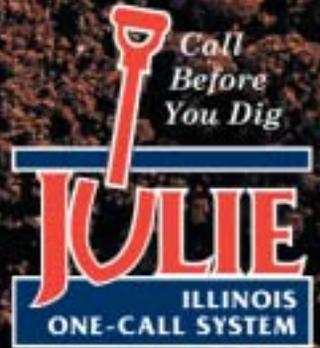


EXCAVATOR HANDBOOK

Call
Before
You Dig



Dig Safely.
Illinois

illinois1call.com

1-800-892-0123

PREFACE

This document is intended for informational and reference purposes only. The handbook has been designed to provide basic information on safe excavation practices and the protection of underground facilities in Illinois (outside the city of Chicago).

This handbook is not a legal reference. It is not intended to be a full and complete statement of the law, nor of the excavators' duties and responsibilities when engaging in excavation work. Questions regarding the interpretation of the law should be directed to an attorney.

The contents of this handbook and the state law are subject to change without notice. For additional copies of this handbook, please visit www.illinois1call.com or call JULIE, Inc.'s administrative office at 815-741-5000. The revised print date of this handbook is November 2005.

EXCAVATOR HANDBOOK



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FREQUENTLY ASKED QUESTIONS

Do I have to call JULIE, Inc.?

Yes. According to state law, anyone planning an outdoor project that requires digging, regardless of the depth or the size of the project, must call JULIE first. Today, more utility members that supply power, gas, water and telecommunications are delivering these services underground.

Is JULIE, Inc. a utility company and/or government agency?

No, JULIE is a not-for-profit corporation. *JULIE does not own nor mark any facilities.* The mission of the organization is to prevent damages to underground utilities, the environment and property, reduce service interruptions and costly repairs, and save lives.

How much does it cost to use JULIE, Inc.? When does the call center have operators available?

The call to JULIE and service provided by utility members are free to the excavator. Call center operators are available to receive and process calls 24 hours a day, 365 days per year.

Will JULIE, Inc. tell me the specific location or depth of the public utilities?

No. JULIE does not obtain or have information on the specific location or depth of underground facilities for any members. Depth variation can be caused by human interference, weather or other circumstances.

If I am the subcontractor on a job, do I have to get a locate request ticket or will the general contractor's ticket protect me?

According to state law, the person, as defined in the Act, actually doing the digging is required to call JULIE with the locate request information at least 48 hours/two business days in advance of the start of the excavation, not the homeowner or company for whom the work is being done. The general contractor's locate request only applies to its company. In addition, the general contractor should only request a locate if its company is planning to actually dig at the site.

When should I pre-mark the work site?

When the excavation site can not be clearly and adequately identified on the request, JULIE recommends that the excavator, prior to calling JULIE, designate the route or area to be excavated using white paint, flags, stakes or a combination of these methods. Black may be used when snow is on the ground. For a list of premarking benefits and guidelines, visit www.illinois1call.com.

May I dig after the 48-hour advance notice?

According to state law, the excavator shall exercise due care at all times to protect underground utility facilities and CATS facilities. If, after proper notification through the State-Wide One-Call System and upon arrival at the site of the proposed excavation, the excavator observes clear evidence of the presence of an unmarked utility or CATS facility in the area of the proposed excavation, the excavator should not begin excavating until two (2) hours after an additional call is made to the State-Wide One-Call Notice System for the area. The operator of the utility or CATS facility should respond within two (2) hours of the excavator's call to the State-Wide One-Call Notice System.

The excavator has an obligation to honor all time/marketing requirements and then to dig in a reasonable and prudent manner, taking all reasonable and required precautions to avoid damaging underground facilities. It is suggested that you follow current industry practices, such as hand digging and/or vacuum excavating within 18 inches on either side of a marked underground facility.

I have hit a facility; what do I do now?

First, if you have created a potentially dangerous situation (i.e. damaged gas line, etc.), evacuate the area and call 911 and/or the proper emergency responders immediately. State law requires the excavator to call JULIE and the affected utility to report that you have come into contact with an underground utility facility.

How long do I have to wait after calling in an emergency locate request?

An emergency locate request call is processed immediately by the JULIE system. According to the Act, there is a wait time of 2 hours or the date and time requested on the notice, whichever is longer. If the conditions at the site dictate an earlier start than the required wait time, it is the responsibility of the excavator to demonstrate that site conditions warrant this earlier start time.

If a member(s) does not respond within the required wait time, call the member company directly and/or JULIE again. JULIE will send another request to the member(s) not responding.

Are all underground facility owners members of JULIE, Inc.?

While all underground facility owners and operators, except for the Illinois Department of Transportation, rural electric cooperatives and railroads, are required by state law to be members of JULIE, Inc., there may be some facility owners and operators who are not current members. An updated list of members by utility type is available on our Web site. Non-members can be reported to the Illinois Commerce Commission at 217-558-4010 (see Suspected Violations/ICC Administrative Penalty Program).

Where can I find more information about the state law and the JULIE process?

JULIE's Damage Prevention Managers are available to assist members and excavators. For their contact phone numbers by region, along with the latest news and information, visit www.illinois1call.com. The site also includes a list of members by county, upcoming events, member damage prevention team contacts, procedural changes, the state law and a quick and easy order form for free safety and education materials.

DETERMINING WHEN TO CALL

JULIE, Inc. (Joint Utility Locating Information for Excavators), also known as the "Illinois One-Call System," is a not-for-profit corporation that provides professional and non-professional (i.e. homeowners) excavators with a toll-free number (800-892-0123) for the free locating and marking of underground utility facilities. It is funded by its' member facility owners and operators.

JULIE serves as a message handling, notification service for underground utility facility owners, taking information about planned excavations and distributing this information to its membership. *It is then the responsibility of each facility owner to mark the location of their underground utility facilities at the excavation site. JULIE, Inc. is a communications link and does not perform any type of locating services.*

Illinois law requires anyone engaging in any type of excavation to provide advance notice to the underground facility owners and operators. This notice must be at least 48 hours/two business days prior to the start of excavation and the project must begin within 14 calendar days from the call. A precise definition of excavation is included in the state law.

The Illinois Commerce Commission (ICC) has the responsibility for enforcing the provisions of this Act. For detailed information, including information about penalties and liability, please review the text of the Act. For your convenience, a copy of the Illinois Underground Utility Facilities Damage Prevention Act (220 ILCS 50/1 et seq.) which took effect on January 1, 1991 (as amended) is printed in the back of this booklet.

HISTORY AND BACKGROUND

Loss of natural gas, telephone, water or electricity can leave communities without such services as police, fire and medical protection. When damaged, these services can endanger life, property and public safety—they can also be expensive and time consuming to repair.

JULIE, Inc. began operations on Aug. 1, 1974 in Will County and expanded its coverage to include all of Illinois as of December 1, 1980 (except for the city of Chicago). In 1976, the JULIE system was accepted by the ICC as compliance with the one-call notification section of General Order 185. As of November 2005, JULIE has over 1,700 members and has received and processed over 16 million calls. Its annual call volume makes it one of the largest one-call centers in the United States.

JULIE's call center operators are available to process locate requests 24 hours a day, 365 days per year. If digging within the city limits of Chicago, excavators should contact **DIGGER (Chicago Utility Alert Network)** at 312-744-7000. If excavating in other states, please refer requests to that state's notification center or call the established referral service at 888-258-0808.

MEMBER HOLIDAYS

The 48 hours/two business days notice does not include Saturdays, Sundays or certain holidays. The holidays observed at JULIE, Inc. include:

- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Day After Thanksgiving
- Christmas Day

If a holiday is on a Saturday, the previous Friday is observed. If the holiday is on a Sunday, the following Monday is observed.

While JULIE operators are available to receive and process calls on these holidays, member companies usually have crews on call to handle emergencies only. Therefore, these days are not included to determine the 48 hours/two business days advance notice.

"Forty-eight" hours means 2 business days beginning at 8 a.m. and ending at 4 p.m. (exclusive of Saturdays, Sundays and holidays recognized by the State-Wide One-Call System or the municipal one-call notice system). All requests for locates received after 4 p.m. will be processed as if received at 8 a.m. the next business day.

REASONS TO CONTACT FACILITY OWNERS DIRECTLY

Facility owners, not JULIE, Inc., should be contacted directly for the following issues:

- A. To report any type of service outage or interruptions.
- B. To resolve any type of utility billing problems or claims issues.
- C. To request any type of facility removal or relocation (including meter removals prior to demolition of a building).
- D. To request a change in or initiation of any type of utility service.

TYPES OF REQUESTS

JULIE, Inc. can receive and process four types of requests: Normal, Emergency, Joint Meet and Design Stage.

NORMAL LOCATE REQUEST

A **Normal Locate Request** is the most common type of request processed through JULIE. This request is made in compliance with state law, which requires 48 hours/two business days notice (excluding weekends and holidays).

EMERGENCY LOCATE REQUEST

An **Emergency Locate Request** is defined by state law as “a locate request for any condition constituting an imminent danger to life, health, or property, or a utility service outage, and which requires immediate repair or action.” Specific examples include, but are not limited to, the following:

- A. An unforeseen excavation necessary in order to prevent a condition that poses a clear and immediate danger to life or health.
- B. An excavation required to repair a utility service outage.
- C. An immediate excavation required in order to prevent significant property or environmental danger.
- D. The repair of an existing unstable condition that may result in any of the conditions above.

Emergency Locate Request Guidelines

When calling in an emergency locate request, inform the JULIE call center operator that an emergency exists and be prepared to explain the situation and/or conditions. The operator will prepare a locate request and note the planned start time. It is essential to leave a phone number that will be answered by someone who can further explain the situation or accept an “all clear” notification.

An emergency locate request call is processed immediately. There is a wait time of 2 hours or the date and time requested on the notice, whichever is longer. If the conditions at the site dictate an earlier start than the required wait time, it is the responsibility of the excavator to demonstrate that site conditions warranted this earlier start time.

If a member(s) does not respond within 2 hours, call the member company directly and/or JULIE again. JULIE will send another request to the member(s) not responding.

Important:

JULIE, Inc. assumes that all callers are providing accurate information regarding emergency situations. Work-scheduling problems and/or lack of timely notification on the excavator's part for a normal locate request *do not* constitute emergency situations. Penalties may be assessed by the ICC to excavators who call in emergency requests that are not emergencies as defined in Section 2.6 of the state law.

JOINT MEET

A **Joint Meet** is a meeting to openly discuss a large or complicated project and to exchange information such as maps, plans or schedules. It is not a locating session. Joint meets should be held at the dig site or a location in close proximity to the site. When practical, the excavation project should be laid out using a segmented, sequential work schedule for better coordination and communication between excavators and member locators.

A Joint meet is a 96-hour process. Many joint meets involve large geographic areas, which could include several geographic sections/quarter sections, multiple villages/cities and townships, and in some cases more than one county. The responding member utilities have 48 hours (2 working days) to respond to the joint meet and an additional 48 hours (2 working days) to mark their facilities after the meeting is held.

All member companies must mark before digging can proceed. According to a recent JULIE policy change, JULIE operators can not be instructed to include “a request that member companies be prepared to locate at the time of the meet” in the remarks section of the ticket inquiry. Excavators may request that utility locators pick up maps or drawings of the work site in lieu of a joint meet. Although a joint meet is not held, this type of request will still be treated as a joint meet and requires 96 hours to complete.

Required Information for a Joint Meet

It is imperative that the following information be provided:

To request a joint meet, the following information must be given to the JULIE operator or the locate request will be suspended and *will not* be sent to the member companies:

- 1) All counties, cities and/or townships where the work will be performed.

AND

- 2) Street names involved in the project **OR** the north, south, east and west boundaries of the project **OR** the section number(s) the work will be done in (this information **must** be provided by member companies and their subcontractors).

Suspended tickets are only held until midnight.

DESIGN STAGE/PLANNING INFORMATION REQUEST

The **Design Stage/Planning Information Request** is for architects, engineers and other customers who are in the design or planning stage of a project and excavation is not intended in the immediate future. When calling in this type of locate request, the caller must identify to the JULIE call center operator that they are in the planning or design stage of the project.

Customers who use this service will be faxed a list of member utility engineering contacts. It is the sole responsibility of the individual making the request to then make contact with each facility owner.

After the direct contact by the customer, the JULIE member will typically respond in one of the following three ways within 14 days of the receipt of the notice: 1) actual field location will be performed at the job site or 2) provide drawings/prints of the location of the buried facilities at the proposed site or 3) the caller may be requested to send drawings/prints of the job site to the member. If the member requests drawings of the job site, the member will mark existing facilities on drawings/prints or provide copies of the utility's record information and return these documents to the caller. (Note: JULIE members may charge a fee for any of these services).

METHODS TO REACH JULIE

There are three convenient methods of reaching JULIE with excavation-related requests: 1) use of the toll-free number at 800-892-0123, 2) web-based remote ticket entry via the Internet, described in the next section and 3) fax-a-locate program (this program requires a 72-hour advance notice from the start of the work. Call 815-741-5014 for an information packet).

TOLL-FREE PHONE NUMBER

JULIE operators are available 24 hours a day, 365 days a year to process locate requests at 1-800-892-0123. There are certain peak periods when call volumes are typically the highest. Monday is usually the busiest day of the week, especially from 8:00 a.m. until 11:00 a.m. Frequent callers should consider Web Remote Ticket Entry.

Excavators are realizing significant time savings when calling JULIE as a result of the interactive phone system. Callers are prompted to press '1' if they have a new locate request, after which they are asked to enter their 10 digit telephone number (area code + prefix + last four numbers). This number is then used to retrieve contractor information collected from previous calls and have that information available to the JULIE operator prior to greeting the caller. Similarly, excavators who are calling with a request on a previously called in locate, such as a request to freshen markings or second request due to a utility no-show, can experience similar time savings. These callers are now prompted to select the number '2', followed by instructions to enter their 8-digit DIG number. In this case, the JULIE operator will already have the locate request available once the caller is transferred.

WEB REMOTE TICKET ENTRY

Excavators who have access to the Internet are able to enter locate requests via a JULIE ticket entry Web site (WRTE). This method allows access to JULIE for frequent users of the one-call system.

To use WRTE, training is required (at no charge). For more information, contact the Data Department at 815-741-5011.

GUIDELINES FOR PREPARING TO CALL JULIE

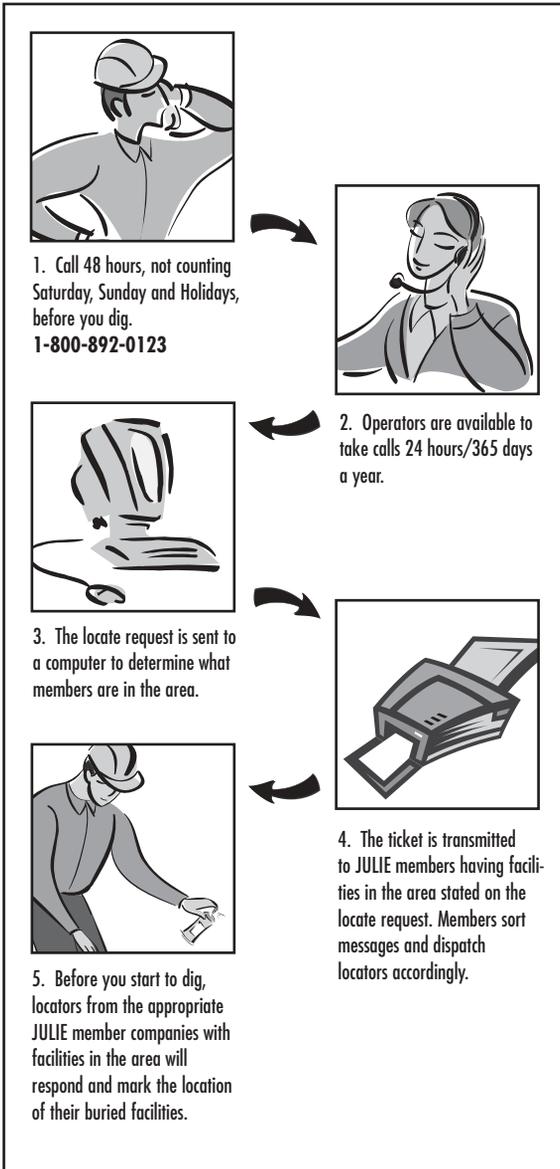
Preparation is the key to fast and easy processing of a locate request. The first step to a safe excavation project begins during the planning stages. Before making the call to JULIE, plan to assess the route or excavation site; gather all information for the locate request; and premark the location of the excavation site in white paint or flags.

REQUIRED INFORMATION FOR THE LOCATE REQUEST

JULIE's call center operators are trained professionals that guide each caller through a series of important questions to process each locate request. The information is processed in a standard format. Completing an excavator locate request form beforehand makes it faster and easier for both parties to complete the locate request. This form is available at www.illinois1call.com.

Please be prepared to provide the JULIE operator with the following information:

- A. Your name, address and a phone number at which you and/or a site contact can be reached and a fax and/or pager number, if available;
- B. County and city or county and unincorporated area of township;
- C. Location at which the excavation or demolition will take place, which may include but not be limited to, address, cross street, lot numbers, property owner name, etc. In addition, JULIE member companies and their contractors/subcontractors must provide the tier, range, section and quarter section numbers (refer to using NW, NE, SE, SW) of the excavation site sufficient enough for system to grid the ticket;
- D. Section/quarter sections when the above information does not allow the system to determine appropriate geographic section/quarter sections. This item (D) does not apply to residential property owners;
- E. The type and extent (size of excavation area) of the work involved, including if white paint, flags and/or stakes were used to outline the proposed excavation area;
- F. Will you be directional boring or horizontal directional drilling? Will you be digging deeper than 7 feet? and
- G. The start date and time of the planned excavation or demolition.



It is the policy of JULIE to limit the number of addresses on each normal locate request. Excavators are limited to ten addresses, on the same street within the same “hundred” block, per dig number.

DIG NUMBER

The call center operator provides a locate request or dig number that identifies the specific locate request that was processed. This record contains all of the information from start to finish along with the JULIE members receiving the request. It is important to write this number down and keep it with your personal records. JULIE keeps this information on file for five years.

EXCAVATORS MUST CALL IN THEIR OWN REQUESTS

“Call Before You Dig” does not mean letting someone else make the call to JULIE. According to state law, the person actually doing the digging (excavator) is required to call JULIE with locate request information.

JULIE policy states, *“utility locate requests, including those from homeowners, will only be accepted from the excavator or a personal representative/employee of the company engaging in the excavation activity.”* It is recognized, in rare cases, that the homeowner may be a better source of locate information and thus will be allowed to serve as an agent of the contractor—the homeowner must provide the name of the contracted company doing the actual digging and a phone number. The ticket is also required to grid by their address information.

ACCURATE LOCATION OF EXCAVATION SITE

A common mistake is when an excavator identifies their excavation location as within a village/city, when actually they are digging in the unincorporated township. This often happens because the mailing address includes the name of the nearest village/city. Please determine whether the excavation site is within the city limits or unincorporated township area before calling in a locate request.

When an address is not posted or when excavation is taking place

on property without a building, it is important to make the site identifiable for the locators by posting the lot number.

SECTION/QUARTER SECTION REQUIREMENTS

Per a JULIE policy, all members and their subcontractors must provide section and quarter section information. Professional excavators (not homeowners) must provide sections and quarter sections when the information given to the operator does not allow the message to grid on the JULIE system. Mapping sources can be found on JULIE’s Web site at www.illinois1call.com.

In addition, excavators can provide the GPS coordinates of their jobsite in lieu of section grid information. The JULIE computer will convert a valid GPS coordinate into the appropriate grid.

NEW CONSTRUCTION

When excavation work is the result of new building construction, all separate phases of the job (i.e. foundation, grading, landscaping, etc.) need to be called in as separate requests. “New building construction” does not cover such projects as sewer, water, gas or electric installations.

RURAL LOCATIONS

When calling in a rural locate request, it is important to provide as much information as possible including, but not limited to, rural fire department number, pedestal number, transformer number, mileage marker or any other landmark that may be helpful to identify the location.

STREET LIGHTS

The JULIE call center operator is not aware of the ownership of street lights at intersections. Street lights may be owned by the electric utility, the local municipality, the subdivision developer or the property owner. If the excavation will take place in the vicinity of street lights, excavators are encouraged to specifically request that these facilities be marked or that the owner contacts them. However, be prepared to make additional phone calls to determine ownership of street lights and to schedule these lines to be located.

AFTER THE CALL IS MADE

When all information is completed on the locate request, the ticket is then processed in JULIE's system for delivery to its utility members. The geographic information contained in the location request determines which JULIE members should be notified and then the computer sends a locate request message to the designated members with facilities in the dig site area.

RIGHT TO NOTIFICATION

A person involved in excavation or demolition may expressly waive the right to notification from the member companies with no facilities located in the proposed excavation or demolition area. Waiver of notice is only permissible in the case of normal or non-emergency locate requests.

Important:

"Yes" excuses the member companies who do not have facilities in the immediate area from notifying the excavator of this fact. "No" means each member company is obligated to a) notify the excavator that they do not have facilities or b) mark the approximate location of their facilities.

FACILITY OWNER RESPONSIBILITIES

Upon receipt of the locate request, each notified utility member determines its responsibility for locating its facility. The member, or a contracted representative hired by the member, can either clear the facility if no underground facilities are present or respond by clearly marking its facilities. If a member does not have any underground utility facilities in the immediate area of the excavation, it is required to communicate this information to the excavator. Notification of such to the excavator can be provided in any reasonable manner.

Examples include:

- Face-to-face communication
- Phone or phone message
- Facsimile
- Posting or marking in the excavation area with "OK" or "NO" (include the company's initials)

APWA COLOR CODE

After receiving and screening the locate request, the member facility owners and operators use stakes, flags or paint to mark their underground facilities. A combination of markings can be used. The owners/operators of each utility type must mark their facility with the approved APWA color code:

Red	Electric
Yellow	Gas, oil, steam or petroleum
Orange	Communications
Blue	Potable water
Green	Sewer
Purple	Reclaimed water, irrigation or slurry lines
Excavator Use Only	
Pink	Temporary survey
White	Proposed excavation (Black, when snow is present)

Important:

Operators of underground facilities own and locate only those lines that they operate and/or maintain. There are also privately owned facilities.

Some service lines extending from the property easement to the house belong to the homeowner and as such are considered privately owned. JULIE member companies do not locate privately installed lines or facilities such as house to garage or out buildings, gaslights, gas grills, etc. Excavators are encouraged to contact utility locating services, often found in local phone directories, to assist them in locating privately installed utility lines.

State law requires mandatory one-call participation by all underground utility owners, except for rural electric cooperatives and railroads. The Illinois Department of Transportation is not a JULIE member. While every effort is made by JULIE, Inc. to promote membership, unfortunately, there are facility owners in Illinois not in compliance with the law. Excavators are encouraged to search the area for non-members and notify them. An updated list of JULIE members, by name and county, is on the Web site.

EXCAVATOR RESPONSIBILITIES

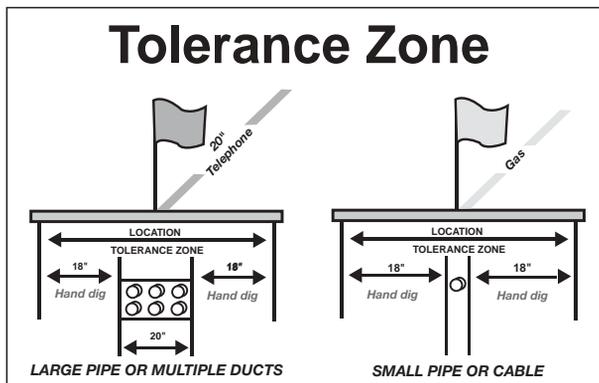
Notifying JULIE is the first step of obtaining a locate of underground facilities. JULIE, Inc. is strictly a message center and does not perform locates for any of its members.

After the locates are performed, the excavator still must exercise caution. If a member has not responded and/or underground facilities are present and not located, the excavator must call JULIE for a second request (see Reporting Problems).

WORKING WITHIN THE TOLERANCE ZONE

Tolerance zone is the approximate location of underground utility facilities or CATS facilities defined as a strip of land at least 3 feet wide, but not wider than the width of the underground facility or CATS facility plus 1^{1/2} feet on either side of such facility based upon the markings made by the owner or operator of the facility. Excavation within the tolerance zone requires extra care and precaution including, but not limited to, as set forth in Section 4 of the Act.

Approximate location means a strip of land at least 3 feet wide, but not wider than the width of the underground facility or CATS facility plus 1^{1/2} feet on either side of the facility.



DAMAGE TO AN UNDERGROUND FACILITY

In the event of any damage to or dislocation of any underground utility facilities or CATS facilities in connection with any excavation

or demolition, emergency or non-emergency, the person responsible for the excavation or demolition operations should immediately notify the affected utility (call center operator may have phone number, check phone book or call "Operator Assistance") and the State-Wide One-Call Notice System. Be prepared to tell the JULIE operator your original dig request number, what general type of facility it is (i.e. pipe vs. cable), the affected utility, if known, and the location of the damage at the dig site.

Important:

In a potentially dangerous situation (i.e. damaged gas line, etc.), evacuate the area and call 911 and/or the proper emergency responders immediately.

REASONABLE BUSINESS PRACTICES

Everyone subject to the requirements of the Act should plan and conduct their work consistent with reasonable business practices. Conditions may exist making it unreasonable to request that locations be marked within 48 hours. It is unreasonable to request owners and operators of underground utility facilities to locate all of their facilities in an affected area upon short notice in advance of a large or extensive non-emergency project, or to request extensive locates in excess of a reasonable excavation or demolition work schedule, or to request locates under conditions where a repeat request is likely to be made because of the passage of time or adverse job conditions.

TICKET LIFE

A provision in the state law limits the locate request ticket life or specific expiration date processed through the JULIE system to 28-calendar days (effective March 1, 2004).

GUIDELINES FOR TICKET LIFE

- **The 28-day provision is based on calendar days (not business days).** For example, a locate request called in on the first day of the month needs to be extended on or before 11:59 p.m. on the 28th day of the same month to meet the extension provisions of the state law.

- ***An excavator can extend their locate request ticket between Day 20 and Day 28.***

Extended tickets will receive a new 28-day ticket life beginning on the extension date. For example, a ticket extended on the 20th day will be valid for 28 more calendar days from the date it was extended. JULIE representatives recognize that this new 28-day period will overlap with the previous 28-day period. An extend operation will result in a revised ticket indicating that “the job is ongoing” being sent to all members with facilities in or near the job site.

No changes affecting the jobsite address, extent of work or work type will be allowed on the “extend” locate request ticket--a ‘New’ ticket will be assigned to the excavator if any of these changes are required.

- ***Only New/Normal priority locate request tickets and Joint Meets can be extended.***

Emergency, Damage, Design and Short Notice locate request tickets cannot be extended.

An excavator’s request for locates will maintain the same locate request number on all subsequent requests for locates for a period up to 5 months from the initial call. Projects that require a longer period to complete will be issued a new dig number during the next call.

- ***List of members will be read to the excavator.***

A new member lookup will be done during each extend operation just in case a new facility owner is now in or near the jobsite. The list of members to be notified will be read to the excavator on all extend operations. It is the responsibility of the excavator to be aware of any new members on the ticket.

- ***A Refresh request is NOT the same as an Extend request.***

If outside factors (i.e. weather, construction activity or vandalism) at the dig site have caused the markings to

become undistinguishable, a request for remarks is required. This request does not mean that the ticket has been extended. The excavator must specifically request an extension if the project is scheduled to go beyond the 28-day ticket life.

REPORTING PROBLEMS

Excavators may encounter several issues during the locate request process. If this is the case, JULIE’s Damage Prevention Managers are available to assist you with questions and can provide the proper channels to follow to resolve the matter. In addition, JULIE’s Web site has contact information for several member utilities that can help resolve any issues with their specific company, municipality, etc.

The following are some of the more common examples and recommendations to deal with each issue.

FAILURE TO LOCATE FACILITIES PRIOR TO START DATE

Occasionally, unforeseen issues arise at the dig site and it may be necessary for an excavator to call back in to JULIE for a “second request” locate. This may be a request for one, several or all member companies to return to the dig site to freshen or complete utility locate markings. If this is the case, please tell the JULIE operator which specific companies have not located, completed the markings or are not visible.

Excavators should choose one of the following terms when calling in a second request:

“Remark” – Outside factors (i.e. weather, construction activity, vandalism, etc.) at the dig site have caused markings to become indistinguishable. Call JULIE to have the area remarked and be prepared to wait an additional 48 hours. Please refer to the previously received dig number when calling for a remark.

“Incomplete markings” – One or more member companies failed to mark the entire area asked for on the original request.

“No show” – One or more member companies failed to locate within the two working day advance notice period (or two hours in case of an emergency). State law requires a 2-hour wait time for excavators who call in second requests because of a utility no-show.

CORRECTING ERRORS

If, at any time, it is discovered that incorrect information was provided, callers should notify JULIE, Inc. as soon as possible. An operator will assist in making corrections, depending on the circumstances. Corrections to a request are only accepted from callers working for the same company that originated the request and constitute a new locate request and require additional time.

SUSPECTED VIOLATIONS/ICC ADMINISTRATIVE PENALTY PROGRAM

The Act provides for an administrative penalty program to be enforced through the Illinois Commerce Commission (ICC). JULIE is not the enforcing body of the legislation.

Excavators are encouraged to work with those JULIE member companies who have damage prevention teams when specific issues arise with that JULIE member (information is available on the JULIE Web site at www.illinois1call.com). Questions about the ICC enforcement process can be directed to 217-558-4010. Specific information about potential penalties, the enforcement process, incident report forms and the full text of the legislation are also available at the ICC Web site (<http://eweb.icc.state.il.us/julie/>). Documentation is important. Suspected violations may be reported to the ICC via one of three methods (*to minimize possible errors in transcription, the first two methods are encouraged*):

1. ICC Web site (visit www.illinois1call.com for a direct link to the ICC's site).
2. In writing to the ICC, Attention: Manager, JULIE Enforcement, 527 E. Capitol Avenue, Springfield, Illinois 62701.
3. By phone to the ICC at 217-558-4010.

The ICC enforcement process involves up to three steps: (1) ICC staff review, (2) Appeal to Advisory Committee and (3) Appeal to ICC—Formal Hearing.

ILLINOIS UNDERGROUND UTILITY FACILITIES DAMAGE PREVENTION ACT



ILLINOIS UNDERGROUND UTILITY FACILITIES DAMAGE PREVENTION ACT

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(220 ILCS 50/1)

Sec. 1. This Act shall be known and may be cited as the Illinois Underground Utility Facilities Damage Prevention Act.

(Source: P.A. 86-674.)

(220 ILCS 50/2)

Sec. 2. Definitions. As used in this Act, unless the context clearly otherwise requires, the terms specified in Sections 2.1 through 2.11 have the meanings ascribed to them in those Sections.

(Source: P.A. 92-179, eff. 7-1-02; 94-0623, eff. 8-18-05)

(220 ILCS 50/2.1)

Sec. 2.1. "Person" means an individual, firm, joint venture, partnership, corporation, association, municipality or other governmental unit, department or agency, utility cooperative, or joint stock association, and includes any trustee, receiver, assignee or personal representative thereof.

(Source: P.A. 86-674.)

(220 ILCS 50/2.2)

Sec. 2.2. Underground utility facilities. "Underground utility facilities" or "facilities" means and includes wires, ducts, fiber optic cable, conduits, pipes, sewers, and cables and their connected appurtenances installed beneath the surface of the ground by a public utility (as is defined in the Illinois Public Utilities Act, as amended), or by a municipally owned or mutually owned utility providing a similar utility service, except an electric cooperative as defined in the Illinois Public Utilities Act, as amended, or by a pipeline entity transporting gases, crude oil, petroleum products, or other hydrocarbon materials within the State, or by a telecommunications carrier as defined in the Universal Telephone Service Protection Law of 1985, or by a company described in Section 1 of "An Act relating to the powers, duties and property of telephone companies", approved May 16, 1903, as amended, or by a community antenna television system, hereinafter referred to as "CATS", as defined in the Illinois Municipal Code, as amended.

(Source: P.A. 92-179, eff. 7-1-02; 94-0623, eff. 8-18-05)

(220 ILCS 50/2.3)

Sec. 2.3. Excavation. "Excavation" means any operation in which earth, rock, or other material in or on the ground is moved, removed, or otherwise displaced by means of any tools, power equipment or explosives, and includes, without limitation, grading, trenching, digging, ditching, drilling, augering, boring, tunneling, scraping, cable or pipe plowing, and driving but does not include farm tillage operations or railroad right-of-way maintenance or operations or coal mining operations regulated under the Federal Surface Mining Control and Reclamation Act of 1977 or any State law or rules or regulations adopted under the federal statute, or land surveying operations as defined in the Illinois Professional Land Surveyor Act of 1989 when not using power equipment, or roadway surface milling.

(Source: P.A. 92-179, eff. 7-1-02; 94-0623, eff. 8-18-05)

(220 ILCS 50/2.4)

Sec. 2.4. "Demolition" means the wrecking, razing, rending, moving, or removing of a structure by means of any power tool, power equipment (exclusive of transportation equipment) or explosives.

(Source: P.A. 86-674.)

(220 ILCS 50/2.5)

Sec. 2.5. "Damage" means the contact or dislocation of any underground utility facility or CATS facility during excavation or demolition which necessitates immediate or subsequent repair by the owner of such facility.

(Source: P.A. 86-674.)

(220 ILCS 50/2.6)

Sec. 2.6. Emergency locate request. "Emergency locate request" means a locate request for any condition constituting an imminent danger to life, health, or property, or a utility service outage, and which requires immediate repair or action.

(Source: P.A. 92-179, eff. 7-1-02.)

(220 ILCS 50/2.7)

Sec. 2.7. Tolerance zone. "Tolerance zone" means the approximate location of underground utility facilities or CATS facilities defined as a strip of land at least 3 feet wide, but not wider than the width of the underground facility or CATS facility plus 1½ feet on either side of such facility based upon the markings made by the owner or operator of the facility. Excavation within the tolerance zone requires extra care and precaution including, but not limited to, as set forth in Section 4.

(Source: P.A. 92-179, eff. 7-1-02.)

(220 ILCS 50/2.8)

Sec. 2.8. Approximate location. "Approximate location" means a strip of land at least 3 feet wide, but not wider than the width of the underground facility or CATS facility plus 1½ feet on either side of the facility.

(Source: P.A. 92-179, eff. 7-1-02.)

(220 ILCS 50/2.9)

Sec. 2.9. "Forty-eight hours" means 2 business days beginning at 8 a.m. and ending at 4 p.m. (exclusive of Saturdays, Sundays, and holidays recognized by the State-Wide One-Call Notice System or the municipal one-call notice system). All requests for locates received after 4 p.m. will be processed as if received at 8 a.m. the next business day.

(Source: P.A. 94-0623, eff. 8-18-05)

(220 ILCS 50/2.10)

Sec. 2.10. "Open cut utility locate" means a method of locating underground utility facilities that requires excavation by the owner, operator, or agent of the underground facility.

(Source: P.A. 94-0623, eff. 8-18-05)

(220 ILCS 50/2.11)

Sec. 2.11. "Roadway surface milling" means the removal of a uniform pavement section by rotomilling, grinding, or other means not including the base or subbase.

(Source: P.A. 94-0623, eff. 8-18-05)

(220 ILCS 50/3)

Sec. 3. The owners or operators of underground utility facilities or CATS facilities that are not currently participants in the State-Wide One-Call Notice System shall, within 6 months of the effective date of this Act, join the State-Wide One-Call Notice System. This Section shall not apply to utilities operating facilities or CATS facilities exclusively within the boundaries of a municipality with a population of at least one million persons.

(Source: P.A. 86-674.)

(220 ILCS 50/4)

Sec. 4. Required activities. Every person who engages in nonemergency excavation or demolition shall:

- (a) take reasonable action to inform himself of the location of any underground utility facilities or CATS facilities in and near the area for which such operation is to be conducted;

- (b) plan the excavation or demolition to avoid or minimize interference with underground utility facilities or CATS facilities within the tolerance zone by utilizing such precautions that include, but are not limited to, hand excavation, vacuum excavation methods, and visually inspecting the excavation while in progress until clear of the existing marked facility;
- (c) if practical, use white paint, flags, stakes, or both, to outline the dig site;
- (d) provide notice not less than 48 hours but no more than 14 calendar days in advance of the start of the excavation or demolition to the owners or operators of the underground utility facilities or CATS facilities in and near the excavation or demolition area through the State-Wide One-Call Notice System or, in the case of nonemergency excavation or demolition within the boundaries of a municipality of at least one million persons which operates its own one-call notice system, through the one-call notice system which operates in that municipality;
- (e) provide, during and following excavation or demolition, such support for existing underground utility facilities or CATS facilities in and near the excavation or demolition area as may be reasonably necessary for the protection of such facilities unless otherwise agreed to by the owner or operator of the underground facility or CATS facility;
- (f) backfill all excavations in such manner and with such materials as may be reasonably necessary for the protection of existing underground utility facilities or CATS facilities in and near the excavation or demolition area; and
- (g) After February 29, 2004, when the excavation or demolition project will extend past 28 calendar days from the date of the original notice provided under clause (d), the excavator shall provide a subsequent notice to the owners or operators of the underground utility facilities or CATS facilities in and near the excavation or demolition area through the State-Wide One-Call Notice System or, in the case of excavation or demolition

within the boundaries of a municipality having a population of at least 1,000,000 inhabitants that operates its own one-call notice system, through the one-call notice system that operates in that municipality informing utility owners and operators that additional time to complete the excavation or demolition project will be required. The notice will provide the excavator with an additional 28 calendar days from the date of the subsequent notification to continue or complete the excavation or demolition project.

At a minimum, the notice required under clause (d) shall provide:

- (1) the person's name, address, and (i) phone number at which a person can be reached and (ii) fax number, if available;
- (2) the start date of the planned excavation or demolition;
- (3) the address at which the excavation or demolition will take place;
- (4) the type and extent of the work involved; and
- (5) section/quarter sections when the above information does not allow the State-Wide One-Call Notice System to determine the appropriate geographic section/quarter sections. This item (5) does not apply to residential property owners.

Nothing in this Section prohibits the use of any method of excavation if conducted in a manner that would avoid interference with underground utility facilities or CATS facilities.

(Source: P.A. 92-179, eff. 7-1-02; 93-430, eff. 8-5-03; 94-0623, eff. 8-18-05)

(220 ILCS 50/5)

Sec. 5. Notice of preconstruction conference. When the Illinois Department of Transportation notifies an owner or operator of an underground utility facility or CATS facility that the Department will conduct a preconstruction conference concerning new construction, reconstruction, or maintenance of State highways in and near the area in which such owner or operator has placed underground utility facilities, such notification shall, except as otherwise provided in this Section constitute compliance by the Department or its contractors with paragraphs (a), (b), and (d) of Section 4 of this

Act. In instances when notification of a preconstruction conference is provided to the owner or operator of an underground utility facility or CATS facility but no specific date is established at the preconstruction conference for the new construction, reconstruction or maintenance of State highways in and near the area in which the owner or operator has placed underground utility facilities or CATS facilities, then the Department or its contractors shall later comply with paragraph (d) of Section 4 of this Act.

(Source: P.A. 92-179, eff. 7-1-02.)

(220 ILCS 50/6)

Sec. 6. Emergency excavation or demolition.

(a) Every person who engages in emergency excavation or demolition outside of the boundaries of a municipality of at least one million persons which operates its own one-call notice system shall take all reasonable precautions to avoid or minimize interference between the emergency work and existing underground utility facilities or CATS facilities in and near the excavation or demolition area, through the State-Wide One-Call Notice System, and shall notify, as far in advance as possible, the owners or operators of such underground utility facilities or CATS facilities in and near the emergency excavation or demolition area, through the State-Wide One-Call Notice System. At a minimum, the notice required under this subsection (a) shall provide:

- (1) the person's name, address, and (i) phone number at which a person can be reached and (ii) fax number, if available;
- (2) the start date of the planned emergency excavation or demolition;
- (3) the address at which the excavation or demolition will take place; and
- (4) the type and extent of the work involved.

There is a wait time of 2 hours or the date and time requested on the notice, whichever is longer, after an emergency locate notification request is made through the State-Wide One-Call Notice System. If the conditions at the site dictate an earlier start than the required wait time, it is the responsibility of the excavator to

demonstrate that site conditions warranted this earlier start time.

Upon notice by the person engaged in emergency excavation or demolition, the owner or operator of an underground utility facility or CATS facility in or near the excavation or demolition area shall communicate with the person engaged in emergency excavation or demolition within 2 hours or by the date and time requested on the notice, whichever is longer.

The notice by the owner or operator to the person engaged in emergency excavation or demolition may be provided by phone or phone message or by marking the excavation or demolition area. The owner or operator has discharged the owner's or operator's obligation to provide notice under this Section if the owner or operator attempts to provide notice by telephone but is unable to do so because the person engaged in the emergency excavation or demolition does not answer his or her telephone or does not have an answering machine or answering service to receive the telephone call. If the owner or operator attempts to provide notice by telephone or by facsimile but receives a busy signal, that attempt shall not discharge the owner or operator from the obligation to provide notice under this Section.

(b) Every person who engages in emergency excavation or demolition within the boundaries of a municipality of at least one million persons which operates its own one-call notice system shall take all reasonable precautions to avoid or minimize interference between the emergency work and existing underground utility facilities or CATS facilities in and near the excavation or demolition area, through the municipality's one-call notice system, and shall notify, as far in advance as possible, the owners and operators of underground utility facilities or CATS facilities in and near the emergency excavation or demolition area, through the municipality's one-call notice system.

(c) The reinstallation of traffic control devices shall be deemed an emergency for purposes of this Section.

(d) An open cut utility locate shall be deemed an emergency for purposes of this Section.

(Source: P.A. 92-179, eff. 7-1-02; 94-0623, eff. 8-18-05)

(220 ILCS 50/7)

Sec. 7. Damage or dislocation. In the event of any damage to or dislocation of any underground utility facilities or CATS facilities in connection with any excavation or demolition, emergency or nonemergency, the person responsible for the excavation or demolition operations shall immediately notify the affected utility and the State-Wide One-Call Notice System or, in the case of damage or dislocation in connection with any excavation or demolition within the boundaries of a municipality having a population of at least 1,000,000 inhabitants that operates its own one-call notice system, notify the affected utility and the one-call notice system that operates in that municipality. Owners and operators of underground utility facilities that are damaged and the excavator involved shall work in a cooperative and expeditious manner to repair the affected utility.

(Source: P.A. 92-179, eff. 7-1-02; 93-430, eff. 8-5-03.)

(220 ILCS 50/8)

Sec. 8. Liability or financial responsibility.

- (a) Nothing in this Act shall be deemed to affect or determine the financial responsibility for any operation under this Act or liability of any person for any damages that occur unless specifically stated otherwise.
- (b) Nothing in this Act shall be deemed to provide for liability or financial responsibility of the Department of Transportation, its officers and employees concerning any underground utility facility or CATS facility located on highway right-of-way by permit issued under the provisions of Section 9-113 of the Illinois Highway Code [FN1]. It is not the intent of this Act to change any remedies in law regarding the duty of providing lateral support.
- (c) Neither the State-Wide One-Call Notice System nor any of its officers, agents, or employees shall be liable for damages for injuries or death to persons or damage to property caused by acts or omissions in the receipt, recording, or transmission of locate requests or other information in the performance of its duties as the State-Wide One-Call Notice System, unless the act or

[FN1] 605 ILCS 5/9-113

- (d) Any residential property owner who fails to comply with any provision of this Act and damages underground utility facilities or CATS facilities while engaging in excavation or demolition on such residential property shall not be subject to a penalty under this Act, but shall be liable for the damage caused to the owner or operator of the damaged underground utility facilities or CATS facilities.

(Source: P.A. 92-179, eff. 7-1-02.)

(220 ILCS 50/9)

Sec. 9. When it is shown by competent evidence in any action for damages to underground utility facilities or CATS facilities that such damages resulted from excavation or demolition and that the person engaged in such excavation or demolition failed to comply with the provisions of this Act, that person shall be deemed prima facie guilty of negligence. When it is shown by competent evidence in any action for damages to persons, material or equipment brought by persons undertaking excavation or demolition acting in compliance with the provisions of this Act that such damages resulted from the failure of owners and operators of underground facilities or CATS facilities to comply with the provisions of this Act, those owners and operators shall be deemed prima facie guilty of negligence.

(Source: P.A. 86-674.)

(220 ILCS 50/10)

Sec. 10. Record of notice; marking of facilities. Upon notice by the person engaged in excavation or demolition, the person owning or operating underground utility facilities or CATS facilities in or near the excavation or demolition area shall cause a written record to be made of the notice and shall mark, within 48 hours of receipt of notice, the approximate locations of such facilities so as to enable the person excavating or demolishing to establish the location of the underground utility facilities or CATS facilities. Owners and operators of underground sewer facilities that are located outside the boundaries of a municipality having a population of at least 1,000,000 inhabitants shall be required to respond and mark the

approximate location of those sewer facilities when the excavator indicates, in the notice required in Section 4, that the excavation or demolition project will exceed a depth of 7 feet. "Depth", in this case, is defined as the distance measured vertically from the surface of the ground to the top of the sewer facility. Owners and operators of underground sewer facilities that are located outside the boundaries of a municipality having a population of at least 1,000,000 inhabitants shall be required at all times to locate the approximate location of those sewer facilities when: (1) directional boring is the indicated type of excavation work being performed within the notice; (2) the underground sewer facilities owned are non-gravity, pressurized force mains; or (3) the excavation indicated will occur in the immediate proximity of known underground sewer facilities that are less than 7 feet deep. Owners or operators of underground sewer facilities that are located outside the boundaries of a municipality having a population of at least 1,000,000 inhabitants shall not hold an excavator liable for damages that occur to sewer facilities that were not required to be marked under this Section, provided that prompt notice of the damage is made to the State-Wide One-Call Notice System and the utility owner as required in Section 7.

All persons subject to the requirements of this Act shall plan and conduct their work consistent with reasonable business practices. Conditions may exist making it unreasonable to request that locations be marked within 48 hours. It is unreasonable to request owners and operators of underground utility facilities and CATS facilities to locate all of their facilities in an affected area upon short notice in advance of a large or extensive nonemergency project, or to request extensive locates in excess of a reasonable excavation or demolition work schedule, or to request locates under conditions where a repeat request is likely to be made because of the passage of time or adverse job conditions. Owners and operators of underground utility facilities and CATS facilities must reasonably anticipate seasonal fluctuations in the number of locate requests and staff accordingly.

If a person owning or operating underground utility facilities or CATS facilities receives a notice under this Section but does not own or operate any underground utility facilities or CATS facilities within the proposed excavation or demolition area described in the notice,

that person, within 48 hours after receipt of the notice, shall so notify the person engaged in excavation or demolition who initiated the notice, unless the person who initiated the notice expressly waives the right to be notified that no facilities are located within the excavation or demolition area. The notification by the owner or operator of underground utility facilities or CATS facilities to the person engaged in excavation or demolition may be provided in any reasonable manner including, but not limited to, notification in any one of the following ways: by face-to-face communication; by phone or phone message; by facsimile; by posting in the excavation or demolition area; or by marking the excavation or demolition area. The owner or operator of those facilities has discharged the owner's or operator's obligation to provide notice under this Section if the owner or operator attempts to provide notice by telephone or by facsimile, if the person has supplied a facsimile number, but is unable to do so because the person engaged in the excavation or demolition does not answer his or her telephone or does not have an answering machine or answering service to receive the telephone call or does not have a facsimile machine in operation to receive the facsimile transmission. If the owner or operator attempts to provide notice by telephone or by facsimile but receives a busy signal, that attempt shall not serve to discharge the owner or operator of the obligation to provide notice under this Section.

A person engaged in excavation or demolition may expressly waive the right to notification from the owner or operator of underground utility facilities or CATS facilities that the owner or operator has no facilities located in the proposed excavation or demolition area. Waiver of notice is only permissible in the case of regular or nonemergency locate requests. The waiver must be made at the time of the notice to the State-Wide One-Call Notice System. A waiver made under this Section is not admissible as evidence in any criminal or civil action that may arise out of, or is in any way related to, the excavation or demolition that is the subject of the waiver. For the purposes of this Act, underground facility operators may utilize a combination of flags, stakes, and paint when possible on non-paved surfaces and when dig site and seasonal conditions warrant.

If the approximate location of an underground utility facility

or CATS facility is marked with stakes or other physical means, the following color coding shall be employed:

Underground Facility Owner or Agent Use Only

Electric Power, Distribution and Transmission.....	Safety Red
Municipal Electric Systems.....	Safety Red
Gas Distribution and Transmission	High Visibility Safety Yellow
Oil Distribution and Transmission.....	High Visibility Safety Yellow
Telephone and Telegraph Systems	Safety Alert Orange
Community Antenna Television Systems.....	Safety Alert Orange
Water Systems.....	Safety Precaution Blue
Sewer Systems.....	Safety Green
Non-potable Water and Slurry Lines.....	Safety Purple

Excavator Use Only

Temporary Survey	Safety Pink
Proposed Excavation.....	Safety White (Black when snow is on the ground)

(Source: P.A. 92-179, eff. 7-1-02; 93-430, eff. 8-5-03; 94-0623, eff. 8-18-05)

(220 ILCS 50/11)

Sec. 11. Penalties; liability; fund.

- (a) Every person who, while engaging in excavation or demolition, wilfully fails to comply with the Act by failing to provide the notice to the owners or operators of the underground facilities or CATS facility near the excavation or demolition area through the State-Wide One-Call Notice System as required by Section 4 or 6 of this Act shall be subject to a penalty of up to \$5,000 for each separate offense and shall be liable for the damage caused to the owners or operators of the facility.
- (b) Every person who, while engaging in excavation or demolition, has provided the notice to the owners or operators of the underground utility facilities or CATS facilities in and near the excavation or demolition area

through the State-Wide One-Call Notice System as required by Section 4 or 6 of this Act, but otherwise wilfully fails to comply with this Act, shall be subject to a penalty of up to \$2,500 for each separate offense and shall be liable for the damage caused to the owners or operators of the facility.

- (c) Every person who, while engaging in excavation or demolition, has provided the notice to the owners or operators of the underground utility facilities or CATS facilities in and near the excavation or demolition area through the State-Wide One-Call Notice System as required by Section 4 or 6 of this Act, but otherwise, while acting reasonably, damages any underground utility facilities or CATS facilities, shall not be subject to a penalty, but shall be liable for the damage caused to the owners or operators of the facility provided the underground utility facility or CATS facility is properly marked as provided in Section 10 of this Act.
- (d) Every person who, while engaging in excavation or demolition, provides notice to the owners or operators of the underground utility facilities or CATS facilities through the State-Wide One-Call Notice System as an emergency locate request and the locate request is not an emergency locate request as defined in Section 2.6 of this Act shall be subject to a penalty of up to \$2,500 for each separate offense.
- (e) Owners and operators of underground utility facilities or CATS facilities (i) who wilfully fail to comply with this Act by a failure to mark the location of an underground utility or CATS facility or a failure to provide notice that facilities are not within the proposed excavation or demolition area as required in Section 10, or (ii) who wilfully fail to respond as required in Section 6 to an emergency request, after being notified of planned excavation or demolition through the State-Wide One-Call Notice System, shall be subject to a penalty of up to \$5,000 for each separate offense resulting from the failure to mark an underground utility facility or CATS facility.

- (f) As provided in Section 3 of this Act, all owners or operators of underground utility facilities or CATS facilities who fail to join the State-Wide One-Call Notice System by January 1, 2003 shall be subject to a penalty of \$100 per day for each separate offense. Every day an owner or operator fails to join the State-Wide One-Call Notice System is a separate offense. This subsection (f) does not apply to utilities operating facilities or CATS facilities exclusively within the boundaries of a municipality with a population of at least 1,000,000 persons.
- (g) No owner or operator of underground utility facilities or CATS facilities shall be subject to a penalty where a delay in marking or a failure to mark or properly mark the location of an underground utility or CATS facility is caused by conditions beyond the reasonable control of such owner or operator.
- (h) Any person who is neither an agent, employee, or authorized locating contractor of the owner or operator of the underground utility facility or CATS facility nor an excavator involved in the excavation activity who removes, alters, or otherwise damages markings, flags, or stakes used to mark the location of an underground utility or CATS facility other than during the course of the excavation for which the markings were made or before completion of the project shall be subject to a penalty up to \$1,000 for each separate offense.
- (i) The excavator shall exercise due care at all times to protect underground utility facilities and CATS facilities. If, after proper notification through the State-Wide One-Call Notice System and upon arrival at the site of a proposed excavation, the excavator observes clear evidence of the presence of an unmarked utility or CATS facility in the area of the proposed excavation, the excavator shall not begin excavating until 2 hours after an additional call is made to the State-Wide One-Call Notice System for the area. The operator of the utility or CATS facility shall respond within 2 hours of the excavator's call to the State-Wide One-Call Notice System.
- (j) The Illinois Commerce Commission shall have the power and jurisdiction to, and shall, enforce the provisions of this Act. The Illinois Commerce Commission may impose administrative penalties as provided in this Section. The Illinois Commerce Commission may promulgate rules and develop enforcement policies in the manner provided by the Public Utilities Act in order to implement compliance with this Act. When a penalty is warranted, the following criteria shall be used in determining the magnitude of the penalty:
- (1) gravity of noncompliance;
 - (2) culpability of offender;
 - (3) history of noncompliance for the 18 months prior to the date of the incident;
 - (4) ability to pay penalty;
 - (5) show of good faith of offender;
 - (6) ability to continue business; and
 - (7) other special circumstances.
- (k) There is hereby created in the State treasury a special fund to be known as the Illinois Underground Utility Facilities Damage Prevention Fund. All penalties recovered in any action under this Section shall be paid into the Fund and shall be distributed annually as a grant to the State-Wide One-Call Notice System to be used in safety and informational programs to reduce the number of incidents of damage to underground utility facilities and CATS facilities in Illinois. The distribution shall be made during January of each calendar year based on the balance in the Illinois Underground Utility Facilities Damage Prevention Fund as of December 31 of the previous calendar year. In all such actions under this Section, the procedure and rules of evidence shall conform with the Code of Civil Procedure, and with rules of courts governing civil trials.
- (l) The Illinois Commerce Commission shall establish an Advisory Committee consisting of a representative from each of the following: utility operator, JULIE, excavator, municipality, and the general public. The Advisory Committee shall serve as a peer review panel for any

contested penalties resulting from the enforcement of this Act.

The members of the Advisory Committee shall be immune, individually and jointly, from civil liability for any act or omission done or made in performance of their duties while serving as members of such Advisory Committee, unless the act or omission was the result of willful and wanton misconduct.

(m) If, after the Advisory Committee has considered a particular contested penalty and performed its review functions under this Act and the Commission's rules, there remains a dispute as to whether the Commission should impose a penalty under this Act, the matter shall proceed in the manner set forth in Article X of the Public Utilities Act, including the provisions governing judicial review.

(Source: P.A. 92-179, eff. 7-1-02; 94-0623, eff. 8-18-05)

(220 ILCS 50/11.3)

Sec. 11.3. Emergency telephone system outages; reimbursement. Any person who negligently damages an underground facility or CATS facility causing an emergency telephone system outage must reimburse the public safety agency that provides personnel to answer calls or to maintain or operate an emergency telephone system during the outage for the agency's costs associated with answering calls or maintaining or operating the system during the outage. For the purposes of this Section, "public safety agency" means the same as in Section 2.02 of the Emergency Telephone System Act.

(Source: P.A. 92-149, eff. 1-1-02.)

(220 ILCS 50/11.5)

Sec. 11.5. Limitation on liability.

(a) In joining the State-Wide One-Call Notice System, a municipality's liability, under any membership agreement rules and regulations, for the indemnification of (i) the entity that is in charge of or managing the System or any officer, agent, or employee of that entity or (ii) a member of the System or any officer, agent, or employee of a member of the System shall be limited to claims arising as a result of the acts or omissions of the

municipality or its officers, agents, or employees or arising out of the operations of the municipality's underground utility facilities.

(b) Subsection (a) shall not be construed to create any additional liability for a municipality in relation to any member of the System with which the municipality may have entered into a franchise agreement. If a municipality's liability for indemnification under a franchise agreement is narrower than under this Section, the franchise agreement controls.

(Source: P.A. 90-481, eff. 8-17-97.)

(220 ILCS 50/12)

Sec. 12. No action may be brought under Section 11 of this Act unless commenced within 2 years after the date of violation of this Act.

(Source: P.A. 86-674.)

(220 ILCS 50/13)

Sec. 13. Mandamus or injunction. Where public safety or the preservation of uninterrupted, necessary utility service or community antenna television system service is endangered by any person engaging in excavation or demolition in a negligent or unsafe manner which has resulted in or is likely to result in damage to underground utility facilities or CATS facilities or proposing to use procedures for excavation or demolition which are likely to result in damage to underground utility facilities or CATS facilities, or where the owner or operator of underground utility facilities or CATS facilities endangers an excavator by willfully failing to respond to a locate request, the owner or operator of such facilities or the excavator or the State's Attorney or the Illinois Commerce Commission at the request of the owner or operator of such facilities or the excavator may commence an action in the circuit court for the county in which the excavation or demolition is occurring or is to occur, or in which the person complained of has his principal place of business or resides, for the purpose of having such negligent or unsafe excavation or demolition stopped and prevented or to compel the marking of underground utilities facilities or CATS facilities, either by mandamus or injunction.

(Source: P.A. 92-179, eff. 7-1-02.)



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