

1 **SENATE FLOOR VERSION**

2 February 22, 2024

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1744

6 By: Paxton

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

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

23 SECTION 1. AMENDATORY 63 O.S. 2021, Section 142.2, as  
24 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

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

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

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

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

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

24

- 1 a. the moving of earth by tools manipulated only by human  
2 or animal power, except in a private or public  
3 easement or right-of-way,
- 4 b. the moving of earth by tools manipulated only by human  
5 power for burying communication lines of a  
6 communications provider in a private or public  
7 easement or right-of-way when depth is not greater  
8 than twelve (12) inches and within twelve (12) inches  
9 of a communications provider terminal,
- 10 c. any form of cultivation for agricultural purposes, nor  
11 any augering, dozing by noncommercial dozer operators  
12 or digging for postholes, farm ponds, land clearing or  
13 other normal agricultural purposes,
- 14 d. routine maintenance,
- 15 e. work by a public agency or its contractors on a  
16 preengineered project,
- 17 f. work on a certified project,
- 18 g. work on a permitted project,
- 19 h. the opening of a grave in a cemetery,
- 20 i. a solid waste disposal site which is a preengineered  
21 project, nor
- 22 j. any individual excavating on his or her own property  
23 and who is not in the excavating business for hire,  
24

1           except in a private or public easement or right-of-  
2           way,

3 shall be deemed excavation;

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

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

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

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

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

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

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

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

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

21       15. "Underground facility" means any underground line, cable,  
22 facility, system and appurtenances thereto, for producing, storing,  
23 conveying, transmitting or distributing communication (including  
24 voice, video, or data information), electricity, power, light, heat,

1 intrastate and interstate gas pipelines, as described in 49 CFR Part  
2 192.1, intrastate and interstate hazardous liquid or carbon dioxide  
3 pipelines, as described in 49 CFR Part 195.1, water (including storm  
4 water), steam, sewage and other commodities and any oil and gas  
5 pipeline located in a private or public easement or right-of-way;  
6 and

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

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

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

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

- 20 a. the project exceeds distances defined in Section 142.6  
21 of this title, or  
22 b. the estimated duration of the project is more than  
23 ninety (90) days.

24

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

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

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



1 excavator may be liable to the owner or operator for the reasonable  
2 cost of such marking.

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

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

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

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

24 1. The name of the individual serving such notice;

1 2. The location of the proposed area of excavation or  
2 demolition;

3 3. The name, address and telephone number of the excavator or  
4 excavator's company;

5 ~~4. The excavator's field telephone number, if one is available~~  
6 The name and phone number of an excavator field contact with actual  
7 knowledge of the excavation site and project;

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

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

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

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

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

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

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

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

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

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

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

24 Notwithstanding the information above, nothing shall prevent the

1 excavator and underground facility operator from choosing to meet  
2 otherwise. All affected facility owners shall be notified once the  
3 pre-excavation meeting request has been submitted and in turn will  
4 provide a positive response within seventy-two (72) hours to the  
5 notification center indicating their ability to meet on the proposed  
6 meeting date. All parties involved in the pre-excavation meeting  
7 shall coordinate a marking plan and take actions necessary to ensure  
8 proper notice requirements are met for affected facility operators.

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

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

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

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

24

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

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

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

8 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND TELECOMMUNICATIONS  
9 February 22, 2024 - DO PASS AS AMENDED BY CS

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24