/Call UFO," "Bad Address Not Marked," "Conference Scheduled," "Spotted Per the Work Plan," "Not Marked Call UFO," and "Privately Owned Facility." The positive response exists to improve the communication efforts between the UFO and excavator on the status of a locate before the excavator goes out to excavate.

## **Approved colors and marking standards**

New Mexico has adopted the industry use of the APWA color scheme and the CGA marking guidelines. The guidelines can be found in Appendix D of this handbook.

Locate marks must last at least 15 working days and must be appropriate for the dig site. It may be prudent for the UFO to work directly with the excavator on when and how to provide locate marks at the excavation site. Many times projects require large work areas and will take several days to complete marking. The use of whiskers and offset marks may be necessary in high traffic areas.

When multiple excavators are on the same job site it is recommended that each company identifies its own intended excavation area. For example, white flags or paint showing company initials. In addition, project managers should have coordination meetings on preserving locate marks throughout the project. This is especially important in congested areas with multiple excavators on the same project.

When locating marks are vandalized or removed, the excavator shall call for a relocate, and shall stop working for 2 working days and UFOs will be required to remark. UFOs should consider using chalks and water-based paints, which can be more easily removed in areas where permanent marks will not be tolerated.

## **Moving or obliterating markings**

It is a violation of the excavation law for the UFO or the excavator to move, obliterate or fabricate markings for the purpose of concealing or avoiding a violation of the state's excavation law. The use of offset marks or stakes must be used when it is necessary to obliterate any marks in the field. UFOs and excavators are encouraged to keep and maintain their own written records to show their compliance with marking and preserving marks in the field.

## **Reporting damages**

New Mexico law requires all excavators to immediately report damage of any underground facility to 911 if appropriate, UFOs, and NM811 by phone. Existing law also requires UFOs to report third-party damages to the Pipeline Safety Bureau. The UFO must report the damage within 30 days of occurrence using the required form and format. The format for reporting third-party damages can be found at [www.nmprc.state.nm.us/transportation/pipeline-safety.html](http://www.nmprc.state.nm.us/transportation/pipeline-safety.html).

## **Emergency locate requests**

Emergencies are unplanned excavations and have different requirements under the excavation law. An emergency is defined as an excavation that must be performed due

to circumstances beyond the control of the excavator (UFO) and that affects public safety, health, or welfare.

An emergency locate request is designed to dispatch line locators within two hours to excavation sites. Emergency requests are provided for UFOs to help them avoid damaging other underground facilities while bringing their situation under control. Once an emergency situation is brought under control, (i.e., the hazard is mitigated) the UFO should call for a standard locate request to make any further corrective actions that may require excavation.

An emergency locate request should not be used to circumvent poor job planning or economic consequences. Abuse of an emergency locate request is a violation of the excavation law and may be subject to administrative penalties.

## **Guidelines for determining an emergency**

If an existing utility customer has interrupted service that needs to be restored immediately, the situation is considered an emergency. This does not include new services or maintenance activities.

The situation is considered an emergency if an imminent hazard or danger exists to the general public potentially affecting the public's safety, health or welfare. In such an emergency it may be necessary to notify 911 and evacuate and secure the area until emergency responders arrive.

If public infrastructure becomes unavailable for use by emergency responders (such as a bridge



or culvert that is damaged in such a way that excavation is required to repair the damage), it could be considered an emergency situation.

Abuse of the emergency locate request is considered a violation of the excavation rules and regulations.

## **FOR EMERGENCIES ONLY**

**24/7 call:**

**811 or 1-866-344-6662**

### **Contacting the Pipeline Safety Bureau**

You may contact the Pipeline Safety Bureau for pipeline emergencies at:

**(505) 490-2375**

# APPENDIX A – THE LAW

## CHAPTER 62, ARTICLE 14

*(Known as the New Mexico Excavation Law)*

The following information contains the wording of Chapter 62, Article 14 NMSA 1978, including the 2013 amendment. It has been formatted to allow ease of reading. Please consult the New Mexico Compilation Commission to obtain an exact copy of the statute: [www.nmonesource.com/nmnxtadmin/NMPublic.aspx](http://www.nmonesource.com/nmnxtadmin/NMPublic.aspx)

### **62-14-1. Purpose and Intent**

The purpose of Chapter 62, Article 14 NMSA 1978 is to prevent injury to persons and damage to property from accidents resulting from damage to pipelines, underground utility lines, cable television lines and related facilities by excavating and blasting.

### **62-14-2. Definitions**

As used in Chapter 62, Article 14 NMSA 1978:

- A. “advance notice” means two working days;
- B. “blasting” means the use of an explosive to excavate;
- C. “cable television lines and related facilities” means the facilities of any cable television system or closed-circuit coaxial cable communications system or other similar transmission service used in connection with any cable television system or other similar closed-circuit coaxial cable communications system;

- D. “commission” means the public regulation commission;
- E. “emergency excavation” means an excavation that must be performed due to circumstances beyond the excavator’s control and that affects public safety, health or welfare;
- 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;
- G. “excavator” means a person that excavates;
- H. “master meter system and operators” means a pipeline system that distributes natural gas or liquid propane gas within a public place, such as a mobile home park, housing project, apartment complex, school, university or hospital where the operator of the master meter system purchases gas from a distributor through a single large meter and resells the gas through a gas distribution pipeline system. The resale may occur as a payment included in a rental payment or association dues or as a separately metered system;
- I. “means of location” means a mark such as a stake, a flag, whiskers or paint that is conspicuous in nature and that is designed to last at least ten working days if not disturbed;

- J. “mechanical excavating equipment” means all equipment powered by any motor, engine or hydraulic or pneumatic device used for excavating and includes trenchers, bulldozers, backhoes, power shovels, scrapers, draglines, clam shells, augers, drills, cable and pipe plows or other plowing-in or pulling-in equipment;
- K. “one-call notification system” means a communication system in which an operation center provides telephone services or other reliable means of communication for the purpose of receiving excavation notice and damage reporting information and distributing that information to owners and operators of pipelines and other underground facilities;
- L. “person” means the legal representative of or an individual, partnership, corporation, joint venture, state, subdivision or instrumentality of the state or an association;
- M. “pipeline” means a pipeline or system of pipelines and appurtenances for the transportation or movement of any oil or gas, or oil or gas products and their byproducts subject to the jurisdiction of federal law or regulation, with the exception of master meter systems and operators;
- 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. A positive response allows the excavator to verify whether all affected pipeline and underground facility owners or operators have marked their underground facilities

pursuant to Section 62-14-5 NMSA 1978 prior to commuting to the excavation site and commencing excavation;

- O. “reasonable efforts” means notifying the appropriate one-call notification center or underground facility owner or operator of planned excavation;
- 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.

### **62-14-3. Excavation**

A person who prepares engineering plans for excavation or who engages in excavation shall:

- A. determine the location of any underground facility in or near the area where the excavation is to be conducted, including a request to the owner or operator of the underground facility to locate the underground facility pursuant to Section 62-14-5 NMSA 1978;
- B. plan the excavation to avoid or minimize interference or damage to underground facilities in or near the excavation area;
- 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;

- 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;
- E. provide such support for existing underground facilities in or near the excavation area necessary to prevent damage to them;
- F. backfill all excavations in a manner and with materials as may be necessary to prevent damage to and provide reliable support during and following backfilling activities for preexisting underground facilities in or near the excavation area;
- G. immediately notify the one-call notification system operating in the area in the form and format required by the commission and by telephone the owner of any underground

facilities that may have been damaged or dislocated during the excavation work; and

- H. not move or obliterate markings made pursuant to Chapter 62, Article 14 NMSA 1978 or fabricate markings in an unmarked location for the purpose of concealing or avoiding liability for a violation of or noncompliance with the provisions of Chapter 62, Article 14 NMSA 1978.

#### **62-14-4. Emergency Excavation**

Every person who engages in emergency excavation shall take all necessary and reasonable precaution to avoid or minimize interference with or damage to existing underground facilities in and near the excavation area and shall notify as promptly as possible the owners of underground facilities located in and near the emergency excavation area and the one-call notification system operating in the area in the form and format required by the commission.

In the event of any damage to or dislocation of any underground facility caused by the emergency excavation work, the person responsible for the excavation shall immediately notify the owner of the underground facility and the one-call notification system operating in the area in the form and format required by the commission.

#### **62-14-5. Marking of Facilities**

- 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 NMSA 1978.
- C. If the owner or operator fails to correctly mark the underground facility after being given advance notice and such failure to correctly mark the facility results in additional costs to the person doing the excavating, then the owner or operator shall reimburse the person engaging in the excavation for the reasonable costs incurred.
- D. move or obliterate markings made pursuant to Chapter 62, Article 14 NMSA 1978 or fabricate markings in an unmarked location for the purpose of concealing or avoiding liability for a violation of or noncompliance with the provisions of Chapter 62, Article 14 NMSA 1978.

### **62-14-5.1. Uniform Color Code for Location of Underground Facilities**

In marking an excavation site and the location of underground facilities, both the excavator and the owner or operator shall use the following uniform color code:



- A. blue for water;
- B. green for sewer;
- C. orange for communications or coaxial cable;
- D. pink for survey;
- E. purple for reclaimed water;
- F. red for electric;
- G. white for proposed excavation area; and
- H. yellow for gas.

### **62-14-6. Liability for Damage to Underground Facilities**

- A. If any underground facility is damaged by any person who failed to make reasonable efforts to determine its location as provided in Chapter 62, Article 14 NMSA 1978, that person shall reimburse the owner of the underground facility for the actual cost of the damage to the underground facility, including the cost of restoration of services. The person engaging in the excavation may also be liable to the owner or operator of the underground facility for the comparative negligence of the person engaging in the excavation which results in damage to the facility for an additional amount not to exceed three hundred thousand dollars (\$300,000) for each occurrence.
- B. If any underground facility is damaged by any person who has made reasonable efforts to determine its location and the damaged underground facility was correctly located by the owner or operator of the underground facility as provided in Section 62-14-5 NMSA 1978, then that person

causing the damage shall be liable to the owner or operator of the underground facility for only the actual cost of damage to the underground facility, including the cost of restoration of service.

- C. If any underground facility is damaged by any person who has made reasonable efforts to determine its location and damage to the underground facility is caused by the failure of the owner or operator to correctly locate that underground facility as provided in Section 62-14-5 NMSA 1978, then the person engaging in the excavation shall have no liability for the damage to that facility.
- D. It is not the intent of Chapter 62, Article 14 NMSA 1978 to impose civil liability to any person beyond that provided in this section.

### **62-14-7. Liability for Negligence Notwithstanding Information Obtained**

The act of obtaining or making reasonable efforts to obtain information as required by Chapter 62, Article 14 NMSA 1978 shall not excuse any person making any excavation from doing so in a careful and prudent manner, nor shall it excuse such person from liability for any damage or injury resulting from his negligence as limited in Section 62-14-6 NMSA 1978.

#### **62-14-7.1. One-Call Notification System**

- 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. A one-call notification system may be for a region of the state or statewide in scope, unless federal law provides otherwise.

- B. Each one-call notification system shall be operated by:
- (1) an owner or operator of pipeline facilities;
  - (2) a private contractor;
  - (3) a state or local government agency; or
  - (4) a person who is otherwise eligible under state law to operate a one-call notification system.
- C. If the one-call notification system is operated by owners or operators of pipeline facilities, it shall be established as a nonprofit entity governed by a board of directors that shall establish the operating processes, procedures and technology needed for a one-call notification system. The board shall further establish a procedure or formula to determine the equitable share of each member for the costs of the one-call notification system. The board may include representatives of excavators or other persons deemed eligible to participate in the system who are not owners or operators.
- 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 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.
- E. The one-call notification system shall promptly transmit excavation notice information to owners or operators of pipeline facilities and other underground facilities in the intended excavation area.
- 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.
- G. The one-call notification system shall provide a toll-free telephone number or another comparable and reliable means of communication to receive advance notice of excavation. Means of communication to distribute excavation notice to owners or operators of pipeline facilities and other underground facilities shall be reliable and capable of coordination with one-call notification systems operating in other regions of the state.
- H. Operators of one-call notification systems shall notify the commission of its members and the name and telephone number of the contact person for each member and make available to the commission appropriate records in investigations of alleged violations of Chapter 62, Article 14 NMSA 1978.

- I. One-call notification systems and owners and operators of pipeline facilities shall promote public awareness of the availability and operation of one-call notification systems and work with state and local governmental agencies charged with issuing excavation permits to provide information concerning and promoting awareness by excavators of one-call notification systems.
- J. The commission may prescribe reasonable maximum rates for the provision of one-call services in New Mexico, provided that if the reasonableness of such rates is contested in the manner provided by commission rule, the burden of proof to show the unreasonableness of such rates shall be upon the person contesting their reasonableness.

### **62-14-8. Penalties**

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. 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. No offense occurring more than five years prior to the current offense charged shall be considered for any purpose. All actions to recover the penalties provided for in this section shall be brought by the commission. All penalties recovered in any such action shall be paid into the state general fund.

## **62-14-9. Enforcement**

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.

### **62-14-9.1. Alternative Dispute Resolution**

The commission shall promulgate rules for voluntary alternative dispute resolution procedures available to owners or operators, excavators and other interested parties regarding disputes that cannot be resolved through consultation and negotiation arising from

damage to underground facilities, including any cost or damage incurred by the owner or operator or the excavator as a result of any delay in an excavation project while an underground facility is restored, repaired or replaced. The alternative dispute resolution procedure shall not affect civil penalties levied pursuant to Section 62-14-8 NMSA 1978 or change the basis for civil liability for damages.

### **62-14-10. Rule-making**

The commission shall promulgate rules and regulations to implement the provisions of Chapter 62, Article 14 NMSA 1978.

# APPENDIX B – THE RULES

## EXHIBIT A

### **18.60.5.1 Issuing Agency:**

New Mexico Public Regulation Commission.

### **18.60.5.2 Scope:**

This rule applies to all one-call notification systems, excavators, and owners and operators of pipelines and other underground facilities in New Mexico with the exemption of those preempted by Federal Law.

### **18.60.5.3 Statutory Authority:**

Sections 8-8-4, 62-14-7.1, 62-14-10, 70-3-4, and 70-3-13 NMSA 1978.

### **18.60.5.4 Duration:**

Permanent.

### **18.60.5.5 Effective Date:**

August 15, 2012, unless a later date is cited at the end of a section.

### **18.60.5.6 Objective:**

The purpose of this rule is to implement Chapter 62, Article 14 NMSA 1978 by providing procedures for preventing damage to underground utilities and for dealing with damage when it occurs during excavation activities.



### **18.60.5.7 Definitions:**

In addition to the definitions in Section 62-14-2 NMSA 1978, 18.60.2.7 NMAC and 18.60.4.7 NMAC, as used in this rule:

- A. access information means a telephone number, a facsimile number, an email address, and, if available, a web site address;
- B. bid locate means the marking of underground facilities at the request of a project owner for the purpose of providing information to persons bidding on a project;
- C. design locate means the marking of underground facilities at the request of a project owner or project engineer for the purpose of providing information to persons designing a project;
- D. emergency locate means the marking of underground facilities at the request of a person for an underground facility owner as soon as practical, ideally within 2 hours for the purpose of an emergency excavation;
- E. excavation locate means the marking of underground facilities for the purpose of providing information at the request of an excavator planning to commence excavation for the excavator's project
- F. holiday means the day New Mexico state government observes New Year's Day, Martin Luther King, Jr's, Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, President's Day, and Christmas Day;
- G. non-member UFO means a private underground facility owned by a homeowner and operated and located on

a residential property or not subject to the jurisdiction of the commission;

- H. project owner or project engineer means the owner of a project involving excavation or the person designated by the owner to be in charge of the project involving excavation;
- I. road maintenance means routine grading and resurfacing of the earth and gravel surface, but not the subbase, of a roadway for the purpose of maintaining the surface condition of the road and includes recovery of material from a borrow ditch but does not include road construction or reconstruction and shall entail moving no more than four (4) inches of earth; road maintenance does not include street sweeping or road milling and resurfacing as long as the subsurface is not disturbed;
- J. underground facility operator (UFO) means a person who operates an underground facility;
- K. working day means a twenty-four (24) hour period excluding weekends and holidays; and
- L. mechanical vacuum excavation is deemed an appropriate non-mechanical method of excavating safely around underground facilities provided that the equipment has been specifically designed and built for this purpose [and] is operated in accordance with practices that provide appropriate levels of worker and public safety and prevent damage to buried facilities.

## **18.60.5.8 Responsibilities of One-Call Notification Systems:**

A one-call notification system shall:

- A. provide toll-free access;
- B. provide to the commission quarterly the name, contact person, and access information for each member of the one-call notification system;
- C. notify the commission of the service area in which the one-call notification system operates;
- D. have a written coordination agreement with other one-call notification systems operating in New Mexico;
- E. keep a record of all locate requests, tickets, and clears for five (5) years and make such records available to the commission upon request;
- F. provide monthly reports to the commission, no later than the 10th of each month, with the following information:
  - (1) average wait time for answered calls for the previous month;
  - (2) number of calls received for the previous month;
  - (3) number of tickets generated for the previous month;
  - (4) number of requests by type (regular, priority, emergency) for the previous month;

- G. report any changes in access information to the commission on or before the date the information will change;
- H. establish a registry of non-member UFOs that voluntarily provide their contact and underground facility information for excavation purposes;
- I. establish a positive response registry system; and
- J. inform any person who calls with a complaint that he or she may file a complaint with the commission's pipeline safety bureau, and provide the commission's pipeline safety bureau access information, if the one-call system is unable to satisfactorily resolve the matter.
- K. Processing Locate Requests.
  - (1) A one-call notification system may hold a locate request in suspension until it is complete. The one-call notification system shall contact an excavator within three (3) hours to request any missing information that prevents the one-call notification system or non-member UFO from processing the request.
  - (2) A one-call notification system shall process all complete locate requests within three (3) hours of receipt. A one-call notification system shall deem locate requests received on a weekend or holiday, or after 4:00 pm on a working day, to have been received at 7:00 am on the next working day and shall deem locate requests received before 7:00 am on a working day to have been received at 7:00 am on that working day.

- (3) Upon receipt of a complete conference or locate request, a one-call notification system shall issue a ticket with a unique number to the requesting person as confirmation, and shall send a ticket to all members of the system that have underground facilities in the excavation area, or notify the members by telephone. A ticket shall become effective at the date and time a one-call notification system issues a ticket number; if the ticket is for a conference, the ticket shall be marked "wide area conference," "bid conference," or "design conference," as appropriate.
- (4) Any person may contact the one-call notification system and request confirmation of damage reports, conferences, and locate requests.

### **18.60.5.9 Responsibilities of UFOs:**

- A. A UFO shall report any changes to the information required by 18.60.5.8(B) to the one call notification system(s) at least seven (7) days prior to the effective date.
- B. A UFO shall retain records of locate requests, excavation notices and underground facility damage information for a period of five (5) years and make such records available to the commission upon request.
- C. A UFO that utilizes contractors to perform locate and excavation activities or damage investigations on its behalf shall be responsible for compliance with Chapter 62 Article 14 NMSA 1978 and these rules.

## **18.60.5.10 Locate Requests:**

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 to Pipelines and Underground Utility Lines 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. Submittal.**

- (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 electronically via online web portal with appropriate one call notification center twenty-four hours a day, seven days a week.
- (2) An excavator shall also submit an excavation locate request to each non-member UFO.

### **B. Size of locate requests.**

- (1) An excavator shall determine the maximum area that the excavator can reasonably expect to excavate within a fifteen (15) working day period and shall request an excavation locate for that

area only. The excavator shall pre-mark the actual intended excavation route or site(s) for any incorporated city, town or village including extra territorial zone(s) in accordance with American public works association (APWA) marking guidelines to communicate to facility owners where the actual excavation will take place for standard fifteen (15) working day ticket requests only. Outside these incorporated areas, excavators shall provide clear and accurate driving and marking instructions; and either GPS coordinates or pre-marks as described above which define the parameters of the proposed excavation. The pre-marked excavation shall encompass location(s) where excavation equipment that may penetrate the surface will be setup such as directional boring equipment. If the location markings have been removed or are no longer visible and there are no marking offsets, the person engaging in the excavation activity shall suspend excavation activities and reinitiate a locate request set forth in this section. Such relocate request shall be limited to the area yet to be excavated only.

- (2) An excavator may request relocates for the same area only if justified by the circumstances and nature of the work; such justification shall be made part of the relocate request.

C. Minimum information required. When requesting an excavation locate or a locate conference, an excavator shall comply with the requirements of the one-call notification system or non-member UFO operating

in the intended excavation area and shall provide accurate and truthful information. A locate request shall be deemed incomplete if it does not contain, at a minimum:

- (1) the name and contact information of the excavator personnel directly involved with or conducting the excavation at the actual excavation site;
- (2) if available, an alternate name and contact information of the excavator;
- (3) a description and the purpose of the type of work to be done;
- (4) the name of the person for whom the work is being done;
- (5) whether or not the excavation site is pre-marked in white;
- (6) an accurate physical description of the location and size of the excavation site; reference to a plat of a subdivision shall not by itself be sufficient description;
- (7) driving instructions to a rural excavation site;
- (8) spotting instructions;
- (9) any appropriate remarks regarding access to or hazards at the site.
- (10) if available, GPS coordinates which define the parameters or start and end points of the actual excavation.

### **18.60.5.11 Wide Area Locate Requests:**

An excavator who expects a project to take more than fifteen (15) 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.

- A. If an excavator expects that an excavation will take more than fifteen (15) working days to complete, the excavator shall contact the one-call notification system to request a wide area conference a minimum of two (2) working days prior to the wide area conference and provide the proposed date, time, and location for the conference. The one-call notification system shall process the request as provided in Subsection K of 18.60.5.8 NMAC.
- B. A UFO shall contact an excavator who requests a wide area conference within two (2) working days of the issuance of the conference ticket and confirm proposed conference schedule. A UFO shall be physically represented at a scheduled wide area conference. If a UFO cannot attend the scheduled wide area conference, it shall make arrangements to meet with the excavator who requested the wide area conference not to exceed five (5) working days of the scheduled wide area conference.
- C. At the conference, the excavator shall develop a written work plan [that includes the minimum information required under Subsection C of 18.60.5.10 NMAC] in consensus with each UFO, which shall be signed by all parties. Updates or revisions to the work plan shall also be in writing and signed by all parties.
- D. After the work plan has been signed by all parties, an excavator shall request a wide area excavation locate. The one-call notification system shall process the request as provided

in Subsection K of 18.60.5.8 NMAC. The excavation ticket shall reference the wide area conference ticket number and cite the work plan as the description of the work to be performed.

- E. An excavator working pursuant to a wide area excavation locate ticket shall request reaffirmation of the wide area locate ticket every fifteen (15) working days. For the purpose of reaffirmation, a working day begins on the date and time stamped on the ticket and ends fifteen (15) working days from such date and time. The excavator and UFO(s) shall continue to comply with the approved work plan established per 18.60.5.11(C) NMAC.

### **18.60.5.12 Design and Bid Locate Requests:**

A project owner or project engineer shall request information regarding the location of underground facilities for design projects or bids in accordance with either Subsection A or B of this section, but may not switch methods once having made an election.

#### **A. Physical locates.**

- (1) A project owner or project engineer may request a design or bid locate from one-call notification systems and non-member UFOs.
- (2) The one-call notification system and non-member UFOs for the intended excavation area shall issue a ticket marked “bid locate” or “design locate” as appropriate.
- (3) UFOs shall physically mark the location of underground facilities on the site

within two (2) working days from the date of the ticket.

- (4) Designers or bidders, as appropriate, shall capture data from the site within ten (10) working days from the end of the two day marking period.
- (5) A project owner or project engineer shall not request relocates or time extensions.

## B. Conferences.

- (1) A project owner or project engineer may request a design or bid conference a minimum of two (2) working days prior to conference from the one-call notification system and non-member UFOs for the intended excavation area and provide the proposed date, time, and location for the conference.
- (2) A UFO shall contact the project owner or project engineer within two (2) working days of the issuance of the conference ticket and confirm the proposed conference schedule, and if necessary, make arrangements to reschedule the conference not to exceed five working days from the proposed conference schedule on the conference ticket. A UFO shall be physically represented at the scheduled design or bid conference.
- (3) The one-call notification system for the intended excavation area shall process the request as provided in Subsection K of 18.60.5.8 NMAC.
- (4) UFOs shall arrange to provide information to designers or bidders within a reasonable time following the conference.

- (5) A project owner or project engineer and UFOs shall continue with utility coordination until the design is complete or bid for the project has been awarded and an excavator requests an excavation locate.

### **18.60.5.13 Marking Excavation Sites:**

- A. Excavators. As provided under Subsection B of 18.60.5.10 NMAC, excavators shall mark all proposed excavation sites in accordance with American public works association (APWA) standards to improve communication between the excavator and UFO. In assessing administrative penalties for violation of the Excavation Damage to Pipelines and Underground Utility Lines Law, NMSA 1978, Section 62-14-1 et seq. and this rule, the commission may consider whether and how well an excavator marked a proposed excavation site. Pre-marking a site in white indicates the actual excavation site (not limits of construction) and, therefore, will supersede marking instructions provided on locate requests and be used to determine alleged violations during staff investigations. When an excavator fails to pre-mark the actual excavation site, UFO's shall mark per the spotting instructions provided on the locate request and register a positive response indicating the site was not pre-marked.
- B. UFOs.
  - (1) A UFO 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 in accordance with Subsection A of 62-14-5 NMSA 1978.

- (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 and may write "clear" or "no underground facilities" and the UFO's name at the site in the appropriate color.
- (4) The locate markings shall be valid for fifteen (15) working days from the end of the two (2) day marking period. For the purpose of excavation, a working day begins on the work to begin date and time stamped on the ticket and ends fifteen (15) working days from such date and time.
- (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.
- (6) If a UFO fails to mark its underground facility in accordance with the requirements of applicable laws, the UFO may be liable to the excavator in accordance with Subsection C of 62-14-5 NMSA 1978.

#### **18.60.5.14 Identifying Underground Facilities for Road Maintenance:**

In response to an excavation locate request for

road maintenance, a UFO shall physically mark or locate by marker its underground facilities that are parallel or cross the road, as provided in Subsection A.

A. Underground facilities parallel or cross the road.

- (1) Physical locate. A UFO may physically mark the location of all underground facilities that are parallel or cross the road to be maintained if the UFO deems the facilities to be in conflict with the road maintenance activity. If the UFO deems the facilities not to be in conflict with the road maintenance activity, then the UFO may “clear” the ticket with the excavator using the procedure for positive response set forth in 18.60.5.13 NMAC.
- (2) Locate by permanent marker.  
Alternatively, a UFO may use a system of permanent markers to indicate the location of underground facilities that are parallel or cross the road to be maintained. Such markers shall:
  - (a) only be used for the purposes of road maintenance;
  - (b) be durable enough to withstand normal weathering;
  - (c) be the same APWA color as is designated for marking the UFO’s type of underground facility;  
and
  - (d) have a decal on the marker specifying the depth of the underground facility at the marker.

- B. A UFO shall be deemed to have failed to correctly locate or mark its underground facility that is parallel or crosses a road to be maintained unless it:
- (1) maintains a minimum eighteen (18) inches of coverage over the underground facility;
  - (2) ensures that the permanent markers are in place;
  - (3) verifies the depth of its underground facilities at the permanent marker locations at least annually;  
and
  - (4) ensures that the decal is visible and the information on it is readable.

### **18.60.5.15 Excavation Procedures:**

- A. Pre-excavation. Before excavating, an excavator shall determine whether all underground facilities have been marked.
- (1) If all underground facilities have been marked or cleared through a positive response system and the two (2) working day marking period has expired, the excavator may begin excavating.
  - (2) If one or more underground facilities have not been marked and positive response has not been provided, an excavator shall, prior to commencing excavation, call the one-call notification system for verification that advance notice was transmitted to the UFO and to provide notice that the underground facilities have not been located or cleared via a warning locate request.

UFO's shall promptly respond to warning locate requests ideally within 2-hours.

B. Excavation.

- (1) If, while excavating, an excavator observes evidence that an unmarked underground facility may exist, the excavator shall, before excavating in the immediate area of such evidence:
  - (a) make a reasonable effort to identify and contact the UFO and wait until the UFO marks or clears the immediate area of the evidence; the UFO shall mark or clear the area within two (2) hours of contact or as expeditiously as possible if the excavation site is in a rural area;
  - (b) expose the underground facility by non-mechanical means or mechanical vacuum excavation methods.
- (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.
- (3) If the exact subsurface location of the underground facility or utility cannot be determined by non-mechanical means or mechanical vacuum excavation methods as required in (1)(a) and (2) above, the excavator shall contact the UFO directly and the UFO shall work with the excavator, to locate and expose the actual subsurface location of the underground



facility or utility. If the UFO must resort to performing excavation to locate the facility, the UFO shall perform such excavation within five working days of notice from the excavator. If requested, the local one call notification center shall provide the excavator with the contact telephone number of the UFO.

- (4) If excavation activity cannot proceed without obliterating all or some of the markings made by a UFO, an excavator shall provide temporary offset marks or stakes to retain the information regarding the location of each UFO's underground facilities.
- (5) The requirement to provide positive response for a facility does not apply to the homeowner of a residential property.
- (6) The Commission encourages excavators to notify UFO when excavation activity will be within twenty five feet (25') of the actual utility marking provided or as agreed upon by a right of way encroachment agreement or permit for infrastructure identified by the UFO as critical (i.e., transmission and trunk line pipelines, fiber optic, power, 911, etc.).

C. Temporary suspension of excavation activity. If staff determines that an excavation activity is not in compliance with the requirements of this rule, and that continued noncompliance may result in injury to persons or damage to property, staff may suspend the excavation activity until the excavation activity is brought into compliance with the requirements of this rule and excavation conditions are safe.

## **18.60.5.16 Emergency Excavation and Damage Reporting Procedure:**

This section applies whenever failure of or damage to underground facilities or public infrastructure requires emergency excavation as defined in NMSA 1978, Section 62-14-2(E) and excavation shall be promptly commenced, ideally within twenty four (24) hours.

- A. Excavators. An excavator who damages an underground facility while excavating shall exercise prudence and shall:
- (1) stop excavating immediately;
  - (2) call 911 if appropriate and the operator of the damaged underground facility and 811 to report the damaged facility;
  - (3) secure the site and direct people and traffic a safe distance away from the site of the damage;
  - (4) not leave the scene until authorized by an emergency responder or the operator of the damaged underground facility; an excavator may leave the scene without such authorization only if the excavator has made reasonable, if unsuccessful, efforts to contact the affected UFOs and has safely secured the site;
  - (5) not resume work within an unsafe distance of the damage until authorized by the operator of the damaged underground facility.
- B. Operators of failed or damaged underground facilities. The operator of a failed or damaged underground facility shall exercise prudence and shall:

- (1) immediately respond to a report of damage or failure to its underground facilities and travel to the site;
- (2) prior to traveling to the site or upon arrival, call the one-call notification system for the excavation area to request an emergency locate;
- (3) make the site safe and get the emergency situation under control;
- (4) locate its own underground facilities as soon as practical, ideally within two (2) hours;
- (5) begin remedial action to restore service as soon as practical, ideally within twenty four (24) hours;  
and
- (6) obtain a standard excavation locate ticket for repair work beyond resolution of the emergency situation.

C. Operators of failed or damaged public infrastructure. The entity responsible for the failed or damaged public infrastructure shall:

- (1) call the one-call notification system for the excavation area to request an emergency locate;
- (2) obtain an excavation locate ticket for repair work beyond resolution of the emergency situation.

D. One-call notification system. A one-call notification system shall upon request:

- (1) issue an emergency excavation notice which shall be valid until the emergency is resolved, or for forty-eight (48) hours, whichever is longer;

- (2) issue a notice of a reported damage to each affected UFO.

### **18.60.5.17 Abuse of the Law:**

A person shall be deemed to have willfully failed to comply with this rule or Chapter 62, Article 14 NMSA 1978 and shall be subject to the penalties in Section 62-14-8 NMSA 1978 if the person:

- A. requests a locate for an area that cannot reasonably be excavated in fifteen (15) working days;
- B. provides misinformation or withholds information regarding the size of an excavation area;
- C. requests locates that unduly burden a one-call notification system or UFO;
- D. requests a locate for fraudulent reasons;
- E. fails to process locate requests within the requisite timeframe;
- F. fails to mark, or provide positive response for its underground facilities within the requisite timeframe;
- G. fails to determine if all underground facilities have been marked or cleared;
- H. commences excavation prior to the expiration of the two (2) day notice period;
- I. obliterates markings at an excavation site without providing temporary offset marks or stakes;
- J. alters any record relating to excavation activity;

- K. fails to pre-mark the actual intended excavation route or site(s) as required;
- L. fails to report or file a report of damage within requisite time frame; or
- M. commits any other act that the commission determines violates Chapter 62, Article 14 NMSA 1978 or this rule.

### **18.60.5.18 Reports of Third Party Damage:**

- A. A UFO shall report to the director or Pipeline Safety Bureau any incident in which the owner or operator's underground facility is damaged by excavation activities. Such report, where practicable, shall be submitted using the commission's website at: *www.nmprc.state.nm.us/transportation/pipeline-safety.html*. For purposes of this subsection, incident is to be taken in its general sense and is not to be restricted to the definition given in 49 CFR 191.3.
- B. The report shall be filled out in its entirety and should include any and all information, such as pre dig and post damage photos, the UFO used to determine probable cause and supports or justifies its position.
- C. The report shall be submitted within thirty (30) calendar days of occurrence. Any additional information provided after the thirty (30) day deadline may be considered on a case by case basis.
- D. The UFO shall make available to the director or staff, within a reasonable time, such other information or documentation as the director or staff may require regarding any damage reportable under this section.

### **18.60.5.19 Alternative Dispute Resolution:**

- A. The commission encourages owners and operators of underground facilities and excavators to privately negotiate and settle disputes arising from excavation damage to underground facilities.
- B. In the event the parties are unable to resolve such disputes privately, any owner or operator of underground facilities or any excavator may request mediation or arbitration from the commission.
- C. Staff may participate in mediation or arbitration proceedings.
- D. In mediation and arbitration proceedings, persons shall be represented in accordance with the requirements of 18.60.4.11 NMAC.

### **18.60.5.20 Mediation of Excavation Damage Disputes:**

- A. Designation of mediator. If any of the parties request mediation, the commission shall designate a mediator. The mediator may be a permanent or temporary employee of the commission or another state agency or any other individual acceptable to the parties. If the parties request a mediator who is not an employee of the commission, the commission shall not approve the request unless the parties agree in writing to bear as their own the costs of obtaining the mediator's services. The mediator shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all

parties at the time the mediator is assigned by the commission and all parties agree that the mediator may serve. The mediator shall not, subsequent to serving as a mediator in an excavation damage dispute, participate in any subsequent proceeding in the same cause as a hearing examiner, advisory staff, staff counsel or expert witness, or as an attorney, expert witness, or representative of any party to the proceeding.

- B. Duties of mediator. The mediator shall notify the parties by telephone or mail of the time and place of the mediation conference, which will be held at commission offices unless otherwise directed by the mediator. The notice may direct the parties to send the mediator, but not other parties, their settlement positions and other necessary information that could facilitate the mediation conference, including the results of staff's investigation of the damage. In addition, the mediator may require counsel to have their clients present at the mediation conference or accessible by telephone. The mediation conference shall be held within twenty (20) days of the date of the notice unless good cause is shown for an extension. If the parties are able to reach a settlement of their dispute, in appropriate cases the mediator shall assist the parties in preparing a written agreement to reflect that resolution. If the parties are unable to reach a complete settlement of their dispute, the mediator shall advise the parties that they may request arbitration or file an action for civil liability for damages in district court.
- C. Inadmissibility of settlement offers. Offers of settlement and statements in furtherance of

settlement made in the course of mediation are privileged and, except by agreement among all parties, shall not be admissible as evidence in any formal hearing before the commission nor disclosed by the mediator voluntarily or through discovery or compulsory process.

### **18.60.5.21 Binding Arbitration of Excavation Damage Disputes:**

- A. Request for arbitration. Any party to a dispute arising from excavation damage to underground facilities may request binding arbitration of the dispute. The request shall be in writing to the commission and shall include a concise statement of the grounds for the dispute, the remedy sought, and an acknowledgment that the requesting party agrees to be bound by the decision of the arbitrator. The commission shall forward the request for arbitration to all other parties and require that they submit a written response within ten (10) days of receipt of the commission's letter forwarding the request.
- (1) If the other parties agree to arbitration of the dispute, they shall include in their response to the commission a concise statement of their position with regard to the merits of the dispute and an acknowledgment that they agree to be bound by the decision of the arbitrator.
  - (2) If the other parties will not agree to arbitration, they shall so state in their response.
  - (3) If the other parties either fail to respond to a request for arbitration or do not agree to arbitration, the requesting party



retains the right to proceed with an action for civil liability for damages in district court.

B. Designation of arbitrator. If all parties agree to arbitration, the commission shall designate an arbitrator. The arbitrator may be a permanent or temporary employee of the commission or another state agency or any other individual who is acceptable to the parties to the dispute. The designated arbitrator shall have no official, financial or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties at the time of the commission's designation and all parties agree that the arbitrator may serve. The parties shall be required to indicate their consent in writing to the designated arbitrator within ten (10) days of the date of the commission's letter of designation. If the parties request an arbitrator who is not an employee of the commission, the commission shall not approve the request unless the parties agree in writing to bear as their own the costs of obtaining the arbitrator's services. Any employee of the commission designated to arbitrate a dispute under these provisions shall not participate in any subsequent proceeding in the same cause regarding excavation damage to underground facilities as a hearing examiner, advisory staff, staff counsel, or expert witness or as an attorney, expert witness, or representative of any party to the proceeding.

C. Duties of arbitrator.

(1) The arbitrator shall render a decision in the arbitration proceeding within sixty (60) days of the date the parties

approved the arbitrator, unless good cause exists to extend the time.

- (2) The arbitrator shall fix a time and place for an arbitration and shall serve notice of arbitration on all parties at least ten (10) days in advance of the arbitration. The arbitrator may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence and shall have the power to administer oaths. The parties may offer such evidence and produce such additional evidence as the arbitrator may deem necessary to an understanding and determination of the dispute. The arbitrator shall decide the relevancy and materiality of the evidence offered. The arbitrator shall give consideration to but shall not be bound by the New Mexico rules of evidence. No stenographic or electronic record will be made of the testimony at the hearing unless requested by a party, who shall bear the cost of the record.
- (3) The arbitrator shall permit discovery only if it will not unduly complicate, burden, or impede the expeditious and informal nature of the proceeding.
- (4) At the close of or soon after the hearing, the arbitrator will issue a brief written decision, which need not contain findings of fact and conclusions of law. The arbitrator's decision will be binding on the parties, but will not be deemed a decision of the commission and shall have no precedential effect.

D. Inadmissibility of settlement offers. Unless agreed to by all the parties, no statements,

admissions, or offers of settlement made during the course of arbitration proceedings shall be admissible as evidence in any formal proceeding nor shall the arbitrator disclose the same voluntarily or through discovery or compulsory process. Nothing in this section, however, shall preclude the arbitrator from issuing a brief written decision describing his conclusions and the bases for them.

### **18.60.5.22 Waiver or Variance from Rule Requirements:**

- A. The commission may, in its discretion, waive or vary any requirement of this rule whenever the commission finds that such waiver or variance would be in the public interest.
- B. An excavator, one-call notification system, or UFO that cannot meet one or more of the requirements of this rule may petition the commission for a waiver or variance. The petition shall be in writing and shall include:
  - (1) a list of those requirements which the excavator, one-call notification system, or UFO wishes to have waived or varied;
  - (2) an explanation and description of the specific conditions which prevent the requirement from being met;  
and
  - (3) a statement of steps already taken and to be taken, with projected time limits for each step, in attempting to meet the requirements.

- C. The commission may order a hearing on the merits of the petition.
- D. An excavator, one-call notification system, or UFO shall be required to comply with requirements it has petitioned to have waived or varied until the commission has issued an order on the merits of the petition, unless the commission or its designee grants an interim waiver of or variance from one of more of the requirements that are the subject of the petition.

# APPENDIX C – WHITE LINING MARKING GUIDELINES

## Published White Lining Marking Guidelines

### Prepared by NMRCGA’s White Lining Marking Guidelines Committee

Recent Amendments to Rule 18.60.5.10 of the New Mexico Administrative Code (NMAC), Pipeline Safety Excavation Damage Prevention, were adopted by the New Mexico Public Regulation Commission. One of the amendments mandates excavator white lining before requesting an excavation locate from the one-call notification system. Specifically Rule 18.60.5.10-B (1) states, “...In every incorporated area, or when an excavation site cannot be clearly and adequately identified on the locate ticket, the excavator shall pre-mark the actual intended excavation route or site(s) in that area in accordance with American Public Works Association (APWA) marking guidelines to communicate to facility owners where the actual excavation will take place...” For the purpose of this Rule, “Incorporated area” is defined as, “any area within the limits of any incorporated city, town, or village including extra territorial zone(s)(not in 18.60.5.10 any more).

Excavator white lining of proposed excavation routes or sites should be in accordance with the Common Ground Alliance Best Practices resources (Version 15.0 or updates) listed below:

5. Practice Statement 5-2, White Lining
6. Appendix B Guidelines for Excavation Delineations

In addition:

7. White marking tape/flagging on existing structures (e.g., well-head structure) or foliage is acceptable.
8. For pipelines, existing surveyed centerline markings with construction zone boundaries marked in white at 4' to 50' stations is acceptable.

White lining is a communication tool between the excavator and the locator. If a proposed excavation site is unclear after it has been white lined, locators are encouraged to immediately contact the excavator for clarification in box:

## **BEST PRACTICES CHAPTER 5 — EXCAVATION**

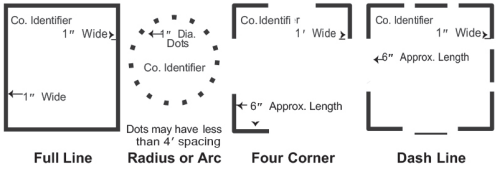
### **Practice Statement 5–2: White Lining:**

*When the excavation site cannot be clearly and adequately identified on the locate ticket, the excavator designates the route and/or area to be excavated using white premarking prior to the arrival of the locator.*

## **Guidelines for Excavation Delineation**

The following marking illustrations are examples of how excavators may choose to mark their area of proposed excavation. The use of white marking products (e.g., paint, flags, stakes, whiskers, or a combination of these) may be used to identify the excavation site.<sup>1</sup>

# Single Point Excavation Markings



Delineate in white the proposed area of excavation using a continuous line, dots marking the radius or arcs, dashes marking the four corners of the project, or dashes outlining the excavation project. Limit the size of each dash to approximately 6 in. to 12 in. long and 1 in. wide with interval spacing approximately 4 ft to 50 ft apart. Reduce the separation of excavation marks to a length that can reasonably be seen by the operator's locators when the terrain at an excavation site warrants. Dots of approximately 1 in. diameter typically are used to define arcs or radii and may be placed at closer intervals in lieu of dashes.

## Single Stake Marking Center Point of Excavation Site

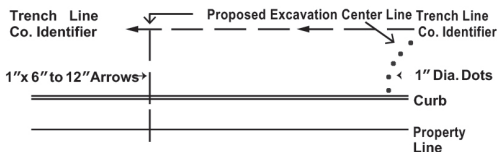


When an excavation site is contained within a 50 ft. maximum radius or less, it can be delineated with a single stake that is positioned at the proposed center of the excavation. If the excavator chooses this type of delineation,

they must convey that they have delineated the excavation site with a single stake at the center of the excavation and include the radius of the site in the notification to the one call center.

This single stake is white in color and displays the excavator's company identifier (name, abbreviations, or initials) and the radius of the excavation site in black letters on the stake or with a notice attached to the stake.

## Trenching, Boring, or Other Continuous-Type Excavations

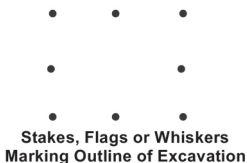


## Continuous Excavation Marking

Mark in white the proposed centerline of planned excavation using 6 in. to 12 in.  $\times$  1 in. arrows approximately 4 ft to 50 ft apart to show direction of excavation. Reduce the separation of excavation marks to a length that can reasonably be seen by the operator's locators when the terrain at an excavation site warrants. Mark lateral excavations with occasional arrows showing excavation direction from centerline with marks at curb or property line if crossed. Dots may be used for curves and closer interval marking.



## Stake, Flag, or Whisker Excavation Markers



Delineate the proposed area of excavation using stakes, flags, or whiskers instead of spray paint to mark radius or arcs; the four corners of the project; or when outlining the excavation project. Limit the interval spacing to approximately 4 ft. to 50 ft. Reduce the separation of excavation marks to a length that can reasonably be seen by the operator's locators when the terrain at an excavation site warrants. Stakes, flags, or whiskers provided to illustrate arcs or radii may be placed at closer intervals to define the arc or radius. Stakes, flags, or whiskers are white in color and display the excavator's company identifier (name, abbreviations, or initials).

<sup>1</sup> *TR-2001-05: Amendment approved by the CGA Board on September 24, 2004*

# APPENDIX D – APWA MARKING GUIDELINES

## Recommended Marking Guidelines For Underground Utilities

Adopted by APWA Board of Directors  
September 12, 2001

### The APWA Marking Recommendations Committee

The APWA Marking Recommendations Committee was organized and operated under guidelines similar to those used by the Common Ground: Best Practices committees.

- Anyone on the committee could propose or recommend existing marking practices.
- Only those practices receiving a consensus of all committee members were included in the final recommendations.

The committee felt that the original name for the committee: “APWA Marking Standards Committee be changed to the “APWA Marking Recommendations Committee, this change was agreed to by all committee members. Henceforth, all proposals from the committee will be referred to as recommendations versus standards.

1. **“Utility lines will be indicated by markings using current APWA color codes. Markings should be 18”-24” in length and 2” in width.”**
2. **“The owner of a facility should be indicated by initials or by name in letters 6” high at the beginning and end of the locate. On long locates the**

**facility owner should be indicated every 100’.”**

3. **“When known, the total number of lines within the ground will be indicated.”** The number of lines indicated should be based on the physical lines “that you could place your hands on. Multiple cables twisted together to form a single facility, as in the case of electric lines, would be considered one cable for locate purposes.
4. **“If a facility is known to be present but the total number of lines for a facility cannot be determined a corridor marker may be used. The corridor marker should indicate the approximate width of the facility.”** A marking resembling the letter “H” lying on its side will indicate the corridor marker.
5. **“When known, the size of the line being located will be indicated. Line size will indicate the outside diameter of the pipe or structure. The oversized utility marking should indicate the approximate size of pipe or structure.”** A mark resembling the letter “H” lying on its side, bisected by line extending along its length will indicate the oversized utility marking. The committee discussions centered on indicating sizes of single physical structures such as gas lines, sewer lines, water lines, and storm drains.
6. **“Duct structures, whether a single duct or multiple ducts, will be indicated by duct symbol indicating the approximate width of the duct structure.”** The duct marker will be indicated by a marking resembling a

diamond bracketed by two parallel lines. The committee did not state whether indicating size should extend to indicating size of duct structures (telecommunications, electric) or indicating pair count for telephone lines.

7. **“When known, the pressure of a gas facility will be indicated.”** Gas pressure will be indicated as either low pressure, intermediate high pressure or high pressure. The committee did not determine whether gas pressure would be indicated in instances of high pressure only or for all pressures. The committee did not determine whether the type of pipe should be indicated (plastic, steel, cast iron, etc.).
8. **“When known, termination points, dead ends and stub outs should be indicated.”** The committee reviewed NULCA’s recommendation, which resembles the letter “T” with drop downs.
9. **“When there is a strong likelihood that marks may be destroyed offsets should be used.”** Offsets are indicated on a permanent surface and are placed parallel to the running line of the facility. The offset should indicate the distance from the offset to the facility and should identify the facility owner and if necessary size of the facility.

The following issues were discussed but either a consensus could not be reached or further discussion was considered necessary:

1. How does a locator indicate that access could not be gained to a yard or location and the locate request could not be completed? This is usually due to locked fences, dogs or other physical obstructions. The

committee felt that a marking standard for this issue would not be developed. Suggestions that would be acceptable included the use of door hangers (indicating that the locator needed access to the property) and/or telephone calls to the requester.

2. How and when do we indicate the presence of buried, abandoned facilities? Excavators felt that the utilities should indicate ALL facilities in the ground regardless of status. Utility records often do not indicate the presence of abandoned facilities. Access may not be available to abandoned facilities or those facilities may not be capable of being located. An additional issue is whether the abandoned facility should be identified as abandoned.
3. How to indicate the presence of electronic markers (EMs).
4. How to indicate the presence of buried splices, valves and manholes.

The following are samples on how the previous suggestions would look:

---

**Line Markings**



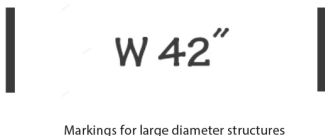
---

**Corridor Markings**



---

**Oversized Utility Markings**



---

**Conduit Markings**



Marking Gas Lines – High Pressure

< SWG 8" HP STL >

Marking Termination Point, Dead End, Stub Outs

[ MF 4" IHP

Marking Offsets

SBC ^ 12'

Indicate – Facility owner, direction to utility and distance to facility

No Conflict (No utilities within the requested area)

NO/MCI NO/EPG

**Proposed Markings – Consensus not reached by committee**

Electronic Marker

EM

Marking Buried Splices, Valves, Manholes



## Notes