

## CHAPTER 145

---

**LABOR AND INDUSTRY**

---

**SENATE BILL 93-155**

BY SENATORS Schroeder, Blickensderfer, Casey, Feeley, Norton, Pastore, and Wattenberg;  
also REPRESENTATIVES Anderson and Eisenach.

**AN ACT**

**CONCERNING THE NOTIFICATION TO PERSONS IN CONTROL OF UNDERGROUND FACILITIES IN  
ADVANCE OF PROPOSED EXCAVATION ACTIVITIES, AND, IN CONNECTION THEREWITH, CREATING  
THE NOTIFICATION ASSOCIATION OF OWNERS AND OPERATORS OF UNDERGROUND FACILITIES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Article 1.5 of title 9, Colorado Revised Statutes, 1986 Repl. Vol.,  
is amended to read:

**ARTICLE 1.5**  
**Excavation Requirements**

**9-1.5-101. Legislative declaration.** The purpose of this article is to prevent injury to persons and damage to property from accidents resulting from damage to underground facilities by excavation. THIS PURPOSE SHALL BE FACILITATED THROUGH THE CREATION OF A SINGLE STATEWIDE NOTIFICATION SYSTEM TO BE ADMINISTERED BY AN ASSOCIATION OF THE OWNERS AND OPERATORS OF UNDERGROUND FACILITIES. THROUGH THE ASSOCIATION, EXCAVATORS SHALL BE ABLE TO OBTAIN CRUCIAL INFORMATION REGARDING THE LOCATION OF UNDERGROUND FACILITIES PRIOR TO EXCAVATING AND SHALL THEREBY BE ABLE TO GREATLY REDUCE THE LIKELIHOOD OF DAMAGE TO ANY SUCH UNDERGROUND FACILITY OR INJURY TO ANY PERSON WORKING AT AN EXCAVATION SITE.

**9-1.5-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Damage" includes the penetration or destruction of any protective coating, housing, or other protective device of an underground facility, the partial or complete

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

severance of an underground facility, or the rendering of any underground facility inaccessible.

(2) "Emergency situations" includes ruptures and leakage of pipelines, explosions, fires, and similar instances where immediate action is necessary TO PREVENT LOSS OF LIFE OR SIGNIFICANT DAMAGE TO UNDERGROUND FACILITIES and advance notice of proposed excavation is impracticable under the circumstances.

(3) "Excavation" means any operation in which earth is moved or removed by means of any tools, equipment, or explosives and includes augering, backfilling, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching, and tunneling.

(4) "Notification association" or "association" means ~~an association of two or more operators or owners organized for the purpose of receiving notification of any damage or planned excavation in a specified area, and disseminating such notification of damage or planned excavation to operators and owners who are members and participants.~~ THE STATEWIDE NOTIFICATION ASSOCIATION OF OWNERS AND OPERATORS OF UNDERGROUND FACILITIES CREATED IN SECTION 9-1.5-105.

(5) (a) "Operator" or "owner" means any person, including public utilities, municipal corporations, political subdivisions, or other persons having the right to bury underground facilities in or near a public road, street, alley, right-of-way, or utility easement.

(b) "OPERATOR" OR "OWNER" DOES NOT INCLUDE ANY RAILROAD.

(6) "Person" means any individual, partnership, association, corporation, or joint venture; the state, any political subdivision of the state, or any instrumentality or agency of either; or the legal representative of any of them.

(7) "Underground facility" means any item of personal property which is buried or placed below ground for use in connection with the storage or conveyance of water or sewage, electronic, telephonic, or telegraphic communications or cable television, electric energy, or oil, gas, or other substances. "Item of personal property", as used in this subsection (7), includes, but is not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, and attachments thereto.

**9-1.5-103. Plans and specifications - notice of excavation - duties of excavators - duties of owners and operators.** (1) ~~Every owner or operator of underground facilities who is not a member or participant in a notification association that has filed a statement with the county clerk pursuant to section 9-1.5-105 shall file with the county clerk and recorder in each county where its underground facilities are located a general description of the area served, together with the name, job title, address, and telephone number of the person from whom necessary information may be obtained concerning the location of underground facilities within that county. In the case of the city and county of Denver, such filings shall be made with the manager of public works.~~

(2) Architects, engineers, or other persons designing or requiring excavation shall obtain general information as to the description, nature, and location of underground

facilities in the area of such proposed excavation and include such general information in the plans or specifications to inform an excavation contractor of the existence of such facilities and of the need to obtain information thereon pursuant to ~~subsections~~ SUBSECTION (3) ~~and (4)~~ of this section.

(3) (a) Except in emergency situations and except as to an employee with respect to ~~his~~ THE employer's underground facilities or as otherwise provided in an agreement with an owner or operator, no person shall make or begin excavation without first notifying ~~an owner, operator, or association of owners and operators~~ THE NOTIFICATION ASSOCIATION AND, IF NECESSARY, THE TIER TWO MEMBERS having underground facilities in the area of such excavation. Notice may be given in person, by telephone, or in writing IF delivered. ~~and notice to an association formed pursuant to section 9-1.5-105 is notice to each member or participant thereof in that county.~~

(b) Notice of the commencement, extent, and duration of the excavation work shall be given at least two business days prior thereto NOT INCLUDING THE DAY OF ACTUAL NOTICE.

(c) ANY NOTICE GIVEN PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3) SHALL INCLUDE THE FOLLOWING:

(I) THE NAME AND TELEPHONE NUMBER OF THE PERSON WHO IS GIVING THE NOTICE;

(II) THE NAME AND TELEPHONE NUMBER OF THE EXCAVATOR; AND

(III) THE SPECIFIC LOCATION, STARTING DATE, AND DESCRIPTION OF THE INTENDED EXCAVATION ACTIVITY.

(d) AN EXCAVATOR MAY REQUEST A WRITTEN RECORD OF ANY INFORMATION FROM AN OWNER OR OPERATOR OF AN UNDERGROUND FACILITY REGARDING THE LOCATION OF SPECIFIC UNDERGROUND FACILITIES.

(4) (a) Any owner or operator receiving ~~such~~ notice PURSUANT TO SUBSECTION (3) OF THIS SECTION shall advise the excavator of the location and size of ANY underground facilities in the proposed excavation area by marking the location of the facilities ~~by~~ WITH clearly identifiable markings within eighteen inches horizontally from the exterior sides of ~~the~~ ANY SUCH facilities. ~~together with the depth thereof;~~ SUCH MARKINGS SHALL INCLUDE THE DEPTH, if known, AND SHALL BE MADE PURSUANT TO THE UNIFORM COLOR CODE AS APPROVED BY THE UTILITY LOCATION AND COORDINATING COUNCIL OF THE AMERICAN PUBLIC WORKS ASSOCIATION. In the event any person is involved in excavating across a preexisting underground facility, the owner of such facility shall, upon a predetermined agreement at the request of the excavator or the owner, provide on-site assistance.

(b) THE MARKING OF UNDERGROUND FACILITIES SHALL BE CONSIDERED VALID SO LONG AS THE MARKINGS ARE CLEARLY VISIBLE BUT NOT FOR MORE THAN THIRTY CALENDAR DAYS. IF AN EXCAVATION HAS NOT BEEN COMPLETED WITHIN THE THIRTY-DAY PERIOD, THE EXCAVATOR SHALL NOTIFY THE AFFECTED OWNER OR OPERATOR AND THE NOTIFICATION ASSOCIATION AT LEAST TWO BUSINESS DAYS, NOT INCLUDING THE DAY OF ACTUAL NOTICE, BEFORE THE END OF SUCH THIRTY-DAY

PERIOD.

(c) (I) IT SHALL BE THE RESPONSIBILITY OF THE EXCAVATOR TO MAINTAIN ADEQUATE AND ACCURATE INFORMATION ON THE LOCATION OF ANY UNDERGROUND FACILITY THROUGHOUT THE EXCAVATION PERIOD.

(II) (A) IF THE INFORMATION MAINTAINED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) BECOMES LOST OR INVALID, THE EXCAVATOR SHALL NOTIFY THE ASSOCIATION OR THE AFFECTED OWNER OR OPERATOR AND REQUEST AN IMMEDIATE REVERIFICATION OF THE LOCATION OF ANY UNDERGROUND FACILITY. UPON RECEIPT OF SUCH NOTIFICATION, SUCH AFFECTED OWNER OR OPERATOR SHALL RESPOND AS QUICKLY AS IS PRACTICABLE. THE EXCAVATOR SHALL CEASE EXCAVATION ACTIVITIES AT THE AFFECTED LOCATION UNTIL THE LOCATION OF ANY UNDERGROUND FACILITIES HAS BEEN REVERIFIED.

(B) IF THE INFORMATION MAINTAINED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) IS DETERMINED TO BE INACCURATE, THE EXCAVATOR SHALL IMMEDIATELY NOTIFY THE AFFECTED OWNER OR OPERATOR AND SHALL REQUEST AN IMMEDIATE REVERIFICATION OF THE LOCATION OF ANY UNDERGROUND FACILITY. UPON RECEIPT OF SUCH NOTIFICATION, SUCH AFFECTED OWNER OR OPERATOR SHALL RESPOND AS QUICKLY AS PRACTICABLE. THE EXCAVATOR MAY CONTINUE EXCAVATION ACTIVITY IF SUCH EXCAVATOR EXERCISES DUE CAUTION AND CARE TO PREVENT DAMAGING ANY UNDERGROUND FACILITY.

(5) In emergency situations, excavators shall take such precautions as are reasonable under the circumstances to avoid damage to underground facilities and notify AFFECTED owners OR operators and ~~associations~~ THE NOTIFICATION ASSOCIATION as soon as possible of such emergency excavations. In the event of damage to any underground facility, the excavator shall immediately notify the AFFECTED owner OR operator ~~or~~ AND THE NOTIFICATION association of the location and extent of such damage.

(6) If information requested AND NEEDED BY AN EXCAVATOR pursuant to ~~subsections (2), (3), and~~ SUBSECTION (4) of this section is not provided by the owner or operator pursuant thereto within ~~forty-eight hours~~ TWO BUSINESS DAYS, NOT INCLUDING THE DAY OF ACTUAL NOTICE, or such later time as agreed upon by the excavator and the owner or operator or if the information provided fails to identify the location of the underground facilities, ~~in accordance with said subsection (4);~~ the excavator SHALL IMMEDIATELY GIVE NOTICE TO THE ASSOCIATION OR THE OWNER OR OPERATOR AND may proceed and shall not be liable for such damage except upon proof of ~~his~~ SUCH EXCAVATOR'S negligence. ~~or any excavator experiencing loss for damage to property, personal injury, death, or other costs shall have a right of action for damages therefor against said owner or operator except upon proof of negligence of the excavator.~~

(7) In the event of damage to an underground facility, the excavator, owner, and operator shall cooperate to mitigate damages to the extent reasonably possible, including the provision of in-kind work by the excavator where technical or specialty skills are not required by the nature of the underground facility, which in-kind work may be under the supervision and pursuant to the specifications of the owner or operator.

**9-1.5-104. Injunctive relief.** ~~If any person has repeatedly engaged in excavation which has resulted in such damage to an underground facility, the owner or operator of such facility may commence an action, in the district court of the judicial district in which the negligent and unsafe excavation occurs or has occurred or in which the excavator resides or has his principal place of business, for a temporary restraining order or injunction to prevent negligent and unsafe excavation and to avoid damage. If the court finds that the person complained of has repeatedly engaged in negligent or unsafe excavation resulting in damage to underground facilities after October 1, 1981, the court shall issue such order and take such equitable action as shall be reasonable and appropriate to prevent continuance by such person of such negligent or unsafe operations, which order, injunction, or equitable action may be in addition to any claim for compensatory damages.~~

**9-1.5-104.5. Penalties - cash fund.** (1) (a) ~~Any person who knowingly damages an underground gas line and fails to notify promptly the owner, operator, or association of the location and extent of such damage may be subject to a civil penalty in an amount not to exceed one thousand dollars, to be imposed by any court of competent jurisdiction in favor of the state to be credited to the general fund.~~ EVERY OWNER OR OPERATOR OF AN UNDERGROUND FACILITY IN THIS STATE SHALL JOIN THE NOTIFICATION ASSOCIATION PURSUANT TO SECTION 9-1.5-105 BEFORE SEPTEMBER 1, 1993.

(b) ANY OWNER OR OPERATOR OF AN UNDERGROUND FACILITY WHO DOES NOT JOIN THE NOTIFICATION ASSOCIATION IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (1), SHALL BE LIABLE FOR A CIVIL PENALTY OF TWO HUNDRED DOLLARS.

(c) IF ANY UNDERGROUND FACILITY LOCATED IN THE SERVICE AREA OF AN OWNER OR OPERATOR IS DAMAGED AS A RESULT OF SUCH OWNER'S OR OPERATOR'S FAILURE TO COMPLY WITH PARAGRAPH (a) OF THIS SUBSECTION (1), SUCH OWNER OR OPERATOR SHALL BE LIABLE FOR A CIVIL PENALTY IN THE AMOUNT OF ONE THOUSAND DOLLARS FOR THE FIRST OFFENSE AND THREE THOUSAND DOLLARS FOR EACH SUBSEQUENT OFFENSE.

(2) (a) ANY PERSON WHO INTENDS TO EXCAVATE SHALL NOTIFY THE NOTIFICATION ASSOCIATION PURSUANT TO SECTION 9-1.5-103 PRIOR TO COMMENCING ANY EXCAVATION ACTIVITY.

(b) ANY PERSON, OTHER THAN A HOMEOWNER WORKING ON SUCH HOMEOWNER'S PROPERTY, WHO FAILS TO NOTIFY THE NOTIFICATION ASSOCIATION OR THE AFFECTED OWNER OR OPERATOR PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE LIABLE FOR A CIVIL PENALTY IN THE AMOUNT OF TWO HUNDRED DOLLARS.

(c) IF ANY PERSON, OTHER THAN A HOMEOWNER WORKING ON SUCH HOMEOWNER'S PROPERTY, WHO HAS FAILED TO COMPLY WITH PARAGRAPH (a) OF THIS SUBSECTION (2), DAMAGES AN UNDERGROUND FACILITY DURING EXCAVATION, SUCH PERSON SHALL BE LIABLE FOR A CIVIL PENALTY OF ONE THOUSAND DOLLARS FOR THE FIRST OFFENSE AND THREE THOUSAND DOLLARS FOR EACH SUBSEQUENT OFFENSE.

(d) THIS SUBSECTION (2) SHALL TAKE EFFECT JANUARY 1, 1994, AND SHALL APPLY TO ANY ACT WHICH OCCURS ON OR AFTER JANUARY 1, 1994.

(3) (a) ANY CIVIL PENALTY IMPOSED PURSUANT TO THIS SECTION SHALL BE IMPOSED BY THE DISTRICT COURT FOR THE COUNTY IN WHICH THE OWNER OR OPERATOR OR EXCAVATOR RESIDES OR MAINTAINS A PRINCIPAL PLACE OF BUSINESS IN THIS STATE AND SHALL BE TRANSMITTED TO THE STATE GENERAL FUND.

(b) THE PENALTIES PROVIDED IN THIS ARTICLE ARE IN ADDITION TO ANY OTHER REMEDY AT LAW OR EQUITY AVAILABLE TO AN EXCAVATOR OR OWNER OR OPERATOR OF A DAMAGED UNDERGROUND FACILITY; EXCEPT THAT NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO CHANGE THE BASIS FOR CIVIL LIABILITY FOR DAMAGES UNDER EXISTING LAW.

**9-1.5-105. Notification association - structure and funding requirements - duties of owners and operators.** (1) ~~Any two or more owners and operators of underground facilities may form a notification association to receive notification of damage or planned excavation within a particular county. The cost of forming and operating such an association is a proper expense to be shared by each member or participant thereof, whether a public utility, municipal corporation, political subdivision, or agency or instrumentality thereof.~~ THERE IS HEREBY CREATED A NONPROFIT CORPORATION IN THE STATE OF COLORADO, REFERRED TO IN THIS ARTICLE AS THE "NOTIFICATION ASSOCIATION", WHICH SHALL CONSIST OF ALL OWNERS OR OPERATORS OF UNDERGROUND FACILITIES. ALL SUCH OWNERS AND OPERATORS SHALL JOIN THE NOTIFICATION ASSOCIATION AND SHALL PARTICIPATE IN A STATEWIDE PROGRAM WHICH UTILIZES A SINGLE TOLL-FREE TELEPHONE NUMBER WHICH EXCAVATORS CAN USE TO NOTIFY THE NOTIFICATION ASSOCIATION OF PENDING EXCAVATION PLANS. UPON ITS ORGANIZATION AND INCORPORATION, THE ASSOCIATION SHALL FILE A LETTER TO SUCH EFFECT WITH THE PUBLIC UTILITIES COMMISSION SO THAT THE COMMISSION MAY REFER INQUIRIES ARISING UNDER THIS ARTICLE TO AN APPROPRIATE PERSON.

(2) ~~Each notification association shall file with the county clerk of each county within which the association operates a statement that the notification association is serving the respective county, a list of the operators in the county who are members or participants in the notification association, and the telephone number and mailing address of the notification association. In the case of the city and county of Denver, such filings shall be made with the manager of public works.~~ ALL UNDERGROUND FACILITY OWNERS AND OPERATORS SHALL BE MEMBERS OF THE NOTIFICATION ASSOCIATION WHICH SHALL BE ORGANIZED AS FOLLOWS:

(a) "TIER ONE" MEMBERS WHO SHALL BE FULL MEMBERS OF THE NOTIFICATION ASSOCIATION AND SHALL RECEIVE FULL SERVICE BENEFITS AS PART OF SUCH MEMBERSHIP AS SPECIFIED IN THIS ARTICLE. ANY OWNER OR OPERATOR REQUIRED TO BE A MEMBER OF THE ASSOCIATION WHO WAS A MEMBER ON FEBRUARY 1, 1993, SHALL BE DESIGNATED A TIER ONE MEMBER WITHOUT FURTHER ACTION BY SUCH MEMBER.

(b) (I) "TIER TWO" MEMBERS WHO SHALL BE LIMITED MEMBERS AND SHALL RECEIVE LIMITED SERVICES AS A PART OF SUCH MEMBERSHIP AS SPECIFIED IN THIS ARTICLE. TIER TWO MEMBERS SHALL PAY A ONE-TIME MEMBERSHIP FEE OF TWENTY-FIVE DOLLARS TO THE NOTIFICATION ASSOCIATION TO PARTIALLY DEFRAY THE COSTS INCURRED BY THE ASSOCIATION IN ORGANIZING PURSUANT TO THIS ARTICLE. THE NOTIFICATION ASSOCIATION SHALL NOT ASSESS ANY CHARGES, COSTS,

OR FEES TO ANY TIER TWO MEMBER OTHER THAN THE ONE-TIME MEMBERSHIP FEE.

(II) ALL TIER TWO MEMBERS SHALL PROVIDE THE ASSOCIATION WITH ACCURATE INFORMATION REGARDING THE BOUNDARIES OF SUCH MEMBER'S SERVICE AREA, THE TYPE OF UNDERGROUND FACILITY THAT MAY BE ENCOUNTERED WITHIN SUCH SERVICE AREA, AND THE NAME, ADDRESS, AND TELEPHONE NUMBER OF A PERSON WHO SHALL BE THE DESIGNATED CONTACT PERSON FOR INFORMATION REGARDING SUCH MEMBER'S UNDERGROUND FACILITIES. A TIER TWO MEMBER SHALL ALSO PROVIDE GEOGRAPHICAL INFORMATION CONCERNING UNDERGROUND FACILITIES IT OWNS OR OPERATES WHICH ARE NOT LOCATED WITHIN THE DESIGNATED SERVICE AREA TO THE NOTIFICATION ASSOCIATION.

(III) NOT LATER THAN JANUARY 1, 1994, THE NOTIFICATION ASSOCIATION SHALL PROVIDE ANY PERSON WHO CONTACTS THE ASSOCIATION REGARDING INFORMATION CONCERNING UNDERGROUND FACILITIES OWNED OR OPERATED BY A TIER TWO MEMBER WITH THE NAME OF THE PERSON SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b).

(IV) THE FOLLOWING OWNERS OR OPERATORS OF UNDERGROUND FACILITIES WHO ARE NOT DESIGNATED AS TIER ONE MEMBERS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE DESIGNATED AS TIER TWO MEMBERS:

(A) ELECTRIC COOPERATIVE ASSOCIATIONS;

(B) SPECIAL DISTRICTS ORGANIZED UNDER TITLE 32, C.R.S.;

(C) CABLE TELEVISION OPERATORS;

(D) MUNICIPALITIES AND COUNTIES; AND

(E) TELECOMMUNICATIONS LOCAL EXCHANGE PROVIDERS WITH FEWER THAN FIFTY THOUSAND ACCESS LINES.

(2.3) ANY ASSOCIATION MEMBER MAY ALTER THE STATUS OF ITS MEMBERSHIP AND MOVE FROM TIER ONE TO TIER TWO OR FROM TIER TWO TO TIER ONE AT ANY TIME THAT SUCH MEMBER CHOOSES; EXCEPT THAT EVERY TIER ONE MEMBER SHALL REMAIN A TIER ONE MEMBER FOR AT LEAST TWO YEARS AFTER BECOMING A TIER ONE MEMBER.

(2.5) THE NOTIFICATION ASSOCIATION MAY ACCEPT ANY ORGANIZATION, PERSON, OR ENTITY WHICH HAS AN INTEREST IN THE PURPOSES AND FUNCTIONS OF THE ASSOCIATION AS A MEMBER WHETHER SPECIFICALLY ENUMERATED IN THIS ARTICLE OR NOT. ANY SUCH MEMBER SHALL COMPLY WITH THE BYLAWS OF THE ASSOCIATION.

(2.6) THE NOTIFICATION ASSOCIATION SHALL PREPARE AN ANNUAL REPORT ON ITS ACTIVITIES AND SHALL HAVE AN ANNUAL INDEPENDENT FINANCIAL AUDIT CONDUCTED. THE ASSOCIATION SHALL PROVIDE A COPY OF BOTH REPORTS TO THE MEMBERS.

~~(3) Upon the establishment of a notification association and compliance with subsection (2) of this section, notification as required by section 9-1.5-103 to the owners or operators who are members of or participants in the notification association~~

~~shall be given by notifying the notification association.~~ EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, EACH MEMBER OF THE NOTIFICATION ASSOCIATION SHALL PROVIDE ALL OF THE LOCATIONS OF ANY UNDERGROUND FACILITIES WHICH SUCH MEMBER OWNS OR OPERATES TO THE NOTIFICATION ASSOCIATION, AND THE ASSOCIATION SHALL MAINTAIN SUCH INFORMATION ON FILE FOR USE BY EXCAVATORS.

(4) THE NOTIFICATION ASSOCIATION SHALL BE GOVERNED BY A BOARD OF DIRECTORS WHICH IS REPRESENTATIVE OF THE MEMBERSHIP OF THE ASSOCIATION AND SHALL HAVE AT LEAST ONE DIRECTOR THAT IS A TIER TWO MEMBER. THE BOARD OF DIRECTORS SHALL BE ELECTED BY THE MEMBERSHIP OF THE ASSOCIATION PURSUANT TO THE BYLAWS OF THE ASSOCIATION.

(5) THE NOTIFICATION ASSOCIATION SHALL BE INCORPORATED AND OPERATED AS A NONPROFIT CORPORATION PURSUANT TO ARTICLE 20 OF TITLE 7, C.R.S.

(6) THIS SECTION SHALL NOT APPLY TO ANY OWNER OR OCCUPANT OF REAL PROPERTY UNDER WHICH UNDERGROUND FACILITIES ARE BURIED IF SUCH FACILITIES ARE USED SOLELY TO FURNISH SERVICE OR COMMODITIES TO SUCH REAL PROPERTY AND NO PART OF SUCH FACILITIES IS LOCATED IN A PUBLIC STREET, COUNTY ROAD, ALLEY, OR RIGHT-OF-WAY DEDICATED TO PUBLIC USE.

**9-1.5-106. Notice requirements.** (1) THE NOTIFICATION ASSOCIATION CREATED IN SECTION 9-1.5-105 SHALL:

(a) RECEIVE AND RECORD NOTIFICATIONS FROM EXCAVATORS CONCERNING INTENDED EXCAVATION ACTIVITIES INCLUDING SITES, DATES, AND THE NATURE OF ANY INTENDED EXCAVATION;

(b) MAINTAIN A RECORD OF EACH NOTICE OF INTENT TO EXCAVATE FOR A MINIMUM OF THREE YEARS; AND

(c) FILE THE NOTIFICATION RECEIVED REGARDING ANY PROPOSED EXCAVATION SITE AND THE NOTIFICATION PROVIDED REGARDING SUCH EXCAVATION SITE, INCLUDING THE DATE AND TIME OF EACH SUCH NOTIFICATION, BY REFERENCE NUMBER.

(2) THE NOTIFICATION ASSOCIATION SHALL ESTABLISH AND MAINTAIN A DAMAGE PREVENTION SAFETY PROGRAM AND SHALL CONDUCT PERIODIC PUBLIC AWARENESS CAMPAIGNS.

(3) THE NOTIFICATION ASSOCIATION SHALL PROVIDE PROMPT NOTICE OF ANY PROPOSED EXCAVATION TO EACH AFFECTED TIER ONE MEMBER THAT HAS ANY UNDERGROUND FACILITIES IN THE AREA OF THE PROPOSED EXCAVATION SITE. THE NOTIFICATION ASSOCIATION SHALL ALSO PROVIDE THE EXCAVATOR WITH THE NAME AND TELEPHONE NUMBER OF EACH TIER TWO MEMBER THAT HAS ANY UNDERGROUND FACILITIES IN THE AREA OF THE PROPOSED EXCAVATION.

**SECTION 2. Effective date.** This act shall take effect September 1, 1993.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 26, 1993