

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 1744

6 By: Paxton

7 COMMITTEE SUBSTITUTE

8 An Act relating to the Oklahoma Underground  
9 Facilities Damage Prevention Act; amending 63 O.S.  
10 2021, Sections 142.2, as amended by Section 1,  
11 Chapter 211, O.S.L. 2023, 142.6, 142.8, as amended by  
12 Section 2, Chapter 211, O.S.L. 2023, and 142.10 (63  
13 O.S. Supp. 2023, Sections 142.2 and 142.8), which  
14 relate to definitions, notice requirements, and  
15 notification centers; modifying definitions; defining  
16 terms; prohibiting certain excavation without certain  
17 observation; modifying notice requirements; requiring  
18 certain contact information be provided to certain  
19 excavator; providing for pre-excavation meeting  
20 process; requiring maintenance of certain records;  
21 updating statutory language; updating statutory  
22 references; and providing an effective date.

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

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

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

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

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

20        5. "Excavate" means to dig, compress or remove earth, rock or  
21 other materials in or on the ground by use of mechanized equipment  
22 or blasting, including, but not necessarily limited to, augering,  
23 boring, backfilling, drilling, grading, pile driving, plowing in,  
24

1 pulling in, trenching, tunneling and plowing; provided, however,  
2 that neither:

- 3 a. the moving of earth by tools manipulated only by human  
4 or animal power, except in a private or public  
5 easement or right-of-way,
- 6 b. the moving of earth by tools manipulated only by human  
7 power for burying communication lines of a  
8 communications provider in a private or public  
9 easement or right-of-way when depth is not greater  
10 than twelve (12) inches and within twelve (12) inches  
11 of a communications provider terminal,
- 12 c. any form of cultivation for agricultural purposes, nor  
13 any augering, dozing by noncommercial dozer operators  
14 or digging for postholes, farm ponds, land clearing or  
15 other normal agricultural purposes,
- 16 d. routine maintenance,
- 17 e. work by a public agency or its contractors on a  
18 preengineered project,
- 19 f. work on a certified project,
- 20 g. work on a permitted project,
- 21 h. the opening of a grave in a cemetery,
- 22 i. a solid waste disposal site which is a preengineered  
23 project, nor

24

1           j. any individual excavating on his or her own property  
2                   and who is not in the excavating business for hire,  
3                   except in a private or public easement or right-of-  
4                   way,

5 shall be deemed excavation;

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

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

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

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

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

23           11. "Person" includes any individual, partnership, corporation,  
24 association, cooperative, trust or other entity, including a person

1 engaged as a contractor by a public agency, but not including a  
2 public agency;

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

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

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

23 15. "Underground facility" means any underground line, cable,  
24 facility, system and appurtenances thereto, for producing, storing,

1 conveying, transmitting or distributing communication (including  
2 voice, video, or data information), electricity, power, light, heat,  
3 intrastate and interstate gas pipelines, as described in 49 CFR Part  
4 192.1, intrastate and interstate hazardous liquid or carbon dioxide  
5 pipelines, as described in 49 CFR Part 195.1, water (including storm  
6 water), steam, sewage and other commodities and any oil and gas  
7 pipeline located in a private or public easement or right-of-way;  
8 and

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

13 17. "Watch and protect" means an operator or their designated  
14 representative is present to observe an excavation within ten (10)  
15 feet of the underground facility;

16 18. "Pre-excavation meeting request" means a notice to an  
17 underground facility operator to participate in a scheduled meeting  
18 for the purpose of planning large projects and coordinating  
19 resources accordingly; and

20 19. "Large projects" means an excavation project that involves  
21 one of the following:

22 a. the project exceeds distances defined in Section 142.6  
23 of this title, or

24

1           b. the estimated duration of the project is more than  
2           ninety (90) days.

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

5           Section 142.6. A. Before an excavator shall demolish a  
6 structure, discharge any explosive or commence to excavate in a  
7 highway, street, alley or other public ground or way, on or near the  
8 location of an operator's underground facilities, or a private  
9 easement, such excavator shall first notify all operators in the  
10 geographic area defined by the notification center who have on file  
11 with the notification center a notice pursuant to Section 142.3 of  
12 this title to determine whether any operators have underground  
13 facilities in or near the proposed area of excavation or demolition.  
14 When an excavator has knowledge that an operator does not have  
15 underground facilities within the area of the proposed excavation,  
16 the excavator need not notify the operator of the proposed  
17 excavation. However, an excavator shall be responsible for damage  
18 to the underground facilities of an operator if the notification  
19 center was not notified. When an excavator has actual knowledge  
20 that an operator has unmarked hydrocarbon and hazardous liquid  
21 underground facilities within the area of proposed excavation, the  
22 excavator shall not commence excavation or demolition until notice  
23 has been given and such facilities have been marked. For purposes  
24 of this section, "actual knowledge" shall mean direct and clear

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



1 ~~fourteen (14) calendar days~~ prior to notice expiration, the  
2 excavator may be liable to the owner or operator for the reasonable  
3 cost of such marking.

4 B. Each operator served with notice in accordance with  
5 subsection A of this section either directly or by notice to the  
6 notification center shall, prior to the date and time work is  
7 scheduled to begin, unless otherwise agreed to between the excavator  
8 and operator, locate and mark or otherwise provide the approximate  
9 location of the underground facilities of the operator in a manner  
10 as to enable the excavator to employ hand-dug test holes to  
11 determine the precise location of the underground facilities in  
12 advance of excavation. However, during any state of emergency  
13 declared by the Governor or Legislature that impacts the area of  
14 excavation or demolition, the time limitations of this subsection  
15 shall be inapplicable. Each operator shall provide a positive  
16 response to the notification center prior to the expiration of the  
17 required notice period. This response shall indicate the status of  
18 the required activities of the operator or designated representative  
19 in regard to the proposed excavation or demolition. For the purpose  
20 of the Oklahoma Underground Facilities Damage Prevention Act, the  
21 approximate location of the underground facilities shall be defined  
22 as a strip of land two (2) feet on either side of such underground  
23 facilities. If a positive response to the watch and protect has  
24 been indicated, the operator shall provide the name and phone number

1 of the representative who shall be present for observation and the  
2 representative designated by the operator shall be on-site at the  
3 ticket date and time, or at the start date and time agreed upon in  
4 writing by the excavator and operator. Whenever an operator is  
5 served with notice of an excavation or demolition and determines  
6 that the operator does not have underground facilities located  
7 within the proposed area of excavation or demolition, the operator  
8 shall communicate this information to the excavator originating the  
9 notice prior to the commencement of such excavation or demolition.

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

21 D. Every notice given by an excavator to an operator pursuant  
22 to this section or to the notification center pursuant to Section  
23 142.3 of this title shall contain at least the following  
24 information:

- 1        1. The name of the individual serving such notice;
- 2        2. The location of the proposed area of excavation or
- 3 demolition;
- 4        3. The name, address and telephone number of the excavator or
- 5 excavator's company;
- 6        4. ~~The excavator's field telephone number, if one is available~~
- 7 The name and phone number of an excavator field contact with actual
- 8 knowledge of the excavation site and project;
- 9        5. The type and the extent, not to exceed five hundred (500)
- 10 linear feet in incorporated areas or one (1) linear mile in
- 11 unincorporated areas, of the proposed work;
- 12        6. Whether or not the discharging of explosives is anticipated;
- 13 and
- 14        7. The date and time when work is to begin.

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

18 OPERATOR AND TYPE OF PRODUCT	SPECIFIC GROUP IDENTIFYING COLOR
19 Electric Power Distribution	
20        and Transmission.....	Safety Red
21 Municipal Electric Systems.....	Safety Red
22 Gas Distribution and	
23        Transmission.....	High Visibility Safety Yellow

24

1 Oil Distribution and  
 2 Transmission.....High Visibility Safety Yellow  
 3 Dangerous Materials, Product  
 4 Lines, Steam Lines.....High Visibility Safety Yellow  
 5 Telephone and Telegraph  
 6 Systems..... Safety Alert Orange  
 7 Police and Fire  
 8 Communications.....Safety Alert Orange  
 9 Cable Television.....Safety Alert Orange  
 10 Water Systems.....Safety Precaution Blue  
 11 Slurry Systems.....Safety Precaution Blue  
 12 Sewer Systems.....Safety Green

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

16 Section 142.8. A. In addition to the notice required by  
 17 Section 142.6 of this title, whenever the demolition of a structure  
 18 is proposed, operators in the geographic area defined by the  
 19 notification center who have a notice on file with the notification  
 20 center pursuant to Section 142.3 of this title shall be given at  
 21 least seven (7) business days' notice of the proposed demolition  
 22 before the demolition work begins. Such notice shall be initiated  
 23 by the notification center after the excavator has met local code  
 24 requirements for a demolition permit. When an operator is served

1 with notice and determines that underground facilities are within  
2 the proposed area of demolition and such facilities require  
3 additional protection, service removal or termination, the operator  
4 shall communicate this information to the excavator and by mutual  
5 agreement the operator and excavator shall determine a date to begin  
6 the demolition which shall not exceed sixty (60) business days from  
7 the original demolition notice. If a public agency determines that  
8 the structure endangers the public health or safety, then the public  
9 agency may, in the manner provided by law, order the immediate  
10 demolition of the structure.

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

19 C. Excavators involved in large projects may submit a pre-  
20 excavation meeting request no less than fourteen (14) calendar days  
21 prior to beginning excavation or blasting activities. Such  
22 notification shall include the excavator's proposed meeting date,  
23 time, location, and contact information including name, phone, and  
24 email. The date of the meeting shall be a minimum of seventy-two

1 (72) hours after the notification has been submitted.

2 Notwithstanding the information above, nothing shall prevent the  
3 excavator and underground facility operator from choosing to meet  
4 otherwise. All affected facility owners shall be notified once the  
5 pre-excavation meeting request has been submitted and in turn will  
6 provide a positive response within seventy-two (72) hours to the  
7 notification center indicating their ability to meet on the proposed  
8 meeting date. All parties involved in the pre-excavation meeting  
9 shall coordinate a marking plan and take actions necessary to ensure  
10 proper notice requirements are met for affected facility operators.

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

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

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

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

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

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

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

11  
12 59-2-3543 RD 2/22/2024 11:17:21 AM

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24