

Department of Transportation  
Research and Special Programs Administration  
Washington, D.C. 20590

State of North Carolina  
Utilities Commission  
P.O. Box 991  
Raleigh, North Carolina 27602

Gentlemen:

This responds to the North Carolina Utilities Commission order (Docket G-100, SUB 35) issued on June 28, 1979, granting certain North Carolina natural gas pipeline operators a period of time until June 30, 1980, and under certain conditions until December 31, 1980, to meet the line marking requirement of 49 CFR 192.707 with respect to mains and transmission lines in Class 3 and 4 locations. This matter is assigned Docket No. NC-79-1.

An amendment to 49 CFR Part 192 was issued in 1975 (Docket No. OPS-18; Amdt. 192-20) requiring line markers to be installed on mains and transmission lines before January 1, 1979. Section 192.707(b)(2Xii) provides an exception to this requirement for pipelines in Class 3 and 4 locations where a damage prevention program exists by local law.

The Commission previously granted a waiver, with no objection by MTB, extending the deadline for compliance with Section 192.707, as amended, with respect to the subject pipelines, to April 30, 1979, and under certain conditions to December 31, 1979. The previous waiver and the present waiver were granted to the following pipelines operators:

North Carolina Gas Service Company	City of Wilson
North Carolina Natural Gas Corp.	City of Rockey Mount
Public Service Gas Co. of N.C., Inc.	City of Monroe City of Lexington
Piedmont Natural Gas Co., Inc.	City of Bessemer City
United Cities Gas Company	City of Kings Mountain
City of Greenville	City of Shelby

The previous time extension and the present waiver were granted to permit time for passage of State statutes requiring the establishment under law of programs for the prevention of damage to underground pipeline systems. The Commission anticipates that the necessary legislative action will be completed prior to the 1980 waiver dates.

It is anticipated that granting of this waiver will eliminate the need to install certain line markers at an estimated material and installation cost for the operators involved of \$1,365,000 that will be unnecessary when the proposed legislation is adopted.

As stated in the 1979 regulatory schedule, MTB is going to propose an amendment to Part 192 to require each operator to establish and implement an outside force damage prevention plan. This amendment would provide a more appropriate safety requirement for all main and transmission lines in Class 3 and 4 locations than the present marking requirements, and we expect the present requirements would be repealed if the proposed amendment becomes final.

In consideration of the arguments presented by the Commission and the pending rulemaking action, MTB does not object to the waiver granted by North Carolina Utilities Commission under Docket No. G-100, SUB 35, dated June 28, 1979.

Sincerely,  
Cesar De Leon  
Associate Director for  
Pipeline Safety Regulation  
Materials Transportation Bureau

State of North Carolina  
Utilities Commission  
Raleigh 27602

July 19, 1979

Mr. Paul J. Cory  
Department of Transportation  
Research and Special Programs Administration  
Washington, D. C. 20590

Dear Mr. Cory:

Pursuant to our telephone conversation on Thursday, July 19, 1979, regarding the extension of time for the waiver granted under Docket No. G-100, Sub 35, the following operators are to be included under the waiver:

N. C. Gas Service  
North Carolina Natural Gas Corp.  
Public Service Gas Co. of N. C., Inc.  
Piedmont Natural Gas Co., Inc.  
United Cities Gas Co.  
City of Greenville  
City of Wilson  
City of Rocky Mount  
City of Monroe City of Lexington  
City of Bessemer City  
City of Kings Mountain  
City of Shelby

These are all the operators included in the beginning of the Order, "Request by the North Carolina Natural Gas Operators Subject to Jurisdiction under G. S. 62-50 . . ."

If I can be of any further assistance, please notify.

Yours very truly,  
I. H. Hinton, Director Transportation Division  
Tom Dixon, Chief Pipeline Safety Section  
(919) 733-6000

March 20, 1978

Ms. Katherine M. Peale  
Chief Clerk, North Carolina  
Utilities Commission  
P.O. Box 991  
Raleigh, North Carolina 27602

Dear Ms. Peels:

We have reviewed the Commission action (OPSO Docket No. NC-79-1) of January 10, 1979, granting certain natural gas operators in North Carolina a waiver from compliance with the January 1, 1974, deadline for line markers under 49 CPR 192.707.

We find that the Commission's action in granting the waiver until April 30, 1979, to satisfy the requirements for legislative action, and until December 31, 1979, if the proposed bill is not passed, is not inconsistent with pipeline safety, and we have no objection to it.

Sincerely,  
Cesar DeLeon  
Acting Director  
Office of Pipeline  
Safety Operations

United States Government  
Department of Transportation  
Materials Transportation Bureau

Memorandum

DATE: MAR 15, 1978  
TO: Chief, Regulations Division  
FROM: Chief, Technical Division  
SUBJECT: Docket No. NC-78-1

I have reviewed the requested waiver of the line marking requirements of Section 192.707 by the North Carolina Natural Gas Operators. I find no reason for OPSO to object to the waiver as granted by the North Carolina Utilities Commission. I agree that enactment of the proposed statewide "One Call System" would be much more effective in reducing accidents caused by third parties than would the installation of the required line markers.

I recommend that the North Carolina Commission be advised that OPSO has no objection to the waiver granted.

Frank E. Fulton

DOCKET NO. G-100, SUB 35

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Request by the North Carolina Natural Gas	)	<u>NOTICE OF</u>
Operators Subject to Jurisdiction Under	)	<u>WITHDRAWAL</u>
G. S. 62-50, for Waiver to the January 1,	)	<u>OF INTERVENTION</u>
1978, Deadline for Installing Pipeline	)	
Markers in Class 3 and 4 Locations	)	

NOW COMES THE PUBLIC STAFF - North Carolina Utilities Commission, by and through its Executive Director, Hugh A. Wells, as constituted by G. S. 62-15, and respectfully gives this Notice of Withdrawal of Intervention previously entered in this docket.

HUGH A. WELLS  
Executive Director

Jerry B. Fruitt  
Chief Counsel

Dwight W. Allen  
Staff Attorney

P. O. Box 991  
Raleigh, North Carolina 27602  
Telephone: (919) 733-6110

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served a copy of the foregoing upon parties of record in this proceeding and their attorneys by hand delivering or depositing a copy of the same in the United States Mail.

This the 23rd day of February, 1978.

Dwight W. Allen

DOCKET NO. G-100, SUB 35  
BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Request by the North Carolina Natural Gas	)	
Operators Subject to Jurisdiction Under	)	<u>NOTICE OF</u>
G. S. 62-50, for Waiver to the January 1,	)	<u>INTERVENTION</u>
1978, Deadline for Installing Pipeline	)	
Markers in Class 3 and 4 Locations	)	

NOW COMES THE PUBLIC STAFF - North Carolina Utilities Commission, by and through its Executive Director, Hugh A. Wells, as constituted by G. S. 62-15 and gives this Notice of Intervention in the above-captioned docket on behalf of the Using and Consuming Public. The Public Staff is directed or allowed to intervene in such cases by the provisions of G. S. 62-15(d).

WHEREFORE, the PUBLIC STAFF - North Carolina Utilities Commission moves the Commission that its intervention in the above-referenced docket be recognized and that the Public Staff be made a party to this proceeding.

HUGH A. WELLS  
Executive Director

Jerry B. Fruitt  
Chief Counsel

Dwight W. Allen  
Assistant Staff Attorney

P. O. Box 991  
Raleigh, North Carolina 27602  
Telephone: (919) 733-6110

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served a copy of the foregoing upon parties of record in this proceeding and their attorneys by hand delivering or depositing a copy of the same in the United States Mail.

This the 8th day of January, 1978  
Dwight W. Allen

DEPARTMENT OF TRANSPORTATION  
MATERIALS TRANSPORTATION BUREAU  
WASHINGTON, D.C. 20590

FEB 2 1978

Ms. Katherine M. Peels  
Chief Clerk, North Carolina  
Utilities Commission  
P.O. Box 991  
Raleigh, North Carolina 27602

Dear Ms, Peele:

This is to acknowledge receipt on January 17, 1978, of your transmittal of Docket No. G-100, Sub 35, notifying us that the North Carolina Utilities Commission has granted the North Carolina natural gas operators a waiver from compliance with 49 CFR 192.707 regarding the January 1, 1978, deadline for line markers. We have assigned your letter Docket No. NC-78-1.

As you know, under Section 3(e) of the Natural Gas Pipe line Safety Act of 1968, a State agency may not grant a waiver from the Federal standards unless the Secretary is given at least 60 days notice before the effective date of the waiver. Accordingly, based on the date we received notice of the waiver, it cannot become effective until March 20, 1978, unless we notify you before that date that we have no objection to the waiver.

Sincerely,  
Cesar DeLeon  
Acting Director  
Office of Pipeline Safety Operations

State of North Carolina  
Utilities Commission  
Raleigh

DOCKET NO. G-100, SUB '35

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Request by the North Carolina Natural Gas Operators Subject to Jurisdiction Under G.S. 62-50, For Waiver to the January 1, 1978, Deadline For Installing Pipeline Markers in Class 3 and 4 Locations )  
)  
) ORDER EXTENDING  
) WAIVER PERIOD  
)

BY THE COMMISSION: The Office of Pipeline Safety Operations of the United States Department of Transportation promulgated minimum federal safety regulations for pipeline facilities and the transportation of gas in 49 CFR Part 192.

On December 30, 1970, the North Carolina Utilities Commission issued an Order under Docket No. G-100, Sub 13, adopting the Minimum Federal Safety Regulations for Natural Gas Pipeline Safety as adopted by the Department of Transportation in 49 CFR Part 192 and by reference all subsequent amendments. On March 21, 1975, Section 192.707, of Title 49 CFR, Line Markers for Mains and Transmission Lines, was amended effective April 21, 1975. The purpose of this amendment was to alleviate a major cause of failures in gas pipelines: interference with pipelines by persons outside the gas pipeline industry conducting excavation-related activities.

The amendment to Section 192.707 requires each natural gas operator to install line markers and maintain such markers as close as practical over each buried main and transmission line at each crossing of a public road, railroad-and navigable waterway. Such markers are to have specific wording with a specified size of lettering. The amendment provided a deadline of January 1, 1978, for markers to be installed on pipelines installed prior to April 21, 1975. Exceptions were made to the line marker requirements on buried mains and transmission lines in Class 3 and 4 locations (residential and downtown areas) where placement of a marker was impractical or where a program for preventing interference with underground pipelines is established by law.

The natural gas operators in late 1977 petitioned the Commission for a Waiver of the January 1, 1978, deadline for marking requirements. It was stated in the petition that the operators felt the most effective means of preventing underground damage to pipelines was through a statewide "One Call System" and legislation requiring notification prior to excavation. In addition, it was estimated that the operators would spend approximately \$1,365,000 to install and maintain line markers. This expense would not be necessary if the "One Call System" was established and legislation requiring notification prior to excavation was passed in the General Assembly.

On January 10, 1978, the Commission issued an Order under Docket No. G-100, Sub 35 granting a Waiver, that the deadline of January 1, 1978, for marking mains and transmission lines in Class 3 and 4 locations, installed prior to April 21, 1975, be extended until April 30, 1979, and specifying that if by April 30, 1979, the North Carolina General Assembly has not passed legislation requiring notification prior to excavation, the gas operators shall obtain markers and install and maintain such markers as close as practical over each buried main and transmission line, subject to the exemptions listed in 192.707 (b), at each crossing of a public road, railroad, and navigable waterway in Class 3 and 4 locations by December 31, 1979.

Since approval of any Waiver has to be sanctioned by the U. S. Department of Transportain, Office of Pipeline Safety, a copy of the proposed Waiver Order was sent to Washington, D. C. By letter dated February 2, 1978, from Mr. Cesar DeLeon, Acting Director of the Pipeline Safety Operations the Commission was notified that the Waiver would become effective March 20, 1978.

On October 2, 1978, through the cooperation of all major telephone, electric and gas utilities in North Carolina a statewide "One Call System" went into effect. The Utilities Locating Company, Inc. (ULOCO) has thirty-two member

utilities and municipal participants with a growing membership each week.

During this past Session of the North Carolina General Assembly, "U.L.O.C.O." was instrumental in getting an "Underground Damage Prevention Bill" introduced and passed in the House of Representatives. Since little time was available for passage of the House Bill, in the Senate prior to adjournment of the General Assembly, the Bill will be presented at the next Session in June, 1980.

The gas operators in North Carolina and "U.L.O.C.O." feel that the Senate will concur with the House Bill and pass it next June. In this respect, the Operators met with the Commission on Monday, June 25, 1979, and requested that the Waiver Deadline be extended for another year in order for the operators to work for passage of the Bill in the Senate next June, 1980. After hearing arguments in favor of extending the Waiver period, the Commission concludes that the existing "One Call System" (U.L.O.C.O.) and passage of an Underground Damage Prevention Bill would be much more effective in reducing damage to all underground utilities than by placing line markers over the gas mains in Class 3 and 4 locations. In addition, an extension of the deadline requirement of December 31, 1979, for the gas operators to have line markers installed will not be inconsistent with the purpose of Section 192.707 (b)(1)(ii), which is to give operators time to seek enactment of the Underground Damage Prevention Bill through the North Carolina Senate next June, 1980.

IT IS, THEREFORE, ORDERED:

(1) That the deadline of December 31, 1979, as set forth under Docket No. G-100, Sub 35, for marking mains and transmission lines in Class 3 and 4 locations, on lines installed prior to April 21, 1975, be extended until June 30, 1980.

(2) That if by June 30, 1980, a Bill for preventing underground damage is not passed by the General Assembly, an additional extension until December 31, 1980, should be allowed for the operators to procure and install the markers.

(3) That this Order shall be transmitted to, and shall become effective upon notice of acceptance by, the Secretary of the Department of Transportation and shall constitute written notice of the intent of this Commission to grant an extension of time to the Waiver requested by the North Carolina natural gas operators.

ISSUED BY ORDER OF THE COMMISSION.

This the 28<sup>th</sup> day of June, 1979.

NORTH CAROLINA UTILITIES COMMISSION  
Sandra J. Webster, Chief Clerk

State of North Carolina  
Utilities Commission  
Raleigh

DOCKET NO. G-100, SUB 35

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Request by the North Carolina Natural Gas :  
Operators subject to jurisdiction under : ORDER APPROVING  
G. S. 62-50, for Waiver to the January 1, : WAIVER REQUEST  
1978, deadline for Installing Pipeline :  
Markers in Class 3 and 4 locations. :

BY THE COMMISSION: The Office of Pipeline Safety Operations of the United States Department of Transportation promulgated minimum federal safety regulations for pipeline facilities and the transportation of gas in 49 CFR Part 192.

On December 30, 1970, the North Carolina Utilities Commission issued an Order under Docket No. G-100, Sub 13, adopting the Minimum Federal Safety Regulations for Natural Gas Pipeline Safety as adopted by the Department of Transportation in 49 CFR Part 192 and by reference all subsequent amendments. On March 21, 1975, Section 192.707, of Title 49 CFR, Line Markers for Mains and Transmission Lines, was amended effective April 21, 1975. The purpose of this amendment was to alleviate a major cause of failures in gas pipelines: interference with pipelines by persons outside the gas pipeline industry conducting excavation-related activities.

The amendment to Section 192.707 requires each natural gas operator to install line markers and maintain such markers as close as practical over each buried main and transmission line at each crossing of a public road, railroad and navigable waterway. Such markers are to have specific wording with a specified size of lettering. The amendment provides a deadline of January 1, 1976, for markers to be installed on pipelines installed prior to April 21, 1975. Exceptions were made to the line marker requirements on buried mains and transmission lines in Class 3 and 4 locations (residential and downtown areas) where placement of a marker was impractical or where a program for preventing interference with underground, pipelines is established by law.

The Commission's Pipeline Safety Section has been working, for some time, toward the establishment of a statewide "One Call System" whereby any person planning excavation could call one toll free number and this "System" would notify all members who have underground facilities located in the area of planned excavation. The members would then locate and mark their facilities prior to excavation. The Commission has encouraged all regulated utilities, electric and telephone membership coops and municipal governments to join together and form such a system. Recent developments through the North Carolina Utilities Coordinating Committee have been encouraging. A Board of Directors representing all utilities and municipal city governments has been appointed and by-laws for the "one Call System" have been drawn up. Bids for a contractor operated system should be received within the next few months with the anticipated start-up date for operation by mid-1978.

In December, 1977, the Commission sent a letter to all public utilities, municipalities operating gas and electric facilities, and electric and telephone membership coops., encouraging participation in the "One Call System". Responses to the above letter have been excellent.

In addition to the "One Call System", the Pipeline Safety Section has drafted a proposed bill for presentation in the 1979 Session of the General Assembly. A copy of this Bill, marked Appendix A, is attached.

Through endorsement by the public utilities, municipal city governments, electric and telephone membership coops., and the contractors association enactment of the proposed bill seems assured. Such a bill would complement the "One Call System" by requiring notification prior to excavation with a penalty provision should notification not be given prior to excavation.

Due to the recent developments in organizing a statewide "One Call System" and the proposed legislation

requiring notification prior to excavation, the natural gas operators have petitioned the Commission to waive certain parts of Title 49, Part 192.707, of the Code of Federal Regulations - Line Markers for Mains and Transmission Lines. In the waiver requests, the operators state that they are in compliance with the provisions of Part 192.707, in all installations made after April 21, 1975, and on all mains installed prior to April 21, 1975, in Class 1 and 2 locations. Spot check investigations by the Pipeline Safety Section confirm this.

The operators have determined that the most desirable solution for the marking requirements in Class 3 and 4 locations is option (b) (1) (ii) of 192.707, which is the enactment of a State law preventing interference with underground pipelines. In the operators' opinion, this option is more effective in preventing damage and is much less burdensome financially. The following is an estimate of the number of markers which otherwise would be required and the cost to each operator.

<u>Operator</u>	<u>No. of Markers</u>	<u>Cost</u>
N. C. Gas Service	1,126	\$ 31,000
N. C. Natural Gas	12,853	128,530
Piedmont Natural	45,000	225,000
Public Service	45,000	900,000
Greenville	1,280	32,000
Lexington	300	7,000
Monroe	355	16,000
Wilson	1,059	26,475

These figures are estimates for the purchase of the signs and installation and do not include the cost of maintaining destroyed markers.

The operators have requested an extension of the January 1, 1978, effective date for marking mains in Class 3 and 4 locations on mains installed prior to April 21, 1975. An extension time until April 30, 1979, will satisfy the requirements for legislative action, and an additional extension until December 31, 1979, will allow for the procurement and installation of the necessary markers should the General Assembly not pass the proposed bill.

After due consideration of the request from the natural gas operators in North Carolina for a waiver of the January 1, 1978, deadline for marking requirements on mains installed prior to April 21, 1975, in Class 3 and 4 locations, the Commission makes the following.

#### FINDINGS AND CONCLUSIONS

1. That the natural gas operators in North Carolina are in compliance with the amendment to 49 CFR, Part 192.707, requiring marking of all mains and transmission lines installed after April 20, 1975, and on all mains and transmission lines installed prior to April 21, 1975, in Class 1 and 2 locations.

2. That the Commission agrees with the operators and the Office of Pipeline Safety Operations that carrying out programs other than line marking would be much more effective in reducing the number of accidents caused by outsiders. Line markers are only a partial solution to preventing underground damage. Programs which are enforceable under law against outsiders and provide information as to the location of underground pipelines are probably the best means of reducing outside damage. Enactment of the proposed bill and the statewide "One Call System" will accomplish this.

3. That after the effective date of the amendment to 192.707, the operators and the Commission had insufficient opportunity to prepare and effectively present an underground damage prevention bill during the period when the North Carolina General Assembly was last in session.

4. That an extension of the deadline requirement from January 1, 1978, until April 30, 1979, will not be inconsistent with the purpose of Section 192.707 (b) (1) (ii), which is to give operators time and incentive to seek enactment of pipeline damage prevention laws.

5. That if by April 30, 1979, a bill for preventing underground damage is not passed by the General Assembly, an additional extension until December 31, 1979, should be allowed for the operators to procure and install

the markers.

IT IS, THEREFORE, ORDERED:

1. That the deadline of January 1, 1978, for marking mains and transmission lines in Class 3 and 4 locations, installed prior to April 21, 1975, be extended until April 30, 1979.

2. That if by April 30, 1979, the North Carolina General Assembly has not passed legislation requiring notification prior to excavation, the gas operators shall obtain markers and install and maintain such markers as close as practical over each buried main and transmission line, subject to the exemptions listed in 192.707 (b), at each crossing of a public road, railroad, and navigable waterway in Class 3 and 4 locations by December 31, 1979.

3. That this Order shall be transmitted to, and shall become effective upon notice of acceptance by, the Secretary of the Department of Transportation and shall constitute written notice of the intent of this Commission to grant the waiver requested by the North Carolina natural gas operators.

ISSUED BY ORDER OF THE COMMISSION. Wt.

This the 10<sup>th</sup> day of January, 1978.

NORTH CAROLINA UTILITIES COMMISSION

Katherine M. Peale, Chief Clerk

AN ACT

Relating to the prevention of negligent or unsafe excavation or demolition operations resulting in damage to underground utilities.

Be it enacted by the People of the State of North Carolina, represented in the General Assembly of North Carolina.

Section 1. This Act may be cited as the "Underground Utility Damage Prevention Act."

Section 2. Definitions as used in this Act:

- (1) "association" means a group of public utilities or their representatives formed for the purpose of receiving and giving notice of excavation activity within the State of North Carolina.
- (2) "damage" includes the substantial weakening of structural or lateral support of an underground utility, penetration or destruction of any protective coating, housing or other protective device of an underground utility, and the partial or complete severance of an underground utility;
- (3) "demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment, or discharge of explosives;
- (4) "excavate" or "excavation" means an operation for the purpose of the movement or removal of earth, rock, or other materials in or on the ground by use of mechanized equipment or by discharge of explosives, and including augering, backfilling, digging, ditching, drilling, grading, plowing, pulling-in, ripping, scraping, trenching and tunneling, but not including the tilling of soil for agricultural purposes;
- (5) "mechanized equipment" means equipment operated by means of mechanical power including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows and other equipment used for plowing in cable or pipe;
- (6) "person" means any individual; any corporation, partnership, association, or any other entity organized under the laws of any State; any subdivision or instrumentality of a State; and any employee, agent, or legal representative thereof;
- (7) "utility" means any line, system or facility used for producing, storing, conveying, transmitting, or distributing communication, electricity, gas, petroleum and petroleum products, hazardous liquids, water, steam and sewerage underground.
- (8) "operator" means any person who owns or operates a utility; and
- (9) "working day" means every day, except Saturday, Sunday, and national and legal State holidays.

Section 3. (Excavation and Demolition Permits.) A permit issued pursuant to law authorizing excavation or demolition operations, shall not be deemed to relieve a person from the responsibility for complying with the provisions of this Act.

Section 4. (Prohibition.) Except as provided in section 9, no person may excavate in a street, highway, public space, a private easement of an operator, or near the location of a utility installed on the premises of a customer served by such utility, or demolish a building without having first ascertain in the manner prescribed in sections 6 and 8, the location of all underground utilities in the area that would be affected by the proposed excavation or demolition.

Section 5. (Filing Requirements of Utility Operators.) (a) No later than 30 days before the effective date of all other sections of this Act, each operator having underground utilities in North Carolina, shall file with the (clerk of the county or the clerk of each county in which these utilities are located) a list containing the name of every city, village, township, and section within the township in the county in which it has underground utilities (including those utilities that have been abandoned in place by the operator but not yet physically removed), the name of the operator and the name, title, address and telephone number of its representative designated to receive the written or telephonic notice of intent required by section 6.

(b) Changes in any of the information contained in the list filed under section 5 (a) shall be filed by the operator with the (clerk of the county or the clerk of each county in which these utilities are located) within five working days of

the change. Section 6. (Notice of Intent to Excavate or Demolish.) (a) Except as provided in section 9, before commencing any excavation or demolition operation designated in section 4, each person responsible for such excavation or demolition shall serve written or telephonic notice of intent to excavate or demolish at least three, but not more than ten full working days

1. On each operator which has filed a list required by section 5 with underground utilities located in the proposed area of excavation or demolition; or
2. If the proposed area of excavation or demolition is served by an association provided for in section 7, on such association and on each operator which has underground utilities in the proposed area of excavation or demolition that is not receiving the services of the association; provided, where demolition of a building is proposed, operators shall be given reasonable time to remove or protect their utilities before demolition of the building is commenced.

(b) The written or telephonic notice required by section 6 (a) must contain the name, address, and telephone number of the person filing the notice of intent, and, if different, the person responsible for the excavation or demolition, the starting date, anticipated duration, and type of excavation or demolition operation to be conducted, the location of the proposed excavation or demolition, and whether or not explosives are to be used.

(c) If the notification required by this section is made by telephone, an adequate record of such notification shall be maintained by the operators and association notified to document compliance with the requirements of this Act.

(d) Nothing in this Act shall apply to any excavation on private property done by the owner of the property for his/her(s) own purposes by use of hand tools.

Section 7. (Operator Associations.) Operators may form and operate an association providing for mutual receipt of section 5 notifications of excavation or demolition operations in a defined geographical area. An association that provides such service on behalf of operators having underground utilities within North Carolina shall file with the (clerk of the county or the clerk of each county in which those utilities are located) the telephone number and address of the association, a description of the geographical area served by the association, and a list of the names and addresses of each operator receiving such service from the association.

Section 8. (Response to Notice of Intent to Excavate or Demolish) Each operator or designated representative (including an association established in accordance with section 7) notified in accordance with section 6 shall, not less than two working days in advance of the proposed excavation or demolition (unless a shorter period is provided by agreement between the person responsible for the excavation or demolition and the operator or designated representative), make available by use of maps when appropriate, the following information to the person responsible for the excavation or demolition;

- (1) The approximate location and description of all of its underground utilities which may be damaged as a result of the excavation or demolition;
- (2) The location and description of all utility markers indicating the approximate location of the underground utilities; and
- (3) Any other information that would assist that person in locating and thereby avoiding damage to the underground utilities including, providing adequate temporary markings indicating the approximate location and depth of the underground utility in locations where permanent utility markers do not exist.

For purposes of this section the approximate location of underground utilities is defined as a (strip of land at least 3 feet wide but not wider than the width of the utility plus 1 1/2 feet on either side of the utility.)

Section 9. (Emergency Excavation or Demolition.) Compliance with the notice requirements of section 6 is not required of persons responsible for emergency excavation or demolition to ameliorate an imminent danger of life, health, or property, provided, however, that such persons give, as soon as practicable, oral notice of the emergency excavation or demolition to each operator having underground utilities located in the area (or to an association provided for in section 6, that serves an operator) where such excavation or demolition is to be performed and request emergency assistance from each operator so identified in locating and providing immediate protection to its underground utilities. An imminent danger to life, health, or property exists whenever there is a substantial likelihood that loss of life, health, or

property will result before the procedures under section 6 and 8 can be fully complied with.

Section 10. (Precautions to Avoid Damage.) In addition to the notification requirements of section 6, each person responsible for any excavation or demolition operation designated in section 4 shall -

- (1) Plan the excavation or demolition to avoid damage to or minimize interference with underground utilities in and near the construction area;
- (2) Maintain a clearance between an underground utility and the cutting edge or point of any mechanized equipment, taking into account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such utility; and
- (3) Provide such support for underground utilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such utilities;

Section 11. (Excavation or Demolition Damage.) (a) Except as provided by section 11 (b), each person responsible for any excavation or demolition operation designated in section 4 that results in any damage to an underground utility shall, immediately upon discovery of such damage, notify the operator of such utility of the location and nature of the damage and shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility.

(b) Each person responsible for any excavation or demolition operation designated in section 4 that results in damage to an underground utility permitting the escape of any flammable, toxic, or corrosive gas or liquid shall, immediately upon discovery of such damage, notify the operator, police and fire departments, and take any other action as may be reasonably necessary, to protect persons and property and to minimize the hazards until arrival of the operator's personnel or police and fire departments.

Section 12. (Civil Penalties.) Any person who violates any provision of this Act shall be subject to a civil penalty of not to exceed (\$1,000) for each such violation. Actions to recover the penalty provided for in this section shall be brought by the (State's Attorney General) at the request of any person in the (superior court) in Wake County or the (county) in which the cause, or some part thereof, arose or in which the defendant has its principal place of business or resides. ` All penalties recovered in any such actions shall be paid into the (general fund) of the State. This Act does not affect any civil remedies for personal injury or property (including underground utilities) damage except as otherwise specifically provided for in this Act.

Section 13. (Severability.) If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 14. (Effective Date.) This Act is effective (120) days after the date of its enactment, except for the filing requirements of section 5 which are effective sixty (60) days after enactment of this Act.