

Oklahoma Underground Damage Prevention Act

§63-142.1. Short title.

This act shall be known and may be cited as the "Oklahoma Underground Facilities Damage Prevention Act".

Laws 1981, c. 94, § 1, eff. Jan. 1, 1982.

§63-142.2. Definitions.

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, nor
 - b. 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, nor
 - c. routine maintenance, nor
 - d. work by a public agency or its contractors on a preengineered project, nor
 - e. work on a certified project, nor
 - f. work on a permitted project, nor
 - g. the opening of a grave in a cemetery, nor
 - h. a solid waste disposal site which is a preengineered project, nor
 - i. 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 State of Oklahoma;

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- 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 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; and
- 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 public right-of-way.

Added by Laws 1981, c. 94, § 2, eff. Jan. 1, 1982. Amended by Laws 1995, c. 344, § 27, eff. Nov. 1, 1995; Laws 2002, c. 412, § 1, eff. July 1, 2002; Laws 2003, c. 362, § 1, eff. Nov. 1, 2003; Laws 2004, c. 427, § 1, emerg. eff. June 4, 2004. Laws 2017, HB 1376 eff. November 1, 2017. Laws 2018, SB 997 eff. Immediately. Laws 2019, HB 2097 eff. November 1, 2019. Laws 2020, SB 1225 eff. November 1, 2020.

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§63-142.3. Filing of notice - Participation by municipality in statewide one-call notification center.

All operators of underground facilities shall participate in the statewide one-call notification center and shall have on file with the notification center a notice that such operator has underground facilities, the county or counties where such facilities are located, and the address and telephone number of the person or persons from whom information about such underground facilities may be obtained. A municipality shall participate in the statewide one-call notification center as provided for in this section.

Added by Laws 1981, c. 94, § 3, eff. Jan. 1, 1982. Amended by Laws 1992, c. 25, § 1, emerg. eff. March 30, 1992; Laws 2003, c. 362, § 2, eff. Nov. 1, 2003; Laws 2016, c. 151, § 1, eff. Nov. 1, 2016.

§63-142.4. Filing fees.

- A. As provided for in this section, the notification center shall charge and collect fees from operators filing notices pursuant to Section 142.3 of this title, except for rural water districts which have less than one thousand one hundred meters and municipalities which have a population of less than three thousand (3,000).
- B. Upon the initial filing of a notice or statement and annually thereafter, a fee shall be collected in a manner as provided for in Section 142.10 of this title. The fee shall be due and payable on January 1 of each year. Failure to pay such fee on or before February 1 of such year shall result in the filing being void and the notification center shall remove such operator from the list of operators having underground facilities in the county. Such operator may thereafter file again pursuant to this act, but only upon payment to the notification center of the above-specified initial filing fee and an additional late filing fee of Fifty Dollars (\$50.00).
- C. The notification center shall maintain a current list of all operators on file pursuant to this act and shall make copies of such list available upon payment of the appropriate fees.

Added by Laws 1981, c. 94, § 4, eff. Jan. 1, 1982. Amended by Laws 2003, c. 362, § 3, eff. Nov. 1, 2003.

§63-142.5. Certain excavations, demolitions and explosions prohibited near certain facilities.

No excavator shall demolish a structure, discharge an explosive or commence to excavate in a highway, street, alley or other public ground or way, a private easement, or on or near the location of the facilities of an operator without first complying with the requirements of the Underground Facilities Damage Prevention Act and the Oklahoma Explosives and Blasting Regulation Act.

Added by Laws 1981, c. 94, § 5, eff. Jan. 1, 1982. Amended by Laws 1995, c. 344, § 28, eff. Nov. 1, 1995.

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§63-142.6. Notice of proposed demolition, explosion or excavation - Marking or providing location of facilities - Emergencies.

- 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. Notice shall expire fourteen (14) calendar days from the excavation start date. No excavation may continue after the fourteenth day 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, 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

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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. 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 number, if one is available;
 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
<u>Electric Power Distribution and Transmission</u>	<u>Safety Red</u>
<u>Municipal Electric Systems</u>	<u>Safety Red</u>
<u>Gas Distribution and Transmission</u>	<u>High Visibility Safety Yellow</u>
<u>Oil Distribution and Transmission</u>	<u>High Visibility Safety Yellow</u>
<u>Dangerous Materials, Product Lines, Steam Lines</u>	<u>High Visibility Safety Yellow</u>
<u>Telephone and Telegraph Systems</u>	<u>Safety Alert Orange</u>
<u>Police and Fire Communications</u>	<u>Safety Alert Orange</u>

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<u>Cable Television</u>	<u>Safety Alert Orange</u>
<u>Water Systems</u>	<u>Safety Precaution Blue</u>
<u>Slurry Systems</u>	<u>Safety Precaution Blue</u>
<u>Sewer Systems</u>	<u>Safety Green</u>

Added by Laws 1981, c. 94, § 6, eff. Jan. 1, 1982. Amended by Laws 2003, c. 362, § 4, eff. Nov. 1, 2003; Laws 2016, c. 151, § 2, eff. Nov. 1, 2016. Laws 2019, HB 2097 eff. November 1, 2019. Laws 2020, SB 1225 eff. November 1, 2020, HB 2028 eff. November 1, 2021.

§63-142.7. Use of powered or mechanized equipment - Exemptions.

- A. Except as provided in subsection B of this section, powered or mechanized equipment shall not be used directly over marked routes of underground facilities until the precise location of the underground facilities has been determined by the excavator, and then only after the facilities have been exposed and properly protected to avoid damage to them. If the precise location of the underground facilities cannot be determined by the excavator, the operator thereof shall be notified by the excavator so that the operator can determine the precise location of the underground facilities prior to continuing excavation or demolition.
- B. The only exception to the prohibition of the use of powered or mechanized equipment directly over marked routes of underground facilities shall be for the removal of pavement or masonry, and then only to the depth of such pavement or masonry.

Laws 1981, c. 94, § 7, eff. Jan. 1, 1982.

§63-142.8. Additional notice required.

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.

Added by Laws 1981, c. 94, § 8, eff. Jan. 1, 1982. Amended by Laws 2003, c. 362, § 5, eff. Nov. 1, 2003; Laws 2004, c. 427, § 2, emerg. eff. June 4, 2004.

§63-142.9. Damage to underground facilities.

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- A. When any damage occurs to an underground facility or its protective covering, the operator thereof and the notification center shall be notified immediately by the excavator who caused the damage.
- B. Upon receiving notice of such damage, the operator shall promptly dispatch personnel to the location to effect temporary or permanent repairs.
- C. Should damage occur that endangers life, health or property, any person responsible for the work shall keep all sources of ignition away from the damaged area and shall take immediate action to protect the public and property and to minimize the hazard until arrival of the operator's personnel or until the appropriate police or fire officials shall have arrived and taken charge of the damaged area.
- D. An excavator shall delay any backfilling in the immediate area of the damaged underground facilities until the damage has been repaired, unless the operator authorizes otherwise. The repair of such damage must be performed by the operator or by qualified personnel authorized by the operator.

Laws 1981, c. 94, § 9, eff. Jan. 1, 1982. Laws 2018, HB 1376, eff. Nov. 1, 2017, HB 2028 eff. November 1, 2021.

§63-142.9a. Damage to underground facilities – Liability - Injunction.

- A. Any excavator, except for a public agency who fails to comply with the Oklahoma Underground Facilities Damage Prevention Act and who damages an underground facility owned or operated by a nonprofit rural water corporation organized pursuant to Section 863 of Title 18 of the Oklahoma Statutes or a rural water district organized pursuant to the Rural Water, Sewer, Gas, and Solid Waste Management Districts Act, shall be liable for the underground damage to and responsible for the repair of such facilities. Any new underground facilities installed on and after September 1, 1992, shall contain materials capable of being detected so that the facilities can be accurately located.
- B. Any excavator who damages or cuts an underground facility, as a result of negligently failing to comply with the provisions of the Oklahoma Underground Facilities Damage Prevention Act or as a result of failing to take measures for the protection of an underground facility shall be liable to the operator of the underground facility for the repair of the damaged underground facility.
- C. Except for public agencies, any excavator who by willful act or by reckless disregard of the rights of others, repeatedly violates the provisions of the Oklahoma Underground Facilities Damage Prevention Act and repeatedly damages underground facilities, thereby threatening the public health, safety, and welfare, may be enjoined by a court of competent jurisdiction from further excavation.

Added by Laws 1992, c. 369, § 1, eff. Sept. 1, 1992. Amended by Laws 2002, c. 412, § 2, eff. July 1, 2002; Laws 2003, c. 362, § 6, eff. Nov. 1, 2003.

§63-142.10. Statewide notification center.

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- A. This act 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 by the notification center to document the receipt of the notices from excavators and positive responses from operators as required by this act.

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

Added by Laws 1981, c. 94, § 10, eff. Jan. 1, 1982. Amended by Laws 2003, c. 362, § 7, eff. Nov. 1, 2003. Laws 2020, SB 1225 eff. November 1, 2020, HB 2028 eff. November 1, 2021.

§63-142.11. Exemptions.

Notwithstanding anything which may be contained in this act to the contrary, public agencies and their contractors engaged in work within the public right-of-way which work is a preengineered project, certified project or routine maintenance shall be exempt from the provisions of this act. Provided, a public agency contractor, prior to engaging in routine maintenance, shall take reasonable steps to determine the location of underground facilities in or near the proposed area of work. Reasonable steps may include utilization of the statewide one-call notification center procedures as provided for in Section 142.6 of this title.

Added by Laws 1981, c. 94, § 11, eff. Jan. 1, 1982. Amended by Laws 1986, c. 114, § 1, eff. Nov. 1, 1986; Laws 2003, c. 362, § 8, eff. Nov. 1, 2003.

§63-142.12. Repealed by Laws 2016, c. 151, § 3, eff. Nov. 1, 2016.

§63-142.13. Enforcement authority – Corporation Commission.

The Corporation Commission is hereby designated as the agency to enforce the provisions of the Oklahoma Underground Facilities Damage Prevention Act, Section 142.1 et seq. of Title 63 of the Oklahoma Statutes, over excavation or demolition on or near or directly over the location of, and notice of damage to, oil and natural gas physical facilities which are described by the currently effective definition of "pipeline" in 49 CFR Part 192.3 and "pipeline" and "pipeline system" in 49 CFR Part 195.2. Enforcement authority granted in this section shall be concurrent with and shall not be construed to modify or limit any private right of

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action, including those available pursuant to Section 142.9a of Title 63 of the Oklahoma Statutes. Terms used in this section shall be as defined in the Oklahoma Underground Facilities Damage Prevention Act.

Added by Laws 2014, c. 243, § 1, emerg. eff. May 9, 2014.