

EXCAVATOR HANDBOOK

NEW MEXICO



PUBLIC REGULATION COMMISSION

PIPELINE SAFETY BUREAU



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PREFACE

Excavation is a regulated activity in New Mexico. The Public Regulation Commission, Pipeline Safety Bureau 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 excavators as a reference guide for interacting with New Mexico 811 (NM811). We recommend you give a copy of this guide to all employees who regularly contact NM811. Familiarity with its contents is essential for successful communication between the NM811 operator and the caller. We suggest you keep this guide on hand for future reference when questions or problems arise.

We do not have a copyright on the material in this guide. We encourage you to copy part or all of it for fellow employees. Additional copies of this handbook are available in our web store at www.nm811.org.

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 purpose is to provide damage prevention resources by offering excavators and the public the ability to inform multiple underground facility owners of intended digs via a single telephone call to 811.

All underground facility owners are required by New Mexico state law to belong to a one-call notification system. Municipalities, pipelines, gas distribution, telecommunications, water, sewer, electric companies and others have underground facilities everywhere in 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 to provide at least two working days' notice to owners of underground facilities. This notification is accomplished by calling the one-call center at least two working days prior to beginning your excavation. The facility owners are then required to mark the horizontal 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 plans for excavation to provide certain information on the plans for the person who is 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, provide support for existing facilities, and provide 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 shall select either a design or bid locate request and it may be either a conference or physical 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 facility lines in or near the excavation area. Locate requests should only include the amount of work that can be reasonably completed in 10 working days.

Excavators are required by law, with limited exceptions, and it is an industry practice, to mark the excavation site in white before requesting a locate. You can help facility owners identify conflicts by marking your excavation site with white paint, flags, stakes, whiskers or other appropriate white markings. See Appendix D for NM 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 & last name), contact's daytime phone number, mailing address or a New Mexico 811 excavator's ID number.
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 pre-marked in white. If it required by law that the dig site be marked in white, you must provide this information. If excavation location meets the exception criteria described in the law, the excavator must provide clear and adequate identification of the actual dig site. 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 operator 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 “Spot the north property line” for a fence. 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 D (page 115) 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.
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.

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 no less than two working days prior to starting excavation or no more than 5 working days prior to the excavation. New Mexico 811 is open from 7 am to 5 pm, Monday thru Friday, except holidays. The one-call center observes and is closed on all State holidays. The State holiday schedule is as follows:

New Year's Day
Martin Luther King, Jr. Birthday,
President's Day,
Memorial Day,
Independence Day,
Labor Day,
Columbus Day,
Veterans Day,
Thanksgiving Day,
and Winter Holiday.

If any of the above holidays fall on Saturday, the holiday will normally be observed on the preceding Friday. If the holiday falls on Sunday, it will normally be observed on the following Monday.

Contacting NM811

When requesting line locates, you have several options. You can call by telephone, enter your requests online or submit by fax.

Calls to New Mexico 811 (NM811) are free. NM811 can be reached:

Toll free from anywhere in New Mexico:

Dial 811

Toll free from anywhere in the United States:

1-800-321-2537

Standard locate requests can be submitted on line 24 hours a day, seven days a week. Locate requests made online are processed within three hours. Requests received after 4 pm or on weekends or holidays will not be processed until the next normal business day (Monday - Friday, 7 am to 5 pm). To access the online entry form, click on the "Online Locate Request" link in the upper right hand corner at:

www.nm811.org

You can fax standard locate requests to the numbers below. Faxed locate requests are processed within three hours. Fax requests received after 4 pm or on weekends or holidays will not be processed until the next normal business day (Monday -Friday, 7 am to 5 pm). Fax your requests to:

Toll free from anywhere in the United States:

1-800-727-8809

In the Albuquerque area:

505-260-1248

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 10 working day period. Regulations require that you only request a standard locate for the amount of work that can reasonably be completed in 10 working days. You must also pre-mark your intended dig site in white, with limited exceptions. If you suspect your project is going to take longer than 10 working days, you may want to consider these other options: Use the wide area locate process to schedule and coordinate your work, or break the work up into multiple 10 working day increments.

The wide area locate process may be used for any work that exceeds 10 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 ten day ticket process. The difference between the two processes is that the excavator assumes the role of scheduling and coordinating the work among the facility owners for the wide area process.

When you call NM811

At the time of your call, the New Mexico 811 operator will ask for the information needed for your locate ticket. When the ticket is complete, the operator 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. A state inspector could stop at your dig site and request that information. At your choosing, the operator can also send you a confirmation copy of your ticket by email or fax.

During the process of collecting your ticket information, the one-call operator 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. An operator will assist you in making corrections or creating a new ticket if the situation warrants it. In most cases, a corrected request will require two working days from the time of the correction request to allow facility owners to mark their facilities. Corrections will only be accepted from the company or person that originated the ticket.

For online or faxed 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.

Legal matters

NM811 records all telephone conversations with the one-call operators and maintains a copy for five years. NM 811 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 all stakeholders, including underground facility owners, excavators, locators, the engineers, designers and the one-call center maintain records related to excavation for five years.

WHAT HAPPENS AFTER YOU CALL

After you contact NM811

Once you've contacted New Mexico 811, the underground facility owners affected by your excavation will be notified. Within two working days, the facility owners will either clear the ticket if no underground facilities are present, or they will mark any underground lines using the standard APWA marking guidelines. These marks are good for 10 working days. If your dig is delayed beyond the 10 working days by something outside of your control, then you may request a relocate ticket.

To request a relocate you should call New Mexico 811 two working days before your ticket expires so the lines can be remarked and you can continue your work without delay. You will be required to state the reason for the delay so it can be documented on your relocate ticket. You may also request a relocate by fax using the special form that is available on the New Mexico 811 website.

Locating all underground facilities

New Mexico law does make the excavator responsible for determining the location of all facilities in the excavation area before digging. After you make your locate request, the one-call center will provide a list of all underground facility owners being notified.

Facility owners are not required to spot facilities they do not own. Service lines from the facility owner'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 by the property owner before digging.

Facility owners provide the approximate horizontal location of underground facilities. Depth of facilities is not provided.

Clears

Facility owners have two working days to mark their facilities. If the excavator determines a facility owner has not marked "CLEAR or "NO FACILITIES" at the job site, then the excavator is required to call the one-call center to determine if the facility owner has registered a "clear" for the locate request. An excavator may call the one-call center and ask the operator for the status of the ticket. Optionally, you can go online and check the status yourself.

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 facility owner failed to mark or clear the facilities at the job site within the two-working-day

marking period, the excavator may recover the reasonable “downtime” costs incurred from the facility owner under the law. The facility owner may also be subject to additional penalties.

Barricading

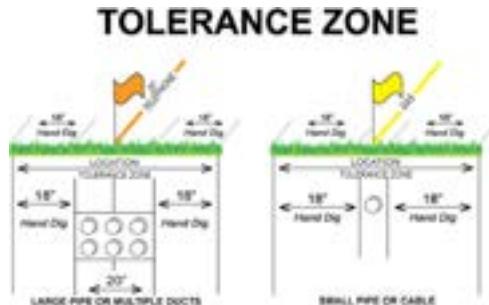
Very often the area to be marked encompasses one or more traffic lanes of a heavily traveled street or highway. In this type of environment, it may be necessary to take extra precautions, including barricading, to protect the spotters. If a facility owner deems barricades are necessary prior to marking, he or she may contact the excavator and arrange to mark the area after the excavator’s construction barricades are erected. The facility owner requesting this type of arrangement will contact the excavator and work out the details so as not to delay the excavator.

DIG SAFELY

Dig safely around facilities

1. Only begin excavation after the area is marked or cleared by all facility owners 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 tolerance zone 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.
6. Call for relocations when appropriate if the excavation work is delayed and going to exceed 10 working days.

Preserve line location and markings

The excavator is required by law not to fabricate markings, move or obliterate markings made by the facility owners without first providing offset marks. Facility owners 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 find it useful to request chalk, paint, flags, stakes or whisksers, 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.

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 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.

Expose conflicts

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

Supporting the underground facilities

The excavator is required to provide sup-

port 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 facility owner 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.

Call for relocates

Standard locate tickets are valid for 10 working days. An excavator may request relocates for the same area only if justified by the circumstances (something outside of the excavator's control). If the excavator's job is delayed and the work will not be completed within the 10-day period, the excavator must call the one-call center for a relocate. Also, the markings (spots) provided by the member companies may be destroyed by weather prior to the completion of the planned excavation. Under these circumstances the requester may ask for a RELOCATE of the previous markings. The reason for the relocate must be stated and will be added to the relocate ticket. Facility owners have two working days to remark their facilities.

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.

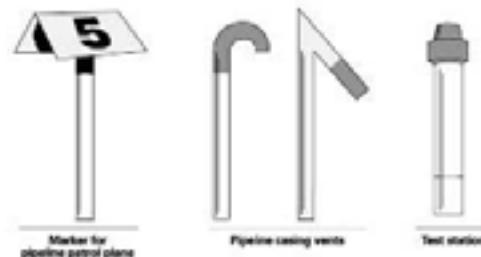
Immediately notify the gas facility owner if you observe any of the above and call 911 if appropriate!

Typical Pipeline Markers

Pipeline markers are used to let you know there are underground facilities 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. You should call NM811 and request a line locate to determine where the line is actually located.



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



You have the right to contact the Pipeline Safety Bureau

Facility owners, excavators and one-call center 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
<http://nmprc.state.nm.us/transportation/pipeline-safety.html>
505-476-0298

Facilities not marked

If the start date and time arrives and one or more facility owners have failed to mark their facilities, you **must** call NM811 to see if the underground facility owner(s) has registered any clears.

Facility owners may contact excavators to arrange for on-site review or to schedule portions of the work in larger jobs. The excavator should try to accommodate any special circumstances needed by the facility owner to locate the facilities. If a facility owner fails to respond or mark a facility, the excavator should document the incident and notify the Pipeline Safety Bureau for compliance assistance.

If you damage an underground facility

If an underground facility is damaged during excavation, you must stop excavation, call 911 if appropriate, notify the facility owner 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.

Contacting the facility owner allows the facility owner the opportunity to examine and correct potential future hazards. Failure to notify the facility owner 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 facility owner 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 an underground facility owner 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 the motor 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 underground facility owner. The facility owners have two working days to contact the requester to arrange to meet and provide the necessary information to the requester within a reasonable time. The requester and the facility owners will continue working together until the project is awarded and an excavation locate 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 information. The facility owners have two working days to complete the marking. The requester has 10 working days to capture the locate data. No relocates are allowed for this type of ticket.

Bid Conference

Allows the project owner to obtain locate information directly from the underground facility owner to be used by the project bidders. The facility owners have two working days to contact the project owner to arrange for a meeting and provide the necessary information to the requester within a reasonable time. The requester and the facility owners will continue

working together until the project is awarded and an excavator requests an excavation locate. 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 facility owners have two working days to complete the marking. The bidders have ten working days to capture the locate information. No relocates are allowed for this type of ticket.

Wide Area Locate Process

This wide area locate process is designed for handling large area or long-term projects that will take longer than 10 working days to complete. The process starts with the excavator calling the one-call center to request a *wide area conference*. The facility owners have two working days to contact the excavator to arrange for a conference. At the conference, the excavator will present to each facility owner details about the proposed project including the scope of work and constraints they are under. The facility owners and the excavator will develop a written work plan. The plan should include the standard nine items required for a standard locate ticket and a schedule of what needs to get spotted by who and by when. All parties must agree to the final work plan, sign it and receive a copy of the plan. The excavator is responsible for ensuring the communication between the excavator and facility owners prop-

erly 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 www.nm811.org.

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. When the wide area locate ticket is issued by the one-call center, this informs the facility owners that the projects 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 every 10 working days to maintain a valid ticket for the duration of the project, up to a period of six months. At the end of a six month period, the wide area locate ticket expires. The excavator must begin the wide area locate process again with a wide area conference. This is to ensure that any new facility owners in the area of the excavation are included in the process. Unless the excavator communicates to the underground facility

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

Road maintenance

Road maintenance is defined as the routine grading of the earth and gravel surface and shall entail moving no more than *four inches of earth*. It does not include the sub base of a roadway for the purpose of maintaining the surface condition of the road and includes recovery of material from a borrow ditch. It does not include activities associated with road construction or reconstruction.

If an underground facility owner deems their facilities are not in conflict with the road maintenance activity, they may “clear” the ticket. Otherwise, they must mark the location of all their facilities. It is also possible for facility owners to install permanent physical markers for facilities that cross the road.

RESPONSIBILITIES OF FACILITY OWNERS

State law requirements for facility owners or operators

New Mexico state law requires all underground facility owners/operators to be a member of a one-call notification system. The owner shall join a one-call center that is operating statewide or within a region of the state.

All of an owner’s underground facilities must be covered by one or more one-call notification systems. Facility owners must respond to all notifications for locates, conferences, and damages.

Marking the facilities

Unless it is an emergency excavation, the facility owner has two working days from the time the excavator called the one-call center to mark their underground lines. The law requires the facility owner 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 facility owner to expose the line to ensure it is properly located.

The facility owner must mark the horizontal location of the line within 18 inches of the actual location or the line is considered mismarked. Failure to locate the line before an excavation is scheduled to start, or to neglect marking a line location is a violation of the excavation law, and the facility owner is subject to penalties and significant fines, as well as the cost of repair and downtime incurred by the excavator should a damage occur.

What happens if your facilities are damaged?

If an excavator damages an underground facility, it is the excavator’s responsibility under the law to immediately notify by telephone the owner of any underground facility that may have

been damaged or dislocated, and to immediately report the damage to NM811.

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

Communication Regarding Locate Status

Clears

When a facility owner receives a request from an excavator and the facility owner has determined that they have no facilities in the area, the facility owner is required to either mark the site (using the approved APWA color) “CLEAR or “NO FACILITIES” or register a “clear” with the one-call center. This provides the excavator with a positive response so the excavator will know the UFO has no facilities.

If the facility owner chooses not to mark the site “CLEAR,” the excavation law requires the facility owner to register the “clear” with the one-call center. Either calling the one-call center directly, or going online and entering the “clear” into a web form can do this. In either case, the

one-call center will log the “clear.” When the excavator calls the one-call center, the excavator can be made aware that the “clear” was recorded. 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. The facility owner is encouraged to contact the excavator directly and inform them of the status of the locate. At a minimum the facility owner must register the status of a locate with NM811’s “positive response registration system.” Permissible status for a locate can be registered as “clear,” “marked”, “no access available,” or “private facilities.” The positive response exists to improve the communication efforts between the facility owner and excavator on the status of a locate before the excavator goes out to dig. NM811 does not charge for the use of the clear registration system.

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 C of this handbook.

Locate marks must last at least 10 working days and must be appropriate for the dig site. It may be prudent for the facility owner 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 flags, stakes or tape may be too tempting for neighborhood children to resist playing with and should be placed closer to the actual excavation time to avoid vandalism. The use of whiskers and offset marks may be necessary in high traffic areas.

When locating marks are vandalized or removed, the excavator shall call for a relocate, and facility owners will be required to remark. Facility owners 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 facility owner or the excavator to move, obliterate or fabricate markings for the purpose of concealing or avoiding a violation of noncompliance with 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. Facility owners 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

Regulations require all excavators to immediately report damage of any underground facility to NM811 by phone. Existing law also requires underground facility owners to report third-party damages to the Pipeline Safety Bureau. The facility owner must report the

damage by the 15th day of the month following the month of occurrence, or within 30 days. The Damage Reporting & Enforcement Tracking System form is the required form and format for reporting third party damages and can be found at www.nmdrets.com.

Relocates

Excavators may not request relocates unless circumstances beyond the excavator's control prevent the work from being completed within the 10 working-day period. In such situations the excavator may request a relocate and the reason for the relocate will be noted on the relocate ticket. It is a violation of the law to abuse the relocate ticket process.

Also, the markings (spots) provided by the member companies may be destroyed by weather prior to the completion of the planned excavation. Under these circumstances the requester may ask for a relocate of the previous markings.

Relocates will typically be completed within two working days and update the previous request for another 10 working days. The excavator will receive a new confirmation number. If any of the information on the ticket changes, then a new ticket must be issued instead of a relocate.

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 cir-

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

An emergency locate request is designed to dispatch line locators within two hours to excavation sites where service outage or eminent dangers or hazards to the public exist. Emergency requests are provided for facility owners to help them avoid damaging other facilities while bringing their situation under control. Once an emergency situation is brought under control, (i.e., the hazard is mitigated) the facility owner should call for a regular 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 emergency location requests is a violation of the excavation law and is subject to significant administrative fines.

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.

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

If public infrastructure becomes unavail-

able 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

During regular business hours facility owners should call:

1-866-344-6662

Contacting the Pipeline Safety Bureau

You may contact the Pipeline Safety Bureau for gas and hazardous liquid pipeline emergencies at:

(505) 490-2375

APPENDIX A -THE LAW

CHAPTER 62, ARTICLE 14 NMSA 1978 (Known as the New Mexico Excavation Law)

The following information contains the wording of Chapter 62, Article 14 NMSA 1978, including the 2011 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.
<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 advanced 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 non-compliance 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 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. An owner of an underground facility shall 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.

62-14-5.1. 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 NOT-WITHSTANDING 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 the costs of the one-call notification system. The board may include representatives of excavators and 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 or owns a mineral leasehold interest in the real property on which the excavation occurs; and
- (2) operates all underground facilities located in the intended excavation area.

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

TITLE 18

TRANSPORTATION AND HIGHWAY

CHAPTER 60

PIPELINE CONSTRUCTION AND MAINTENANCE

PART 2

PIPELINE SAFETY GENERAL PROVISIONS

18.60.2.1 ISSUING AGENCY: New Mexico Public Regulation Commission.

[18.60.2.1 NMAC - N, 7-17-06]

18.60.2.2 SCOPE: This rule applies to all owners and operators of gas and hazardous liquid pipelines and underground facilities, excavators, and one-call notification systems in New Mexico subject to the jurisdiction of the commission pursuant to applicable laws.

[18.60.2.21 NMAC - N, 7-17-06]

18.60.2.3 STATUTORY AUTHORITY: Sections 8-8-4, 62-14-9.1, 62-14-10, and 70-3-13 NMSA 1978.

[18.60.2.3 NMAC - N, 7-17-06]

18.60.2.4 DURATION: Permanent.

[18.60.2.4 NMAC - N, 7-17-06]

18.60.2.5 EFFECTIVE DATE: July 17, 2006, unless a later date is cited at the end of a section.

[18.60.2.5 NMAC - N, 7-17-06]

18.60.2.6 OBJECTIVE: The purpose of this rule is to implement Chapter 62, Article 14 NMSA 1978, and the Pipeline Safety Act, Sections 70-3-11 to 70-3-20 NMSA 1978.

[18.60.2.6 NMAC - N, 7-17-06]

18.60.2.7 DEFINITIONS: In addition to the definitions in 49 CFR Parts 40, 190, 191, 192, 193, 194, 195 and 199, and Sections 62-14-2 and 70-3-12 NMSA 1978, as used in these rules:

- A.** applicable laws means the Hazardous Liquid Pipeline Safety Act, 49 USC Sections 2001 et seq; the Hazardous Materials Transportation Act, 49 USC Sections 1801 et seq; the Natural Gas Pipeline Safety Act, 49 USC Sections 60101 et seq; Chapter 62, Article 14 NMSA 1978; the Pipeline Safety Act, Sections 70-3-11 to 70-3-20 NMSA 1978; these rules, and commission orders issued pursuant to them;
- B.** director means the director of the transportation division of the New Mexico public regulation commission or his designee;
- C.** staff means the staff of the pipeline safety bureau of the transportation division of the public regulation commission; and
- D.** these rules means Title 18, Chapter 60.

[18.60.2.7 NMAC - Rp, 18.60.2.7 NMAC, 7-17-06; A, 8-15-12]

18.60.2.8 ADOPTION OF PORTIONS OF THE CODE OF FEDERAL REGULATIONS:

A. Adoption by reference. Except for the variances set forth in Subsection B of this section, the commission adopts the following portions of the code of federal regulations, as such may be amended from time to time, pertaining to gas and hazardous liquid pipeline operators and facilities, and concerning the health, safety, and welfare of persons and property in New Mexico, as part of this rule:

- (1) pipeline safety programs and procedures. 49 CFR 190.5, 190.233(a) and (b), and 190.237;
- (2) annual, incident, and safety related condition reports. 49 CFR Part 191;
- (3) minimum federal safety standards. 49 CFR Part 192;
- (4) transportation of hazardous liquids by pipeline, 49 CFR Part 195;
- (5) drug and alcohol testing, 49 CFR Parts 40 and 199.

B. New Mexico variances to adopted federal regulations.

- (1) The reporting threshold in New Mexico shall be \$5,000 instead of the \$50,000 reporting threshold established in 49 CFR 191.3.

- (2) Hazardous liquid pipeline operators must make telephonic notice to the pipeline safety bureau in accordance with 49 CFR Section 195.50.
- (3) Leakage surveys of transmission lines in New Mexico shall be conducted using leak detection equipment but shall otherwise be conducted in accordance with 49 CFR 192.706(b).
- (4) Intrastate gas and hazardous liquid pipeline operators must submit annual reports, written incident/accident reports and safety related condition reports as prescribed in 49 CFR 191.9, 191.11, 191.12, 191.15, 191.17, 191.23, 191.25, 195.49, 195.50, 195.54, 195.55 and 195.56 to the transportation division director or his designee at Post Office Box 1269, Santa Fe, New Mexico 87504-1269.
- 5) Regulated intrastate gathering operators in New Mexico shall:
 - (a) establish and follow written operating and maintenance procedures as prescribed in 49 CFR 192.605 for all applicable requirements of 49 CFR 192.9;
 - (b) establish and follow written emergency procedures as prescribed in 49 CFR 192.615;

- (c) establish and follow written maintenance procedures as prescribed in 49 CFR 192.703(b) and (c);
- (d) establish and follow written procedures for prevention of accidental ignition as prescribed in 49 CFR 192.751;
- (e) establish and follow written valve maintenance procedures as prescribed in 49 CFR 192.745;
- (f) keep records necessary to administer the procedures established under Subsection B of 18.60.2.8 NMAC; and
- (g) conduct leakage surveys of its regulated gathering line(s) using leak detection equipment at intervals not exceeding fifteen (15) months but at least once each calendar year.

C. Interpretation of references and terms in federal regulations.

- (1) References in the code of federal regulations to “state agency” shall be deemed references to the transportation division of the New Mexico public regulation commission.
- (2) References in 49 CFR 190.233 (a) and (b) to the “associate administrator, OPS” shall be deemed references

to the director of the transportation division of the New Mexico public regulation commission.

- (3) References in 49 CFR 190.233 (a) and (b) to 49 CFR 190.233(c), 49 CFR 190.233(c)(2), or 49 CFR 190.233(g) shall be deemed references to 18.60.4.9 NMAC through 18.60.4.15 NMAC.
- (4) References in 49 CFR 192.723(b)(1) to “business district” shall have the meaning given by the United States department of transportation in correspondence interpreting the term.
- (5) References in 49 CFR 192.383(a) to “replaced service line” includes piping within three (3) feet of the fitting that connects the service line to the main.
- (6) References in 49 CFR 192.605(b), 192.615(a)(7) to “procedures for making safe any actual or potential hazard to life or property” shall include specific procedures for emergency response to excavation damage near buildings that adequately address the possibility of multiple leaks and gas migration into nearby buildings.
- (7) References in 49 CFR 192.617 to “accidents and failures” shall include an unintentional release of gas.

[18.60.2.8 NMAC - Rp, 18.60.2.8 NMAC, 7-17-06; A, 8-15-12]

18.60.2.9 NOTICE OF INTENT TO CON-

STRUCT: Prior to the start of construction of any new or replacement intrastate natural gas or hazardous liquid pipeline with a total construction value of \$50,000 or more, the operator of such pipeline shall give written notice of its intent to construct to the Transportation Division Director, Post Office Box 1269, Santa Fe, New Mexico, 87504-1269. The notice of intent to construct shall state:

- A.** the pipe material;
- B.** the finished diameter, length, and approximate location of the pipeline;
- C.** the size and capacity of any compressors or pumps;
- D.** and the contemplated date construction will commence.

[18.60.2.9 NMAC - Rp, 18.60.2.18 NMAC, 7-17-06; A, 8-15-12]

18.60.2.10 REPORTS OF MASTER METERS:

Annually, by March 15, each owner or operator of a gas distribution or transmission system shall report to the director the name, address, and location of any master meter operator connected to its facilities.

[18.60.2.10 NMAC - Rp, 18.60.2.19 NMAC, 7-17-06]

18.60.2.11 OPERATION AND MAINTENANCE

MANUAL: Each owner or operator of gas or hazardous liquid pipeline facilities in New Mexico, whether above ground or underground,

shall file with the director a manual prescribing its procedures for emergencies and for inspection and maintenance of each pipeline facility it owns or operates and a plan for classification and repair of leaks consistent with 18.60.2.12 NMAC. Any change to procedures set forth in the manual must be filed with the director within twenty (20) days after the change is made

[18.60.2.11 NMAC - Rp, 18.60.2.21 NMAC, 7-17-06]

18.60.2.12 CLASSIFICATION AND REPAIR OF LEAKS:

Immediately upon discovery, and in accordance with generally accepted industry criteria, an owner or operator shall classify a leak as:

- A.** a hazardous leak, grade I or C, if it is a leak which, due to its location and/or magnitude, constitutes an immediate hazard to persons or property;
- B.** a potentially hazardous leak, grade II or B, if it is a leak that does not constitute an immediate hazard, but may become hazardous if not repaired within a reasonable time period; or
- C.** a non-hazardous leak, grade III or A, if it is a leak which does not constitute a hazard and shows no indication of becoming hazardous before routine scheduled repair could be accomplished.

[18.60.2.12 NMAC - Rp, 18.60.2.22 NMAC, 7-17-06]

18.60.2.13 OIL PIPELINE TARIFFS:

- A.** An owner or operator of an oil pipeline shall file with the commission at least ten (10) days prior to its effective date two (2) copies of its tariff covering intrastate movements within New Mexico.
- B.** An owner or operator of an oil pipeline shall file with the commission at least ten (10) days prior to its effective date two (2) copies of any changes to its tariff.
- C.** If an owner or operator of an oil pipeline assesses separate charges for the gathering of oil and for its transportation and delivery, the charges shall be separately specified in its tariff.
- D.** In determining whether an oil pipeline's rates for the transportation of oil are reasonable, the commission shall consider:
 - (1) the actual costs to transport;
 - (2) market factors;
 - (3) the range of rates being charged by other oil pipelines for similar services;
 - (4) any other factors the commission deems relevant.

[18.60.2.13 NMAC - N, 7-17-06]

History of 18.60.2 NMAC:

Pre-NMAC History: The material in this rule

was derived from that previously filed with the Commission of Public Records - State Records Center and Archives.

SCC 69-29, Order No. 2966, Cause No.516, filed 9-24-69.

SCC 71-2, Amended Order No. 2966, Cause No.516, filed 3-18-71.

SCC 72-1, Amended Order No. 3096, Cause No.516, filed 1-12-72.

SCC 77-2, Order No. 3096-C, Docket No.750, filed 3-04-77.

SCC 79-4, Regulations Relating to Minimum Safety Standards for the Transportation of Natural and other Gas by Pipeline, filed 6-27-79.

SCC 84-9-PL, Regulation for the Transportation of Natural and other Gas by Pipeline - Minimum Standards, filed 11-26-84.

History of Repealed Material:

18 NMAC 60.1, General Provisions; 18 NMAC 60.2, Reports Required for New Master Meters and Third Party Damage; 18 NMAC 60.3, Requirement of Filing of Procedural Manual; 18 NMAC 60.4, Classification and Repair of Leaks; 18 NMAC 60.5, Pipeline Safety Program Procedures; 18 NMAC 60.6, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards: Annual and Incident Reports; 18 NMAC 60.7, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards; 18 NMAC 60.8, Transportation of Hazardous Liquids by Pipeline; 18 NMAC 60.9,

Pipeline Safety Regulations: Drugs & Alcohol Testing; 18 NMAC 60.10, Procedures for Transportation Workplace Drug & Alcohol Testing Programs (all filed 5-1-96) repealed 7-1-03.

Other History:

SCC 84-9-PL, Regulation for the Transportation of Natural and other Gas by Pipeline - Minimum Standards, filed 11-26-84, was renumbered into first version of the New Mexico Administrative Code as 18 NMAC 60.1 through 18 NMAC 60.10, effective 6-5-96.

18 NMAC 60.1 through 18 NMAC 60.10 (all filed 5-1-96), were replaced by 18.60.2 NMAC, Pipeline Safety, effective 7-1-03.

18.60.2 NMAC, Pipeline Safety (filed 6-16-2003) replaced by 18.60.2 NMAC, Pipeline Safety General Provisions, effective 7-17-06.

**TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 60 PIPELINE CONSTRUCTION AND
MAINTENANCE**

**PART 4
PIPELINE SAFETY ENFORCEMENT
PROCEDURES**

18.60.4.1 ISSUING AGENCY: New Mexico Public Regulation Commission.

[18.60.4.1 NMAC - N, 7-17-06]

18.60.4.2 SCOPE: This rule applies to all owners and operators of gas and hazardous liquid pipelines and underground facilities, excavators, and one-call notification systems in New Mexico subject to the jurisdiction of the commission pursuant to applicable laws.

[18.60.4.2 NMAC - N, 7-17-06]

18.60.4.3 STATUTORY AUTHORITY: Sections 8-8-4, 62-14-9.1, 62-14-10, and 70-3-13 NMSA 1978.

[18.60.4.3 NMAC - N, 7-17-06]

18.60.4.4 DURATION: Permanent.

[18.60.4.4 NMAC - N, 7-17-06]

18.60.4.5 EFFECTIVE DATE: July 17, 2006, unless a later date is cited at the end of a section.

[18.60.4.5 NMAC - N, 7-17-06]

18.60.4.6 OBJECTIVE: The purpose of this rule is to prescribe procedures to administer and enforce Chapter 62, Article 14 NMSA 1978, and the Pipeline Safety Act, Sections 70-3-11 to 70-3-20 NMSA 1978.

[18.60.4.6 NMAC - N, 7-17-06]

18.60.4.7 DEFINITIONS: In addition to the definitions in 18.60.2.7 and 18.60.5.7 NMAC, as used in this rule, respondent means an owner or operator of gas and hazardous liquid pipelines or underground facilities, an excavator, or a one-call notification system.

[18.60.4.7 NMAC - Rp, 18.60.2.7 NMAC, 7-17-06]

18.60.4.8 INSPECTIONS AND INVESTIGATIONS:

A. Pipelines.

- (1) Staff is authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, those records and pipeline facilities of an owner or operator relevant to determining whether the owner or operator is in compliance with applicable laws.
- (2) Staff may conduct an inspection pursuant to:
 - (a) scheduling by staff;
 - (b) a written complaint received from a member of the public;
 - (c) information obtained from a previous inspection;
 - (d) an accident or incident; or
 - (e) whenever the commission or the director deems it appropriate.
- (3) If, after an inspection, staff believes that further information is needed to determine appropriate action, staff may send a request for specific information to the owner or operator. The owner or operator shall answer the request within thirty (30) days of its receipt.

- (4) The commission may, subject to applicable laws, require testing of portions of facilities that have been involved in, or affected by, an accident. The commission shall make every effort to negotiate with the owner or operator of the facility a mutually acceptable plan for performing the testing.
- (5) When the information obtained from an inspection or from other appropriate sources indicates that further commission action is warranted, the director shall issue a notice of probable violation or notice of intent to issue a hazardous facility order, as appropriate.

B. Excavation. A one-call notification system, underground facility operator, excavator, or project owner, as appropriate, shall, upon reasonable notice and presentation of identification, grant staff access to:

- (1) an excavation site for the purpose of previewing, observing, or examining an excavation activity;
- (2) all records pertaining to an excavation activity that are in the possession of the one-call notification system, underground facility operator, excavator, or project owner.

[18.60.4.8 NMAC - Rp, 18.60.2.9 NMAC, 7-17-06]

18.60.4.9 SERVICE OF PROCESS: Whenever this rule requires notice or other process to be served on a respondent, the notice or other process shall be served at the last known address of the respondent.

[18.60.4.9 NMAC - Rp, 18.60.2.10 NMAC, 7-17-06]

18.60.4.10 NOTICE OF PROBABLE VIOLATION:

- A.** Except as otherwise provided in Section 70-3-19 NMSA 1978, the director shall begin an enforcement proceeding by serving a notice of probable violation on the respondent.
- B.** The director may serve a notice of probable violation of applicable laws through staff on the respondent or the respondent's agent at an excavation site. In such case, the director shall also serve the notice of probable violation by mail on the respondent as prescribed in 18.60.4.9 NMAC.
- C.** A notice of probable violation shall include a statement of those provisions of applicable laws that the respondent is alleged to have violated, a statement of the evidence upon which the allegations are based, a statement that the respondent may request a settlement conference within fifteen (15) days of receipt of the notice of probable violation, and instructions regarding how the respondent may request a

settlement conference. A respondent shall respond to the allegations in writing within fifteen (15) days of receipt of the notice of probable violation. The director may, in his discretion and in accordance with applicable laws, grant or deny a request for a settlement conference.

- D.** If, in his discretion, the director determines that a settlement conference would be useful, the notice of probable violation shall also contain a date, time and location for a settlement conference, and a statement that if the respondent fails to appear for the settlement conference, the respondent will be deemed to have admitted the violation.
- E.** The director may amend a notice of probable violation at any time prior to issuance of a final order.

[18.60.4.10 NMAC - Rp, 18.60.2.11 NMAC, 7-17-06]

18.60.4.11 ATTORNEY REPRESENTATION. In settlement conferences, dispositional hearings, commission hearings conducted pursuant to this rule, and arbitrations and mediations conducted pursuant to 18.60.5 NMAC, respondents shall be represented as provided in this section.

- A.** An individual or sole proprietorship shall appear in person on his or her own behalf or may be represented by an attorney.

- B.** A partnership with fewer than ten (10) partners, whether limited or general, who are all natural persons, may appear and be represented by an attorney or by a general partner or manager who has been authorized by the general partnership to do so.
- C.** A limited liability company with fewer than ten (10) members, who are all natural persons, may appear and be represented by an attorney or by a manager or member who has been authorized by the limited liability company to do so.
- D.** A corporation whose voting shares are held by a single shareholder or closely knit group of shareholders who are all natural persons active in the operation of the business may appear and be represented by an attorney or by an officer or manager who has been authorized by the corporation to do so.
- E.** All other persons shall be represented by an attorney.

[18.60.4.11 NMAC - N, 7-17-06]

18.60.4.12 SETTLEMENT CONFERENCES:

The director may conduct a settlement conference with the respondent at the date, time and in the manner set forth in the notice of probable violation, or at such other time agreed to by the director and the respondent. At the settlement conference, the director shall explore with the respondent the facts of the probable violation

and the possibility of reaching an agreed upon resolution, which may include dismissal or a voluntary settlement agreement with administrative or civil penalties or other sanctions.

- A. Voluntary dismissal.** If the director and respondent agree to dismiss the notice of probable violation, the director shall issue a letter dismissing the probable violation which shall resolve the matter.
- B. Voluntary settlement agreement.** If the director and respondent agree to settle, the director and respondent shall enter into and sign a written settlement agreement which shall resolve the matter. The written settlement agreement shall include any administrative or civil penalties or other sanctions and the respondent's knowing waiver of his right to a formal hearing.
- C. Failure to settle.** If the respondent appears at the settlement conference but does not agree to terms and conditions that are satisfactory to the director, the director may request a hearing before the commission pursuant to 18.60.4.14 NMAC or file a petition in district court for injunctive action.
- D. Failure to appear.** If the respondent fails to appear for the settlement conference, the respondent will be deemed to have admitted the violation. Within ten (10) days, the director may serve on respon-

dent a determination of violation. The determination shall include notice of the respondent's right to appeal pursuant to 18.60.4.14 NMAC and may include notice of a dispositional hearing pursuant to 18.60.4.13 NMAC.

E. Alternative procedures. The director may give notice of a dispositional hearing, request a hearing before the commission, or file a petition in district court for injunctive action without offering to hold a settlement conference.

[18.60.4.12 NMAC - Rp, 18.60.2.12 NMAC, 7-17-06]

18.60.4.13 DISPOSITIONAL HEARINGS:

A. Notice. Not less than twenty (20) days prior to the date of the dispositional hearing, the director shall serve on the respondent notice of the dispositional hearing and copies of the notice of probable violation, staff's inspection reports, and any third party complaints or damage reports by mail as prescribed by 18.60.4.9 NMAC. The notice shall state in boldface type that failure to appear at the dispositional hearing may result in the issuance of a default disposition and administrative or civil penalties or other sanctions.

B. Procedures.

- (1) The director shall appoint a person or a panel to hear the case, or may hear the case himself or herself.
- (2) The dispositional hearing shall be recorded by mechanical or electronic means and the director, or person or panel conducting the hearing, shall determine if the record shall be transcribed.
- (3) If the director does not hear the case himself or herself, the person or panel conducting the dispositional hearing shall issue a recommended disposition to the director setting forth findings of fact, the amount of any administrative or civil penalties, and any other sanctions.

C. Disposition. The director shall promptly act on the recommended disposition. The director's disposition shall include:

- (1) findings of fact;
- (2) the amount of the penalty and the procedure for its payment, if an administrative or civil penalty is assessed;
- (3) a statement of the actions required to be taken by the respondent and the time by which each action must be accomplished; and

- (4) a statement that the respondent may appeal the director's disposition by filing a request for a hearing before the commission pursuant to 18.60.4.14 NMAC.

D. Failure to appear. If the respondent fails to appear for the dispositional hearing, the director may issue a default disposition, which may include administrative or civil penalties or other sanctions.

[18.60.4.13 NMAC - N, 7-17-06]

18.60.4.14 HEARINGS BEFORE THE COMMISSION:

A. Request for hearing.

- (1) **By the director.** At any time after the notice of probable violation has been served on the respondent, the director may request a hearing before the commission.
- (2) **By the respondent.** A respondent may appeal a determination made by the director pursuant to Subsection D of 18.60.4.12 NMAC or a disposition made by the director pursuant to 18.60.4.13 NMAC by filing a request for hearing before the commission. The respondent shall file the appeal with the docket filing unit of the commission within thirty (30) days of the date the director's determination or disposition is mailed to the respondent. The appeal shall be in writing and signed by the respondent and shall set forth the factual basis for the appeal

and the nature of the relief requested. An appeal may request a stay of the director's determination or disposition pending a decision of the commission.

B. Notice of hearing. The commission shall:

- (1) fix a time and location for a public hearing on the alleged violations; and
- (2) serve notice of the hearing upon the respondent by mail as prescribed by 18.60.4.9 NMAC not less than ten (10) days prior to the date of the hearing with copies of the notice of probable violation, staff's inspection reports, and any third party complaints or damage reports. The notice shall state in bold-face type that failure to appear at the hearing may result in a default judgment and the imposition of administrative or civil penalties or other sanctions.

C. Hearing procedures. The commission may appoint a hearing examiner or may hear the matter itself. The commission or hearing examiner shall conduct the hearing in accordance with the PRC rules of procedure. If a hearing examiner conducts the hearing, the hearing examiner shall submit to the commission a recommended decision with findings of fact and conclusions of law.

[18.60.4.14 NMAC - Rp, 18.60.2.13 and 18.60.2.14 NMAC, 7-17-06]

18.60.4.15 STIPULATION:

- A.** At any time before the issuance of a final order, the director and the respondent may agree to resolve a case by stipulation. The stipulation may include assessment or waiver of a civil or administrative penalty or other sanctions.
- B.** A stipulation shall include:
 - (1) an admission by the respondent of all jurisdictional facts;
 - (2) an express waiver of the right to pursue further procedural remedies before the commission and of the right to seek judicial review or otherwise challenge or contest the validity of the stipulation;
 - (3) an acknowledgement that the notice of probable violation may be used to construe the terms of the stipulation;
 - (4) an acknowledgement that the stipulation will be considered a violation for purposes of penalties for subsequent violations; and
 - (5) a statement of the actions to be taken by the respondent and the time by which each action shall be accomplished.

- C.** If a case is resolved by stipulation, staff shall file a motion requesting approval of the stipulation and closing of the case.

[18.60.4.15 NMAC - Rp, 18.60.2.15 NMAC, 7-17-06]

18.60.4.16 FINAL ORDER: After a hearing, and the consideration of any exceptions pursuant to the PRC rules of procedure, the commission shall issue a final order that includes:

- A.** findings of fact and conclusions of law;
- B.** the amount of the penalty and the procedure for its payment, if a civil or administrative penalty is assessed; and
- C.** a statement of the actions required to be taken by the respondent and the time by which each action must be accomplished.

[18.60.4.16 NMAC - Rp, 18.60.2.16 NMAC, 7-17-06]

18.60.4.17 PAYMENT OF PENALTY:

- A.** A respondent shall pay an administrative or civil penalty agreed to in a voluntary settlement agreement or assessed in a director's disposition or commission final order by certified check or money order made payable to the New Mexico Public Regulation Commission and shall submit the payment to the address provided by the commission.

B. If a respondent fails to pay the full amount of an administrative or civil penalty within twenty (20) days of receipt of a director's disposition or commission final order, or other time frame specified in the disposition or order, the commission or director may file an action in district court to collect the assessed penalty.

[18.60.4.17 NMAC - Rp, 18.60.2.17 NMAC, 7-17-06]

18.60.4.18 REFERRAL FOR PROSECUTION:

If an employee of the transportation division of the New Mexico public regulation commission becomes aware of any actual or possible activity subject to criminal penalties under Section 70-3-19 NMSA 1978, the employee shall report such actual or possible activity to the office of the attorney general for the state of New Mexico.

[18.60.4.18 NMAC - Rp, 18.60.2.26 NMAC, 7-17-06]

History of 18.60.4 NMAC:

Pre-NMAC History: The material in this rule was derived from that previously filed with the Commission of Public Records-State Records Center and Archives.

SCC 69-29, Order No. 2966, Cause No.516, filed 9-24-69.

SCC 71-2, Amended Order No. 2966, Cause No.516, filed 3-18-71.

SCC 72-1, Amended Order No. 3096, Cause No.516, filed 1-12-72.

SCC 77-2, Order No. 3096-C, Docket No.750, filed 3-04-77.

SCC 79-4, Regulations Relating to Minimum Safety Standards for the Transportation of Natural and other Gas by Pipeline, filed 6-27-79.

SCC 84-9-PL, Regulation for the Transportation of Natural and other Gas by Pipeline - Minimum Standards, filed 11-26-84.

History of Repealed Material: 18 NMAC 60.1, General Provisions; 18 NMAC 60.2, Reports Required for New Master Meters and Third Party Damage; 18 NMAC 60.3, Requirement of Filing of Procedural Manual; 18 NMAC 60.4, Classification and Repair of Leaks; 18 NMAC 60.5, Pipeline Safety Program Procedures; 18 NMAC 60.6, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards: Annual and Incident Reports; 18 NMAC 60.7, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards; 18 NMAC 60.8, Transportation of Hazardous Liquids by Pipeline; 18 NMAC 60.9, Pipeline Safety Regulations: Drugs & Alcohol Testing; 18 NMAC 60.10, Procedures for Transportation Workplace Drug & Alcohol Testing Programs (all filed 5-1-96) repealed 7-1-03.

Other History:

SCC 84-9-PL, Regulation for the Transportation of Natural and other Gas by Pipeline - Minimum Standards, filed 11-26-84, was renumbered into first version of the New Mexico Administrative Code as 18 NMAC 60.1 through 18 NMAC 60.10, effective 6-5-96.

18 NMAC 60.1 through 18 NMAC 60.10 (all filed 5-1-96), were replaced by 18.60.2 NMAC, Pipeline Safety, effective 7-1-03.

Those **applicable portions** of 18.60.2 NMAC, Pipeline Safety (filed 6-16-2003) replaced by 18.60.4 NMAC, Pipeline Safety Enforcement Procedures, effective 7-17-06.

TITLE 18 TRANSPORTATION AND HIGHWAYS

CHAPTER 60 PIPELINE CONSTRUCTION AND MAINTENANCE

PART 5 PIPELINE SAFETY EXCAVATION DAMAGE PREVENTION

18.60.5.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[18.60.5.1 NMAC - Rp, 18.60.5.1 NMAC, 8-15-12]

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 subject to the jurisdiction of the commission.

[18.60.5.2 NMAC - Rp, 18.60.5.2 NMAC, 8-15-12]

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.

[18.60.5.3 NMAC - Rp, 18.60.5.3 NMAC, 8-15-12]

18.60.5.4 DURATION: Permanent.

[18.60.5.4 NMAC - Rp, 18.60.5.4 NMAC, 8-15-12]

18.60.5.5 EFFECTIVE DATE: August 15, 2012, unless a later date is cited at the end of a section.
[18.60.5.5 NMAC - Rp, 18.60.5.5 NMAC, 8-15-12]

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

[18.60.5.6 NMAC - Rp, 18.60.5.6 NMAC, 8-15-12]

18.60.5.7 DEFINITIONS: In addition to the definitions in Section 62-14-2 NMSA 1978, 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 for the purpose of providing information to persons designing a project;

- D. excavation locate** means the marking of underground facilities at the request of an excavator for the purpose of providing information to an excavator working on a project;
- E. 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;
- F. incorporated area** means any area within the limits of any incorporated city, town or village with a population of ten thousand or greater;
- 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** 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; and
- K. working day** means a twenty-four (24) hour period excluding weekends and holidays.

[18.60.5.7 NMAC - Rp, 18.60.5.7 NMAC, 8-15-12]

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, 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.** report to the commission quarterly the:

- (1) average wait time for answered calls for each month in the quarter;
- (2) number of calls received for each month in the quarter;
- (3) number of tickets generated for each month in the quarter;
- (4) number of requests by type (regular, priority, emergency) for each month in the quarter;

- 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; and
- I.** inform any person who calls with a complaint that he or she may file a complaint with the commission, and provide the commission's access information, if the one-call system is unable to satisfactorily resolve the matter.

[18.60.5.8 NMAC - Rp, 18.60.5.8 NMAC, 8-15-12]

18.60.5.9 RESPONSIBILITIES OF UFOs:

- A.** UFO shall report any changes in access information to the commission on or before the date the information will change.
- B.** A UFO shall keep a record of all locate requests and make such records available to the commission upon request.

- C.** A UFO shall retain records of locate requests, excavation notices and underground facility damage information for a period of five (5) years.
- D.** A UFO that utilizes contractors to perform locate and excavation activities or damage investigations on its behalf shall be responsible for compliance with the law and these rules.

[18.60.5.9 NMAC - Rp, 18.60.5.9 NMAC, 8-15-12]

18.60.5.10 LOCATE REQUESTS: An excavator shall make an excavation locate request for all projects involving excavation, including road maintenance. Although not required under the Excavation Damage Law, Sections 62-14-1, et seq. NMSA 1978, or this rule, locate requests are encouraged for excavation projects involving purely non-mechanical means.

A. 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 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 he can reasonably expect to excavate within a ten (10) working day period and shall request an excavation locate for that area only. 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 standard ten (10) working day ticket requests 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;
- (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.

D. Processing.

- (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 locate request, a one-call notification system shall issue a ticket with a unique number to the requesting excavator 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.

[18.60.5.10 NMAC - Rp, 18.60.5.10 NMAC, 8-15-12]

18.60.5.11 WIDE AREA LOCATE REQUESTS:

An excavator who expects a project to take more than ten (10) working days to complete shall either request separate locates which meet the requirements of Subsection B of 18.60.5.10 NMAC or follow the conference procedure set forth in this section.

- A.** If an excavator expects that an excavation will take more than ten (10) working days to complete, the excavator shall contact the one-call notification system to request a wide area conference. The one-call notification system shall process the request as provided in Subsection D of 18.60.5.10 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 to schedule a conference.
- C.** At the conference, the excavator shall develop a written work plan in concert 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 developed, an excavator shall request a wide area excavation locate. The one-call notification system shall process the request as provided in Subsection D of 18.60.5.10 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 ticket every ten (10) working days for the duration of the ticket.

For the purpose of reaffirmation, a working day begins on the date and time stamped on the ticket and ends ten (10) working days from such date and time. Unless the excavator states that the existing markings are sufficient for the time being, a UFO shall verify that existing markings are still visible, refresh them if needed, and continue to locate according to the work plan.

[18.60.5.11 NMAC - Rp, 18.60.5.11 NMAC, 8-15-12]

18.60.5.12 DESIGN AND BID LOCATE REQUESTS: A project owner shall request information regarding the location of underground facilities 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 may request from one-call notification systems and non-member UFOs a design locate or a bid locate.
- (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 shall not request relocates or time extensions.

B. Conferences.

- (1) A project owner may request from the one-call notification system for the intended excavation area and non-member UFOs a design conference or bid conference with UFOs.
- (2) The one-call notification system for the intended excavation area shall process the request as provided in Subsection D of 18.60.5.10 NMAC.
- (3) UFOs shall contact the project owner within two (2) working days to arrange to provide information to designers or bidders within a reasonable time.
- (4) A project owner and UFOs shall continue coordinating until the bid for the project has been awarded and an excavator requests an excavation locate.

[18.60.5.12 NMAC - Rp, 18.60.5.12 NMAC, 8-15-12]

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 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.

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.
- (3) If it does not have underground facilities at the excavation site, a UFO may write “clear” or “no underground facilities” and the UFO’s name at the site in the appropriate color. Alternatively, a UFO that is a member of the one-call notification system for the intended excavation area, or non-member UFO may contact the one-call notification system within two (2) working days to report it has no underground facilities in the proposed area of excavation.

(4) The locate markings shall be valid for ten (10) working days from the end of the two (2) day marking period. For the purpose of excavation, a working day begins on the date and time stamped on the ticket and ends twelve (12) working days from such date and time.

(5) 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.

[18.60.5.13 NMAC - Rp, 18.60.5.13 NMAC, 8-15-12]

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 its underground facilities that are parallel to the road, as provided in Subsection A, and shall either physically mark or locate by marker its underground facilities that cross the road, as provided in Subsection B.

A. Underground facilities parallel to road.

A UFO shall physically mark the location of all underground facilities located parallel to 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 set forth in 18.60.5.13 NMAC.

B. Underground facilities that cross the road.

(1) Physical locate. A UFO may physically mark the location of all underground facilities that 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 marker. Alternatively, a UFO may use a system of markers to indicate the location of underground facilities that cross the road to be maintained. Such markers shall:

- (a) only be used to mark underground facilities that cross the road to be maintained and only 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.

C. Maintenance of markers. A UFO shall be deemed to have failed to correctly mark its underground facility that crosses a road to be maintained unless it:

- (1) ensures that the markers are in place;
- (2) maintains a minimum twenty-four (24) inches of coverage over the underground facility that crosses the road;
- (3) verifies the depth of its underground facilities at the markers at least annually; and
- (4) ensures that the decal is visible and the information on it is readable.

[18.60.5.14 NMAC - Rp, 18.60.5.14 NMAC, 8-15-12]

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 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, an excavator shall, prior to commencing excavation, call the one-call notification system for the intended excavation area if the UFO is a member of the one-call notification system to verify the area as “clear” or “no underground facilities.”

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; or
 - (b) expose the underground facility by non-mechanical means or mechanical vacuum excavation methods.
- (2) 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.
 - (3) The requirement to clear a facility does not apply to the homeowner of a residential property.

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 non-compliance 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.

[18.60.5.15 NMAC - Rp, 18.60.5.15 NMAC, 8-15-12]

18.60.5.16 EMERGENCY EXCAVATION AND DAMAGE REPORTING PROCEDURE:

This section applies whenever damage to underground facilities or public infrastructure threatens or causes interruption of utility services or use of the public infrastructure.

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 damaged underground

facilities. The operator of a damaged underground facility shall exercise prudence and shall:

- (1) promptly respond to a report of damage to its underground facilities and travel to the site of the damage;
- (2) while on the way to the site or at the site, 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; and
- (5) obtain an excavation locate ticket for repair work beyond resolution of the emergency situation.

C. Operators of damaged public infrastructure. The entity responsible for the 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.

[18.60.5.16 NMAC - Rp, 18.60.5.16 NMAC, 8-15-12]

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 ten (10) 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 or clears within the requisite time frame;
- F.** fails to mark, or call in a clear for, its underground facilities within the requisite time frame;

- G.** commences excavation prior to the expiration of the two (2) day notice period;
- H.** obliterates markings at an excavation site without providing temporary offset marks or stakes;
- I.** alters any record relating to excavation activity; or
- J.** commits any other act that the commission determines violates Chapter 62, Article 14 NMSA 1978 or this rule.

[18.60.5.17 NMAC - Rp, 18.60.5.17 NMAC, 8-15-12]

18.60.5.18 REPORTS OF THIRD PARTY DAMAGE:

- A.** A UFO shall report to the director any incident in which the owner or operator's underground facility is damaged. Such report, where practicable, shall be submitted using the commission's web site at: *www.nmprc.state.nm.us*. 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.
- C.** The report shall be submitted by the 15th day of the month following the month of occurrence, or within thirty (30) days of occurrence, whichever is later.
- D.** The UFO shall make available to the director within a reasonable time such other information or documentation as the

director may require regarding any incident reportable under this section.

[18.60.5.18 NMAC - Rp, 18.60.5.18 NMAC, 8-15-12]

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.

[18.60.5.19 NMAC - Rp, 18.60.5.19 NMAC, 8-15-12]

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 em-

ployee 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.

[18.60.5.20 NMAC - Rp, 18.60.5.20 NMAC, 8-15-12]

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.

[18.60.5.21 NMAC - Rp, 18.60.5.21 NMAC, 8-15-12]

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.

[18.60.5.22 NMAC - Rp, 18.60.5.22 NMAC, 8-15-12]

HISTORY OF 18.60.5 NMAC:

Pre-NMAC History:

The material in this rule was derived from that previously filed with the State Records Center.

SCC 69-29, Order No. 2966, Cause No.516, filed 9-24-69.

SCC 71-2, Amended Order No. 2966, Cause No.516, filed 3-18-71.

SCC 72-1, Amended Order No. 3096, Cause No.516, filed 1-12-72.

SCC 77-2, Order No. 3096-C, Docket No.750, filed 3-4-77.

SCC 79-4, Regulations Relating to Minimum Safety Standards for the Transportation of Natural and other Gas by Pipeline, filed 6-27-79.

SCC 84-9-PL, Regulation for the Transportation of Natural and other Gas by Pipeline - Minimum Standards, filed 11-26-84.

History of Repealed Material:

18 NMAC 60.1, General Provisions; 18 NMAC 60.2, Reports Required for New Master Meters and Third Party Damage; 18 NMAC 60.3, Requirement of Filing of Procedural Manual; 18 NMAC 60.4, Classification and Repair of Leaks; 18 NMAC 60.5, Pipeline Safety Program Procedures; 18 NMAC 60.6, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards: Annual and Incident Reports; 18 NMAC 60.7, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards; 18 NMAC 60.8, Transportation of Hazardous Liquids by Pipeline; 18 NMAC 60.9, Pipeline Safety Regulations: Drugs & Alcohol Testing; 18 NMAC 60.10, Procedures for Transportation Workplace Drug & Alcohol Testing Programs (all filed 5-1-96) repealed 7-1-03.

18.60.5 NMAC, Pipeline Safety Excavation Damage Prevention, filed 6-27-06 - Repealed effective 8-15-12.

Other History:

SCC 84-9-PL, Regulation for the Transportation of Natural and other Gas by Pipeline - Minimum Standards, filed 11-26-84, was renumbered into first version of the New Mexico Administrative Code as 18 NMAC 60.1 through 18 NMAC 60.10, effective 6-5-96.

18 NMAC 60.1 through 18 NMAC 60.10 (all filed 5-1-96), were replaced by 18.60.2 NMAC, Pipeline Safety, effective 7-1-03.

Those **applicable portions** of 18.60.2 NMAC, Pipeline Safety (filed 6-16-2003) replaced by 18.60.5 NMAC, Pipeline Safety Excavation Damage Prevention, effective 7-17-06.

APPENDIX C - 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 (EM s).
4. How to indicate the presence of buried splices, valves and manholes.

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

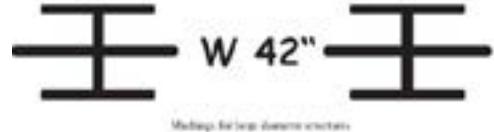
Line Markings



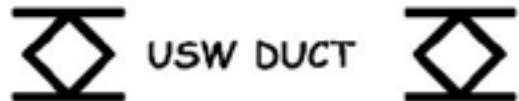
Corridor Markings



Oversized Utility Markings



Conduit Markings



Marking Gas Lines – High Pressure



Marking Termination Point, Dead End, Stub Outs

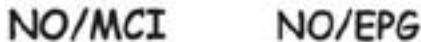


Marking Offsets



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

No Conflict (No utilities within the requested area)



Proposed Markings – Consensus not reached by committee

Electronic Marker



Marking Buried Splices, Valves, Manholes



APPENDIX D - WHITE LINING MARKING GUIDELINES

Published White Lining Marking Guidelines

Prepared by NMRCGA's White Lining Marking Guidelines Committee - September 2012

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 with a population of ten thousand or greater."

Because the APWA marking guidelines are limited for the purpose of excavator white lining, at the request of Jason Montoya, NM Pipeline Safety Bureau Chief, the New Mexico Regional Common Ground Alliance formed a Committee to establish guidelines for excavator white lining.

The Committee met for the first time on June 28, 2012, at the offices of NM811. As a result of the meeting and through subsequent email exchanges, the Committee agreed on the guidelines stated below for excavator white lining in New Mexico.

Excavator white lining of proposed excavation routes or sites should be in accordance with the Common Ground Alliance Best Practices resources (Version 9.0 or updates) listed below:

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

In addition:

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

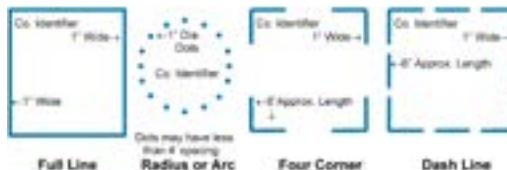
White lining is a communication tool between the excavator and the locator. If a proposed excavation site is unclear after it has been white lined, locators are encouraged to immediately contact the excavator for clarification.

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 Delineations^{51/}

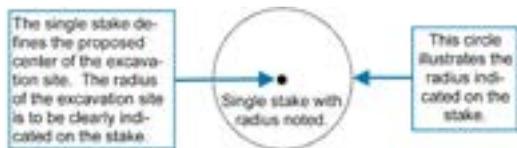
The following marking illustrations are examples of how excavators may choose to mark their area of proposed excavation. The use of white marking products (e.g., paint, flags, stakes, whiskers, or a combination of these) may be used to identify the excavation site.

Single Point Excavations Markings



Delineate in white paint 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.

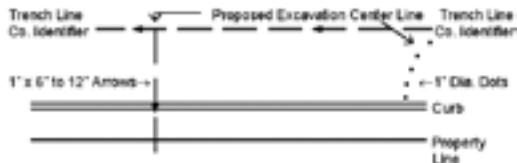
Single Stake Marking Center Point of Excavation Site



5/ TR-2001-05: Amendment approved by the CGA Board on September 24, 2004

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 paint the proposed centerline of planned excavation using 6 in. to 12 in. x 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 direction 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 whisks are white in color and display the excavator's company identifier (name, abbreviations, or initials).

APPENDIX E - NM's INCORPORATED CITIES, TOWNS, & VILLAGES

For the most recent population data for incorporated cities, towns & villages in New Mexico, please visit:

<http://quickfacts.census.gov/qfd/index.html>