

# An Act

ENROLLED HOUSE  
BILL NO. 4095

By: Caldwell (Trey) and Boles  
of the House

and

Paxton of the Senate

An Act relating to the Oklahoma Underground Facilities Damage Prevention Act; amending 63 O.S. 2021, Section 142.2, as amended by Section 1, Chapter 211, O.S.L. 2023 (63 O.S. Supp. 2023, Section 142.2), which relates to definitions; modifying definition; defining terms; amending 63 O.S. 2021, Section 142.6, which relates to notice of proposed demolition, explosion or excavation; disallowing certain excavation; modifying certain time frames; requiring certain information be provided; requiring certain parties to be present; modifying type of information certain notice contains; amending 63 O.S. 2021, Section 142.8, as amended by Section 2, Chapter 211, O.S.L. 2023 (63 O.S. Supp. 2023, Section 142.8), which relates to additional notice required; requiring certain meeting request be submitted within certain time frame; requiring notice contain certain information; requiring meeting take place within certain time frame; allowing certain parties to meet at their choosing; requiring certain parties be notified; requiring certain coordination; providing for submission and transmission of certain notices; amending 63 O.S. 2021, Section 142.10, which relates to the statewide notification center; modifying statutory references; requiring certain records be kept for four years; and providing an effective date.

SUBJECT: Oklahoma Underground Facilities Damage Prevention  
Act

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2021, Section 142.2, as amended by Section 1, Chapter 211, O.S.L. 2023 (63 O.S. Supp. 2023, Section 142.2), is amended to read as follows:

Section 142.2 As used in the Oklahoma Underground Facilities Damage Prevention Act:

1. "Certified project" means a project where the public agency responsible for the public project, in consultation with the statewide one-call notification center, as part of its procedure, certifies that the project right-of-way is free and clear of underground facilities or wherein the public agency responsible for such project, as part of its procedure, notifies all persons determined by the public agency to have underground facilities located within the construction right-of-way and certifies that all known underground facilities are duly located or noted on the engineering drawings for the project;

2. "Damage" means any impact upon or removal of support from an underground facility as a result of explosion, excavation or demolition which according to the operating practices of the operator of the underground facilities would necessitate the repair thereof;

3. "Demolish" means to wreck, raze, render, move or remove a structure by means of any equipment or explosive;

4. "Demolition" means the act or operation of demolishing a structure;

5. "Excavate" means to dig, compress or remove earth, rock or other materials in or on the ground by use of mechanized equipment or blasting, including, but not necessarily limited to, augering, boring, backfilling, drilling, grading, pile driving, plowing in, pulling in, trenching, tunneling and plowing; provided, however, that neither:

- a. the moving of earth by tools manipulated only by human or animal power, except in a private or public easement or right-of-way,
- b. the moving of earth by tools manipulated only by human power for burying communication lines of a communications provider in a private or public easement or right-of-way when depth is not greater

than twelve (12) inches and within twelve (12) inches of a communications provider terminal,

- c. any form of cultivation for agricultural purposes, nor any augering, dozing by noncommercial dozer operators or digging for postholes, farm ponds, land clearing or other normal agricultural purposes,
- d. routine maintenance,
- e. work by a public agency or its contractors on a preengineered project,
- f. work on a certified project,
- g. work on a permitted project,
- h. the opening of a grave in a cemetery,
- i. a solid waste disposal site which is a preengineered project, nor
- j. any individual excavating on his or her own property and who is not in the excavating business for hire, except in a private or public easement or right-of-way,

shall be deemed excavation;

6. "Excavation" means the act or operation of excavating;

7. "Excavator" means a person or public agency that intends to excavate or demolish within ~~the~~ this state;

8. "Notification center" means the statewide center currently known as the Oklahoma One-Call System, Inc., which has as one of its purposes to receive notification of planned excavation and demolition in a specified area from excavators, and to disseminate such notification of planned excavation or demolition to operators who are members and participants;

9. "Operator" shall mean and include any person or public agency owning or operating underground facilities;

10. "Permitted project" means a project where a permit for the work to be performed must be issued by a state or federal agency and, as a prerequisite to receiving such permit, the applicant must locate all underground facilities in the area of the work and in the vicinity of any blasting and notify each owner of such underground facilities;

11. "Person" includes any individual, partnership, corporation, association, cooperative, trust or other entity, including a person engaged as a contractor by a public agency, but not including a public agency;

12. "Preengineered project" means a public project wherein the public agency responsible for such project, as part of its engineering and contract procedures, holds a meeting prior to the commencement of any construction work on such project in which all persons, determined by the public agency, in consultation with the statewide one-call notification center, to have underground facilities located within the construction area of the project are invited to attend and given an opportunity to verify or inform the public agency of the location of their underground facilities, if any, within the construction area and where the location of all known underground facilities are duly located or noted on the engineering drawing and specifications for the project;

13. "Public agency" means the state or any board, commission or agency of the state;

14. "Routine maintenance" means the grading of roads and barrow or drainage ditches, the removal and replacement of pavement, including excavation relating thereto and the installation and maintenance of drainage and bridge facilities, signs, guardrails, and electrical and communications facilities in or on the public rights-of-way by a public agency;

15. "Underground facility" means any underground line, cable, facility, system and appurtenances thereto, for producing, storing, conveying, transmitting or distributing communication (including voice, video, or data information), electricity, power, light, heat, intrastate and interstate gas pipelines, as described in 49 CFR Part 192.1, intrastate and interstate hazardous liquid or carbon dioxide pipelines, as described in 49 CFR Part 195.1, water (including storm water), steam, sewage and other commodities and any oil and gas pipeline located in a private or public easement or right-of-way; and

16. "Design" or "survey" means a notice to facility operators to provide underground facility information during the design or engineering phase of a project to mitigate potential impact to existing underground facilities;

17. "Watch and protect" means an operator or its designated representative is present to observe an excavation within ten (10) feet of the operator's marking of its existing underground facility;

18. "Pre-excavation meeting request" means a notice to underground facility operators to participate in scheduled meetings for the purpose of planning large projects and coordinate resources accordingly; and

19. "Large projects" are those excavation projects that involve one of the following:

- a. exceeds distances defined in paragraph 5 of subsection D of Section 142.6 of this title, or
- b. estimated duration is more than ninety (90) days.

SECTION 2. AMENDATORY 63 O.S. 2021, Section 142.6, is amended to read as follows:

Section 142.6 A. Before an excavator shall demolish a structure, discharge any explosive or commence to excavate in a highway, street, alley or other public ground or way, on or near the location of an operator's underground facilities, or a private easement, such excavator shall first notify all operators in the geographic area defined by the notification center who have on file with the notification center a notice pursuant to Section 142.3 of this title to determine whether any operators have underground facilities in or near the proposed area of excavation or demolition. When an excavator has knowledge that an operator does not have underground facilities within the area of the proposed excavation, the excavator need not notify the operator of the proposed excavation. However, an excavator shall be responsible for damage to the underground facilities of an operator if the notification center was not notified. When an excavator has actual knowledge that an operator has unmarked hydrocarbon and hazardous liquid underground facilities within the area of proposed excavation, the excavator shall not commence excavation or demolition until notice has been given and such facilities have been marked. For purposes

of this section, "actual knowledge" shall mean direct and clear knowledge; provided, however, actual knowledge may be demonstrated through circumstantial evidence and if the circumstances are such that a defendant must have known, an inference of actual knowledge is permitted. The excavator shall maintain and preserve all hydrocarbon and hazardous liquid markings for the duration of the excavation or demolition and shall notify the notification center if such marks are no longer visible or are removed and underground facilities have not been exposed. An excavator must check for positive response at the notification center prior to excavating or demolishing to ensure that all operators have responded and that all facilities that may be affected by the proposed excavation or demolition have been marked. Notice shall be given no less than forty-eight (48) hours, excluding the date of notification, Saturdays, Sundays and legal holidays, prior to the commencement of the excavation or demolition. If a positive response of watch and protect has been indicated, no excavation may take place without the operator or its designated representative present to observe the excavation within ten (10) feet of the operator's markings of its existing underground facility. Notice shall expire fourteen (14) calendar days from the excavation start date. No excavation may continue after the ~~fourteenth day~~ notice expiration unless subsequent notice has been submitted pursuant to notice requirements. If excessive and unreasonable requests for marking are made by an excavator when no excavation is taking place ~~within fourteen (14) calendar days~~ prior to notice expiration, the excavator may be liable to the owner or operator for the reasonable cost of such marking.

B. Each operator served with notice in accordance with subsection A of this section either directly or by notice to the notification center shall, prior to the date and time work is scheduled to begin, unless otherwise agreed to between the excavator and operator, locate and mark or otherwise provide the approximate location of the underground facilities of the operator in a manner as to enable the excavator to employ hand-dug test holes to determine the precise location of the underground facilities in advance of excavation. However, during any state of emergency declared by the Governor or Legislature that impacts the area of excavation or demolition, the time limitations of this subsection shall be inapplicable. Each operator shall provide a positive response to the notification center prior to the expiration of the required notice period. This response shall indicate the status of the required activities of the operator or designated representative in regard to the proposed excavation or demolition. For the purpose

of the Oklahoma Underground Facilities Damage Prevention Act, the approximate location of the underground facilities shall be defined as a strip of land two (2) feet on either side of such underground facilities. If a positive response to watch and protect is indicated, the operator shall provide the name and phone number of the contact who shall be present for observation and a designated operator representative shall be on site at the ticket date and time agreed upon in writing by the excavator and operator. Whenever an operator is served with notice of an excavation or demolition and determines that the operator does not have underground facilities located within the proposed area of excavation or demolition, the operator shall communicate this information to the excavator originating the notice prior to the commencement of such excavation or demolition.

C. The only exception to subsection A of this section shall be when an emergency exists that endangers life, health or property. Under these conditions, excavation operations may begin immediately, providing reasonable precautions are taken to protect underground facilities. All operators of underground facilities within the area of the emergency must be notified promptly when an emergency requires excavation prior to the location of the underground facilities being marked. If requests for emergency locates are made by an excavator when there is no emergency, the excavator may be liable to the owner or operator for the reasonable cost of emergency response.

D. Every notice given by an excavator to an operator pursuant to this section or to the notification center pursuant to Section 142.3 of this title shall contain at least the following information:

1. The name of the individual serving such notice;
2. The location of the proposed area of excavation or demolition;
3. The name, address and telephone number of the excavator or excavator's company;
4. The ~~excavator's field telephone~~ name and phone number, if one is available of an excavator field contact with actual knowledge of the excavation site and project;

5. The type and the extent, not to exceed five hundred (500) linear feet in incorporated areas or one (1) linear mile in unincorporated areas, of the proposed work;

6. Whether or not the discharging of explosives is anticipated; and

7. The date and time when work is to begin.

E. In marking the approximate location of underground facilities, an operator shall follow the standard color coding described herein:

OPERATOR AND TYPE OF PRODUCT	SPECIFIC GROUP IDENTIFYING COLOR
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
Dangerous Materials, Product Lines, Steam Lines.....	High Visibility Safety Yellow
Telephone and Telegraph Systems.....	Safety Alert Orange
Police and Fire Communications.....	Safety Alert Orange
Cable Television.....	Safety Alert Orange
Water Systems.....	Safety Precaution Blue
Slurry Systems.....	Safety Precaution Blue
Sewer Systems.....	Safety Green



SECTION 3. AMENDATORY 63 O.S. 2021, Section 142.8, as amended by Section 2, Chapter 211, O.S.L. 2023 (63 O.S. Supp. 2023, Section 142.8), is amended to read as follows:

Section 142.8 A. In addition to the notice required by Section 142.6 of this title, whenever the demolition of a structure is proposed, operators in the geographic area defined by the notification center who have a notice on file with the notification center pursuant to Section 142.3 of this title shall be given at least seven (7) business days' notice of the proposed demolition before the demolition work begins. Such notice shall be initiated by the notification center after the excavator has met local code requirements for a demolition permit. When an operator is served with notice and determines that underground facilities are within the proposed area of demolition and such facilities require additional protection, service removal or termination, the operator shall communicate this information to the excavator and by mutual agreement the operator and excavator shall determine a date to begin the demolition which shall not exceed sixty (60) business days from the original demolition notice. If a public agency determines that the structure endangers the public health or safety, then the public agency may, in the manner provided by law, order the immediate demolition of the structure.

B. When a design or survey notice is received, operators or their designee shall provide underground facilities information within fourteen (14) calendar days from the time of the request which may include physical markings at the project site, facility mapping, or both. No excavation may take place on a design or survey notice. Operators shall provide the one-call notification center with the necessary information for notices to be sent to the appropriate person within their company or organization.

C. Excavators involved in large projects may submit a pre-excavation meeting request no less than fourteen (14) calendar days prior to beginning excavation or blasting activities. Such notification shall include the excavator's proposed meeting date, time, location, and contact information including name, telephone, and email. The date of the meeting shall be a minimum of seventy-two (72) hours after the notification has been submitted. Notwithstanding the information above, nothing prevents the excavator and underground facility operators from choosing to meet otherwise. All affected facility owners shall be notified once the pre-excavation meeting request has been submitted and in turn will provide a positive response within seventy-two (72) hours to the

notification center indicating their ability to meet on the proposed meeting date. All parties involved in the pre-excavation meeting shall coordinate a marking plan and take actions necessary to ensure proper notice requirements are met for affected facility operators.

SECTION 4. AMENDATORY 63 O.S. 2021, Section 142.10, is amended to read as follows:

Section 142.10 A. ~~This act~~ Section 142.1 et seq. of this title recognizes the value of and authorizes the establishment of a statewide notification center.

B. Upon establishment, the notification center shall operate twenty-four (24) hours a day, seven (7) days a week. Notification, as required by Section 142.6 of this title, to operators who are members of or participants in the notification center, shall be given by notifying the notification center by telephone or other acceptable means of communication, the content of such notification to conform to Section 142.6 of this title.

C. All operators who have underground facilities within the defined geographical boundary of the notification center shall be required to be members in good standing of the notification center.

D. A suitable record shall be maintained for not less than four (4) years by the notification center to document the receipt of ~~the~~ notices from excavators and positive responses from operators as required by ~~this act~~ Section 142.1 et seq. of this title.

Public agencies, as defined in ~~this act~~ Section 142.2 of this title, shall have access to the record of underground facilities.

SECTION 5. This act shall become effective November 1, 2024.

Passed the House of Representatives the 5th day of March, 2024.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 17th day of April, 2024.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_