

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1744

By: Paxton

AS INTRODUCED

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

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

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,  
25

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 that exists to  
13 their 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.

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. Notice  
17 shall expire fourteen (14) calendar days from the excavation start  
18 date. In the case of a large project, notice shall be given no less  
19 than one hundred twenty (120) hours, excluding the date of  
20 notification, Saturdays, Sundays, and legal holidays, prior to the  
21 commencement of the excavation or demolition. Notice for large  
22 projects shall expire thirty (30) calendar days from the excavation  
23 start date. No excavation may continue after the ~~fourteenth day~~  
24 expiration unless subsequent notice has been submitted pursuant to



1 notice requirements. If excessive and unreasonable requests for  
2 marking are made by an excavator when no excavation is taking place  
3 ~~within fourteen (14) calendar days~~ prior to notice expiration, the  
4 excavator may be liable to the owner or operator for the reasonable  
5 cost of such marking.

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

1 facilities. If a positive response to the watch and protect has  
2 been indicated, the operator shall provide the name and phone number  
3 of the contact who shall be present for observation and they shall  
4 be onsite at the ticket date and time, or at the start date and time  
5 agreed upon in writing by the excavator and operator. Whenever an  
6 operator is served with notice of an excavation or demolition and  
7 determines that the operator does not have underground facilities  
8 located within the proposed area of excavation or demolition, the  
9 operator shall communicate this information to the excavator  
10 originating the notice prior to the commencement of such excavation  
11 or demolition.

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

23 D. Every notice given by an excavator to an operator pursuant  
24 to this section or to the notification center pursuant to Section

1 142.3 of this title shall contain at least the following  
2 information:

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

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

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

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

11 5. The type and the extent, not to exceed ~~five hundred (500)~~ a  
12 single parcel up to two hundred fifty thousand (250,000) square feet  
13 or up to eight hundred (800) linear feet in incorporated areas or  
14 one (1) linear mile in unincorporated areas, of the proposed work;

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

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

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

21 OPERATOR AND TYPE OF PRODUCT	SPECIFIC GROUP IDENTIFYING COLOR
22 Electric Power Distribution 23 and Transmission.....	Safety Red
24 Municipal Electric Systems.....	Safety Red

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

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

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

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

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

21 C. Excavators involved in large projects may submit a pre-  
22 excavation meeting request no less than fourteen (14) calendar days  
23 prior to beginning excavation or blasting activities. Such  
24 notification shall include the excavator's proposed meeting date,

1 time, location, and contact information including name, phone, and  
2 email. The date of the meeting shall be a minimum of seventy-two  
3 (72) hours after the notification has been submitted.

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

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

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

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

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