

State Damage Prevention Law Summary
State: North Carolina
(Link to State law provided in Law & Regulation section below)
Summary Date: 8/7/2017

Excavator Requirements	
Excavation: Definition	North Carolina General Statutes (NCGS) § 87-117 (5) Demolish or demolition. - Any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by any means, including the use of any tools, equipment, or discharge of explosives. ... (9) Excavate or excavation. - An operation for the purpose of the movement or removal of earth, rock, or other materials in or on the ground by use of manual or mechanized equipment or by discharge of explosives, including, but not limited to, auguring, backfilling, boring, digging, ditching, drilling, directional drilling, driving, grading, horizontal directional drilling, well drilling, plowing-in, pounding, pulling-in, ripping, scraping, trenching, and tunneling.
Excavator: Definition	NCGS § 87-117 (10) Excavator. - A person engaged in excavation or demolition.
Excavator Notice to One Call Required (Yes / No)	Yes. (NCGS § 87-122 (a))
Excavator Notice Minimum # Working Days Before Digging	3 days for non-subaqueous excavation; 10 days for subaqueous excavation.
Excavator Notice (Specific Language)	NCGS § 87-122. (a) Before commencing any excavation or demolition operation, the person responsible for the excavation or demolition shall provide or cause to be provided notice to the Notification Center of his or her intent to excavate or demolish. Notice for any excavation or demolition that does not involve a subaqueous facility must be given within three to 12 full working days before the proposed commencement date of the excavation or demolition. Notice for any excavation or demolition in the vicinity of a subaqueous facility must be given within 10 to 20 full working days before the proposed commencement date of the excavation or demolition. Notice given pursuant to this subsection shall expire 15 full working days after the date notice was given. No excavation or demolition may continue after this 15-day period unless the person responsible for the excavation or demolition provides a subsequent notice which shall be provided in the same manner as the original notice required by this subsection. When demolition of a building is proposed the operator shall be given a reasonable time in which to remove or protect the operator's facilities before the demolition commences.
Ticket Life (# of days)	15 (NCGS § 87-122 (a))
White-Line Required (Yes / No)	Yes. (NCGS § 87-122. (c))
Tolerance Zone	NCGS § 87-117. (22) Tolerance Zone. - If the diameter of the facility is known, the distance of one-half of the known diameter plus 24 inches on either side of the designated center line or, if the diameter of the facility is not marked, 24 inches on either side of the outside edge of the mark indicating a facility or, for subaqueous facilities, a clearance of 15 feet on either side of the indicated facility.
Special Digging Requirements Within Tolerance Zone (Specific Language)	NCGS § 87-122. (c) (9) An excavator shall not perform any excavation or demolition within the tolerance zone unless the excavator complies with all of the following conditions: a. The excavator shall not use mechanized equipment, except noninvasive equipment specifically designed or intended to protect the integrity of the facility, within the marked tolerance zone of an existing facility until: 1. The excavator has visually identified the precise location of the facility or has visually confirmed that no facility is present up to the depth of excavation; 2. The excavator has taken reasonable precautions to avoid any substantial weakening of the facility's structural or lateral support, or both, or penetration or destruction of the facilities or their protective coatings; and 3. The excavator may use mechanical means, as necessary, for the initial penetration and removal of pavement or other materials requiring use of mechanical means of excavation but only to the depth of the pavement or other materials. For parallel type excavations within the tolerance zone, the existing facility shall be visually identified at intervals not to exceed 50 feet along the line of excavation to avoid damages. The excavator shall exercise due care at all times to protect the facilities when exposing these facilities. b. The excavator shall maintain clearance between a facility and the cutting edge or point of any mechanized equipment, taking into account the known limit of control of the cutting edge or point, as may be reasonably necessary to avoid damage to the facility. c. The excavator shall provide support for facilities in and near the excavation or demolition area, including backfill operations, as may be reasonably required by the operator for the protection of the facilities. (10) The excavator shall not use mechanized equipment within 24 inches of a facility that is a gas, oil, petroleum, or electric transmission line unless the facility operator has consented to the use in writing and the operator's representative is on site during the use of the mechanized equipment. For purposes of this subdivision, the term "gas, oil, petroleum transmission line" has the same meaning as the term "transmission line" in Title 49 C.F.R. § 192.3, and the term "electric transmission line" has the same meaning as the term "transmission line" in G.S. 62-100(7). (2013-407, s. 2.)
Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)	Yes. (NCGS § 87-122. (c) (9) (a))

Preserve / Maintain Marks Required (Yes / No)	Yes. (NCGS § 87-122. (c) (7))
Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)	Yes. (NCGS § 87-122. (c) (6))
Notify One-Call if Marks Moved or No Longer Visible (Yes / No)	Yes. (NCGS § 87-122. (c) (7))
Special Language Regarding Trenchless Technology (Yes / No)	No
Separate Locate Request Required for Each Excavator (Yes / No)	Yes. (NCGS § 87-122. (a))
Notify Operator of Damage (Yes / No)	Yes. (NCGS § 87-126. (a))
Notify One Call Center of Damage (Yes / No)	Yes. (NCGS § 87-126. (a))
Call 911 if Hazardous Materials Released (Yes / No)	Yes. (NCGS § 87-126. (b))
Notice Exemptions (Yes / No)	Yes
Notice Exemptions (Specific Language)	<p>NCGS § 87-124. Exemptions. The notice requirements in G.S. 87-122(a) and G.S. 87-122(b) do not apply to the following: (1) An excavation or demolition performed by the owner of a single-family residential property on his or her own land that does not encroach on any operator's right-of-way, easement, or permitted use. (2) An excavation or demolition performed by the owner of a single-family residential property on his or her own land that encroaches on any operator's right-of-way, easement, or permitted use that is performed with nonmechanized equipment. (3) An excavation or demolition that involves the tilling of soil for agricultural or gardening purposes. (4) An excavation or demolition for agricultural purposes, as defined in G.S. 106-581.1 performed on property that does not encroach on any operator's right-of-way, easement, or permitted use. (5) An excavation by an operator or surveyor with nonmechanized equipment for the following purposes: a. Locating for a valid notification request or for the minor repair, connection, or routine maintenance of an existing facility or survey pin. b. Probing underground to determine the extent of gas or water migration. (6) An excavation or demolition performed when the Department of Transportation, a local government, special purpose district, or public service district is conducting maintenance activities within its designated right-of-way. Maintenance activities shall include resurfacing, milling, emergency replacement of signs critical for maintaining safety, or the reshaping of shoulders and ditches to the original road profile. Maintenance activities do not include the initial installation of traffic signs, traffic control equipment, or guardrails. (7) An excavation or demolition performed by a railroad entirely on land which the railroad owns or operates or, in the event of an emergency, on adjacent land. No provision in this Article shall apply to any railroad which owns, operates, or permits facilities under land which the railroad owns or operates. (8) An excavation of a grave space, as defined in G.S. 65-48(10), the installation of a monument or memorial at a grave space, or an excavation related to the placement of a temporary structure or tent by a cemetery regulated under Chapter 65 of the General Statutes that does not encroach on any operator's right-of-way, easement, or permitted use. (2013-407, s. 2.)</p> <p>§ 87-125. (a) An excavator performing an emergency excavation or demolition is not required to give notice to the Notification Center as provided in G.S. 87-122. However, the excavator shall, as soon as practicable, give oral notice to the Notification Center which shall include a description of the circumstances justifying the emergency. The excavator may request emergency assistance from each affected operator in locating and providing immediate protection to the facilities in the affected area.</p>
Operator Response	
Minimum # Days for Operator to Respond After Receiving Notice (Generally)	3 days for a facility; 10 days for subaqueous facility.

<p>Operator Requirements to Respond to Locate Notification (Specific Language)</p>	<p>NCGS § 87-121 (a) An operator shall provide to the excavator the following: (1) The horizontal location and description of all of the operator's facilities in the area where the proposed excavation or demolition is to occur. The location shall be marked by stakes, soluble paint, flags, or any combination thereof as appropriate, depending upon the conditions in the area of the proposed excavation or demolition. The operator shall, when marking as provided under this subdivision, use the APWA Uniform Color Code. If the diameter or width of the facility is greater than four inches, the dimension of the facility shall be indicated at least every 25 feet in the area of the proposed excavation or demolition. An operator who operates multiple facilities in the area of the proposed excavation or demolition shall locate each facility. (2) Any other information that would assist the excavator in identifying and thereby avoiding damage to the marked facilities. (b) Unless otherwise provided in a written agreement between the operator and the excavator, the operator shall provide to the excavator the information required by subsection (a) of this section within the times provided below: (1) For a facility, within three full working days after the day notice of the proposed excavation or demolition was provided to the Notification Center. (2) For a subaqueous facility, within 10 full working days after the day notice of the proposed excavation or demolition was provided to the Notification Center. (3) If the operator declares an extraordinary circumstance the times provided in this subsection shall not apply. (c) The operator shall provide a positive response to the Notification Center before the expiration of the time provided in subsection (b) of this section. The response shall indicate whether and to what extent the operator is able to provide the information required by subsection (a) of this section to respond to the notice from the excavator. (d) If the operator determines that provisions for marking subaqueous facilities are required, the operator will provide a positive response to the Notification Center not more than three full working days after notice has been provided by the excavator. (e) If extraordinary circumstances prevent the operator from marking the location of the facilities within the time specified in subsection (b) of this section, the operator shall either notify the excavator directly or notify the excavator through the Notification Center. When providing the notification under this subsection, the operator shall state the date and time when the location will be marked.</p>
<p>Minimum Standards for Locator Qualifications (Yes / No)</p>	<p>Yes. (NCGS § 87-123)</p>
<p>Minimum Standards for Locator Qualifications (Specific Language)</p>	<p>NCGS § 87-123 (a) Every person who is an excavator, locator, or operator under this Article by virtue of engaging in these activities in the course of a business or trade has a duty to provide education and training to employees and to document such education and training. The training shall include sufficient information, guidance, and supervision such that employees can competently and safely operate the equipment used in the course of the business or trade and complete assigned tasks in a competent and safe manner while minimizing the potential for damage. (b) When an excavator, locator, or operator under this Article retains an independent contractor to perform activities regulated by this Article, the duty set forth in subsection (a) of this section shall not apply to the excavator, locator, or operator. Independent contractors shall provide training to their employees in accordance with this section. ... (d) Locators shall be properly trained. Locator training shall be documented. (2013-407, s. 2.)</p>
<p>Law Specifies Marking Standards Other Than Color (Yes / No)</p>	<p>No</p>
<p>Law Specifies Marking Standards Other Than Color (Specific Language)</p>	<p>Not addressed. (Reference NCGS § 87-121 (a))</p>
<p>Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)</p>	<p>No</p>
<p>Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)</p>	<p>No</p>
<p>Operator Must Locate Abandoned Facilities (Specific Language)</p>	<p>Not addressed</p>
<p>Positive Response Required - Operator Contact Excavator (Yes / No)</p>	<p>No</p>
<p>Positive Response Required - Operator Contact Excavator (Specific Language)</p>	<p>Not addressed. (Reference NCGS § 87-121)</p>

Positive Response Required - Operator Contact One Call Center (Yes / No)	NCGS § 87-121 (c) The operator shall provide a positive response to the Notification Center before the expiration of the time provided in subsection (b) of this section. The response shall indicate whether and to what extent the operator is able to provide the information required by subsection (a) of this section to respond to the notice from the excavator. (d) If the operator determines that provisions for marking subaqueous facilities are required, the operator will provide a positive response to the Notification Center not more than three full working days after notice has been provided by the excavator. (e) If extraordinary circumstances prevent the operator from marking the location of the facilities within the time specified in subsection (b) of this section, the operator shall either notify the excavator directly or notify the excavator through the Notification Center. When providing the notification under this subsection, the operator shall state the date and time when the location will be marked.
Positive Response Required - Operator Contact One Call Center (Specific Language)	Yes. (NCGS § 87-117 (20) and § 87-120 (c) (6))
Positive Response - One-Call Automated (Yes / No)	No
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Yes / No)	No
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Specific Language)	Not addressed. (However, requirement is implied; see NCGS § 87-120 (a))
Operator Must Update Information On Locations of Buried Facilities (Yes / No)	No
Operator Must Update Information On Locations of Buried Facilities (Specific Language)	Not addressed. (However, requirement is implied; see NCGS § 87-120 (a))
New Facilities Must Be Locatable Electronically (Yes / No)	Yes. (NCGS § 87-121 (g))
New Facilities Must Be Locatable Electronically (Specific Language)	NCGS § 87-121 (g) All facilities installed by or on behalf of operators on or after the date this Article becomes effective shall be electronically locatable using a locating method that is generally accepted by operators in the particular industry or trade in which the operator is engaged.
Design Request (Yes / No)	Yes. (NCGS § 87-127)
One Call, Enforcement, and Reporting	
Mandatory One Call Membership (Yes / No)	Yes. (NCGS § 87-120 (a) and (b))
One Call Membership Exemptions (Yes / No)	No
One Call Membership Exemptions (Specific Language)	Not addressed. (Reference NCGS § 87-117 (18) and § 87-120 (a) and (b))
One-Call Law Addresses Board Make-Up (Yes / No)	No
One-Call Law Addresses Board Make-Up (Specific Language)	Not addressed
Separate Body Designated to Advise Enforcement Authority (Yes / No)	Yes

<p>Separate Body Designated to Advise Enforcement Authority (Specific Language)</p>	<p>NCGS § 87-129 There is hereby established the Underground Damage Prevention Review Board to review reports of alleged violations of this Article. The members of the Board shall be appointed by the Governor. The Board shall consist of 15 members as follows: (1) A representative from the North Carolina Department of Transportation; (2) A representative from a facility contract locator; (3) A representative from the Notification Center; (4) A representative from an electric public utility; (5) A representative from the telecommunications industry; (6) A representative from a natural gas utility; (7) A representative from a hazardous liquid transmission pipeline company; (8) A representative recommended by the League of Municipalities; (9) A highway contractor licensed under G.S. 87-10(b)(2) who does not own or operate facilities; (10) A public utilities contractor licensed under G.S. 87-10(b)(3) who does not own or operate facilities; (11) A surveyor licensed under Chapter 89C of the General Statutes; (12) A representative from a rural water system; (13) A representative from an investor-owned water system; (14) A representative from an electric membership corporation; and (15) A representative from a cable company. ... (a4) Eight members of the Board shall constitute a quorum. (a5) The Governor shall designate one member of the Board as chair. (a6) The Board may adopt rules to implement this Article. (b) The Notification Center shall transmit all reports of alleged violations of this Article to the Board, including any information received by the Notification Center regarding the report. (b1) The Board shall review all reports of alleged violations of this Article and accompanying information. If the Board determines that a person has violated any provision of this Article, the Board shall determine the appropriate action or penalty to impose for each such violation. Actions and penalties may include training, education, and a civil penalty not to exceed two thousand five hundred dollars (\$2,500). The Board shall notify each person who is determined to have violated this Article in writing of the Board's determination and the Board's recommended action or penalty. A person determined to be in violation of this Article may request a hearing before the Board, after which the Board may reverse or uphold its original finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of the recommended penalty, and the Utilities Commission shall issue an order imposing the penalty.</p>
<p>Penalties / Fines Excavators (Yes / No)</p>	<p>Yes</p>
<p>Penalties / Fines Excavators (Specific Language)</p>	<p>NCGS § 87-129 (b1) The Board shall review all reports of alleged violations of this Article and accompanying information. If the Board determines that a person has violated any provision of this Article, the Board shall determine the appropriate action or penalty to impose for each such violation. Actions and penalties may include training, education, and a civil penalty not to exceed two thousand five hundred dollars (\$2,500). The Board shall notify each person who is determined to have violated this Article in writing of the Board's determination and the Board's recommended action or penalty. A person determined to be in violation of this Article may request a hearing before the Board, after which the Board may reverse or uphold its original finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of the recommended penalty, and the Utilities Commission shall issue an order imposing the penalty.</p>
<p>Penalties / Fines Operators (Yes / No)</p>	<p>Yes</p>
<p>Penalties / Fines Operators (Specific Language)</p>	<p>NCGS § 87-129 (b1) The Board shall review all reports of alleged violations of this Article and accompanying information. If the Board determines that a person has violated any provision of this Article, the Board shall determine the appropriate action or penalty to impose for each such violation. Actions and penalties may include training, education, and a civil penalty not to exceed two thousand five hundred dollars (\$2,500). The Board shall notify each person who is determined to have violated this Article in writing of the Board's determination and the Board's recommended action or penalty. A person determined to be in violation of this Article may request a hearing before the Board, after which the Board may reverse or uphold its original finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of the recommended penalty, and the Utilities Commission shall issue an order imposing the penalty.</p>
<p>Penalties / Fines Other (Yes / No)</p>	<p>Yes</p>
<p>Penalties / Fines Other (Specific Language)</p>	<p>NCGS § 87-129 (b1) The Board shall review all reports of alleged violations of this Article and accompanying information. If the Board determines that a person has violated any provision of this Article, the Board shall determine the appropriate action or penalty to impose for each such violation. Actions and penalties may include training, education, and a civil penalty not to exceed two thousand five hundred dollars (\$2,500). The Board shall notify each person who is determined to have violated this Article in writing of the Board's determination and the Board's recommended action or penalty. A person determined to be in violation of this Article may request a hearing before the Board, after which the Board may reverse or uphold its original finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of the recommended penalty, and the Utilities Commission shall issue an order imposing the penalty.</p>
<p>Enforcement Authority Identified</p>	<p>North Carolina Utilities Commission (NCGS § 87-129 (b1))</p>
<p>Damage Investigation Required by Enforcement Authority (Yes / No)</p>	<p>Yes. (NCGS § 87-129 (b1))</p>

Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)	No
Mandatory Reporting by Excavators to State Entity or Department (Yes / No)	No
Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)	No. (Reference NC Utility Commission Rule R6-41)
Law and Regulation	
Statute / Law (Name & Link)	North Carolina General Statutes (NCGS) §§ 87-115 to -130, "Underground Utility Safety and Damage Prevention Act (http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=87) Also see One-Call Center Website for Information on State Law.
Date of Last Revision to Statute / Law	October 22, 2015
Administrative Rules / Regulations (Yes / No)	No
Administrative Rules / Regulations (Name & Link)	None
State One Call Center(s) (Name & Link)	North Carolina 811 (http://www.nc811.org)
Miscellaneous Notes	
Notes	0
State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates	0