

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2189 Session of 2024

INTRODUCED BY MATZIE, MARSHALL, MARKOSEK, BOROWSKI, CIRESI, MALAGARI, MUNROE, PISCIOTTANO, STEELE, HARKINS, SCHLOSSBERG, SANCHEZ, HADDOCK, D. MILLER, NEILSON, JOZWIAK, JAMES, DALEY, MENTZER, SAMUELSON, DELLOSO, BELLMON, WARREN, CONKLIN, KINSEY, GREEN, KENYATTA, ISAACSON, WEBSTER, MADSEN AND KHAN, APRIL 8, 2024

SENATOR STEFANO, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, IN SENATE, AS AMENDED, OCTOBER 7, 2024

AN ACT

1 ~~Amending the act of December 10, 1974 (P.L.852, No.287),~~ <--
2 ~~entitled "An act to protect the public health and safety by~~
3 ~~preventing excavation or demolition work from damaging~~
4 ~~underground lines used in providing electricity,~~
5 ~~communication, gas, propane, oil delivery, oil product~~
6 ~~delivery, sewage, water or other service; imposing duties~~
7 ~~upon the providers of such service and persons and other~~
8 ~~entities preparing drawings or performing excavation or~~
9 ~~demolition work; and prescribing penalties," further~~
10 ~~providing for definitions, for duties of facility owners, for~~
11 ~~duties of One Call System, for duties of designers, for~~
12 ~~duties of excavators, for duties of project owners, for~~
13 ~~damage prevention committee and for compliance orders and~~
14 ~~administrative penalties ; providing for action for recovery~~
15 ~~of penalty or forfeiture; and further providing for~~
16 ~~expiration.~~

17 AMENDING THE ACT OF DECEMBER 10, 1974 (P.L.852, NO.287), <--
18 ENTITLED "AN ACT TO PROTECT THE PUBLIC HEALTH AND SAFETY BY
19 PREVENTING EXCAVATION OR DEMOLITION WORK FROM DAMAGING
20 UNDERGROUND LINES USED IN PROVIDING ELECTRICITY,
21 COMMUNICATION, GAS, PROPANE, OIL DELIVERY, OIL PRODUCT
22 DELIVERY, SEWAGE, WATER OR OTHER SERVICE; IMPOSING DUTIES
23 UPON THE PROVIDERS OF SUCH SERVICE AND PERSONS AND OTHER
24 ENTITIES PREPARING DRAWINGS OR PERFORMING EXCAVATION OR
25 DEMOLITION WORK; AND PRESCRIBING PENALTIES," FURTHER
26 PROVIDING FOR DEFINITIONS, FOR DUTIES OF FACILITY OWNERS, FOR
27 DUTIES OF DESIGNERS, FOR DUTIES OF EXCAVATORS, FOR DUTIES OF
28 PROJECT OWNERS, FOR DAMAGE PREVENTION COMMITTEE, FOR

1 COMPLIANCE ORDERS AND FOR ADMINISTRATIVE PENALTIES; PROVIDING
2 FOR ACTION FOR RECOVERY OF PENALTY OR FORFEITURE; AND FURTHER
3 PROVIDING FOR EXPIRATION OF ACT.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 ~~Section 1. The definitions of "alleged violation,"~~ <--
7 ~~"emergency," "excavation work," "facility owner," "injury,"~~
8 ~~"line" or "facility," "locate request" and "subsurface utility~~
9 ~~engineering" or "SUE" in section 1 of the act of December 10,~~
10 ~~1974 (P.L.852, No.287), referred to as the Underground Utility~~
11 ~~Line Protection Law, are amended and the section is amended by~~
12 ~~adding definitions to read:~~

13 ~~Section 1. The following words and phrases when used in this~~
14 ~~act shall have the meanings given to them in this section unless~~
15 ~~the context clearly indicates otherwise:~~

16 ~~* * *~~

17 ~~"Alleged violation" means an instance when a person by action~~
18 ~~or inaction [fails] is alleged to have failed to fulfill the~~
19 ~~obligations of this act.~~

20 ~~* * *~~

21 ~~"Drawing" means a type of technical plan that shows~~
22 ~~information about existing and proposed underground facilities,~~
23 ~~grading, landscaping or other site details for the purpose of~~
24 ~~providing a clear picture of construction to an excavator. The~~
25 ~~term does not include a sketch made for the purpose of obtaining~~
26 ~~a permit relating to excavation work.~~

27 ~~"Emergency" means a sudden or unforeseen occurrence involving~~
28 ~~a clear and immediate danger to life, property [and] or the~~
29 ~~environment, including, but not limited to, serious breaks or~~
30 ~~defects in a facility owner's lines.~~

31 ~~"Excavation work" means the use of [powered] equipment or~~

~~1 explosives in the movement of earth, rock or other material, and
2 includes, but is not limited to, anchoring, augering,
3 backfilling, blasting, boring, digging, ditching, dredging,
4 drilling, driving in, grading, plowing in, pulling in, ripping,
5 scraping, trenching and tunneling. The term does not include
6 soft excavation technology such as vacuum, high pressure air or
7 water, tilling of soil for agricultural purposes to a depth of
8 less than eighteen inches, performing minor routine maintenance
9 up to a depth of less than eighteen inches measured from the top
10 of the edge of the cartway or the top of the outer edge of an
11 improved shoulder, in addition to the performance of incidental
12 de minimis excavation associated with the routine maintenance
13 and the removal of sediment buildup, within the right of way of
14 public roads or work up to a depth of twenty four inches beneath
15 the existing surface within the right of way of a State highway,
16 work performed by persons whose activities must comply with the
17 requirements of and regulations promulgated under the act of May
18 31, 1945 (P.L.1198, No.418), known as the Surface Mining
19 Conservation and Reclamation Act, the act of April 27, 1966 (1st
20 Sp.Sess., P.L.31, No.1), known as The Bituminous Mine Subsidence
21 and Land Conservation Act, or the act of September 24, 1968
22 (P.L.1040, No.318), known as the Coal Refuse Disposal Control
23 Act, that relate to the protection of utility facilities or the
24 direct operations on a well pad following construction of the
25 well pad and that are necessary or operations incidental to the
26 extraction of oil or natural gas.~~

27 * * *

28 "Facility owner" means the public utility or agency,
29 political subdivision, municipality, authority, rural electric
30 cooperative or other person or entity who or which owns or

1 operates a line. [The term does not include the Department of
2 Transportation within a State highway right of way.] The term
3 does not include any of the following:

4 (1) A person serving the person's own property through the
5 person's own line, if the person does not provide service to any
6 other customer.

7 (2) A person using a line which the person does not own or
8 operate, if the use of the line does not serve more than a
9 single property.

10 * * *

11 "Injury" means a bodily harm to a person, who, as a result of
12 the bodily harm, immediately receives medical attention at a
13 health care facility away from the scene of the incident.

14 * * *

15 "Line" or "facility" means an underground conductor or
16 underground pipe or structure used in providing electric or
17 communication service, or an underground pipe used in carrying,
18 gathering, transporting or providing natural or artificial gas,
19 petroleum, propane, oil or petroleum and production product,
20 sewage, water or other service to one or more transportation
21 carriers, consumers or customers of such service and the
22 appurtenances thereto, regardless of whether such line or
23 structure is located on land owned by a person or public agency
24 or whether it is located within an easement or right of way. The
25 term shall include unexposed storm drainage and traffic loops
26 that are not clearly visible. The term shall include
27 unconventional oil and gas well production and gathering lines
28 or facilities. The term shall not include stripper well lines
29 unless the line or facility is a regulated onshore gathering
30 line as defined in regulations promulgated after January 1,

1 ~~2006, by the United States Department of Transportation pursuant~~
2 ~~to the Pipeline Safety Act of 1992 (Public Law 102-508, 49~~
3 ~~U.S.C. § 60101 et seq.) or successor regulations promulgated by~~
4 ~~the United States Department of Transportation, if the regulated~~
5 ~~gathering line is subject to the damage prevention program~~
6 ~~requirements of 49 CFR § 192.614.~~

7 ~~"Locate request" means a communication or notification~~
8 ~~between an excavator or designer and the One Call System in~~
9 ~~which a request for locating facilities is processed. Locate~~
10 ~~requests submitted by an excavator performing work within the~~
11 ~~right of way of any State highway, either under contract to the~~
12 ~~Department of Transportation or under authority of a permit~~
13 ~~issued by the Department of Transportation, shall include the~~
14 ~~number of the Department of Transportation contract or permit.~~

15 ~~* * *~~

16 ~~"Sketch" means a physical depiction of a work site generally~~
17 ~~for permitting purposes and not solely or specifically~~
18 ~~applicable to design requirements.~~

19 ~~* * *~~

20 ~~"Subsurface utility engineering" or "SUE" means those~~
21 ~~techniques set forth in the American Society of Civil Engineers~~
22 ~~(ASCE) most recently published standard CI/ASCE [38-02] 38-22~~
23 ~~and 75-22, or its successor document as determined by the One~~
24 ~~Call System.~~

25 ~~* * *~~

26 ~~"Violation" means an instance when the commission determines~~
27 ~~that a person by action or inaction has failed to fulfill the~~
28 ~~obligations of this act.~~

29 ~~* * *~~

30 ~~Section 2. Section 2(1)(ii)(B) and (iv), (10), (11) and (13)~~

1 ~~of the act are amended and clause (5) is amended by adding a~~
2 ~~subparagraph to read:~~

3 ~~Section 2. It shall be the duty of each facility owner:~~

4 ~~(1) To be a member of and give written notice to the One~~
5 ~~Call System. Such notice shall be in a form acceptable to the~~
6 ~~One Call System and include:~~

7 ~~* * *~~

8 ~~(ii) as follows:~~

9 ~~* * *~~

10 ~~{(B) The One Call System may not require its members to~~
11 ~~locate lines or facilities installed before the effective date~~
12 ~~of this clause unless the member has existing maps of the lines~~
13 ~~or facilities and the member's existing maps meet the~~
14 ~~specifications of the One Call System's ing Solutions. Nothing~~
15 ~~under this clause shall prohibit the One Call System members~~
16 ~~from voluntarily submitting to the One Call System maps of lines~~
17 ~~or facilities installed before the effective date of this~~
18 ~~clause.}~~

19 ~~* * *~~

20 ~~(iv) the street identifications or like information within~~
21 ~~each of the municipalities in which its lines are located. This~~
22 ~~information shall be in a form acceptable to the One Call~~
23 ~~System. Upon acceptance of the information from a facility~~
24 ~~owner, the One Call System shall provide the facility owner with~~
25 ~~notification within the boundaries described. All facility~~
26 ~~owners shall agree to indemnify and hold harmless the One Call~~
27 ~~System for any errors and omissions on the part of the facility~~
28 ~~owner or the excavator or designer providing the information as~~
29 ~~the agent of the facility owner or the member mapping~~
30 ~~information as required by the One Call System; and~~

1 ~~***~~

2 ~~(5) After receipt of a timely request from an excavator or~~
3 ~~operator who identifies the work site of excavation or~~
4 ~~demolition work he intends to perform and not later than the~~
5 ~~business day prior to the lawful start date of excavation:~~

6 ~~***~~

7 ~~(x) To document communications between the facility owner~~
8 ~~and the excavator to ensure that the excavator is aware of a~~
9 ~~facility owner's inability to locate its facilities.~~

10 ~~***~~

11 ~~(10) To submit a report of alleged violation to the~~
12 ~~commission through the One Call System not more than thirty~~
13 ~~business days after receipt of notice that the facility owner's~~
14 ~~lines have been damaged by excavation or demolition work or if~~
15 ~~the facility owner believes a violation of this act has been~~
16 ~~committed in association with excavation or demolition work. The~~
17 ~~report of alleged violation shall be in a form and manner as~~
18 ~~required by the commission. [No report may be required where the~~
19 ~~cost to repair the damage to the facility owner's lines is less~~
20 ~~than two thousand five hundred dollars (\$2,500), unless the same~~
21 ~~person damaged the facility owner's lines two or more times~~
22 ~~within a six month period.]~~

23 ~~(11) To comply with all requests for information by the~~
24 ~~commission relating to the commission's enforcement authority~~
25 ~~under this act within thirty business days of the receipt of the~~
26 ~~request.~~

27 ~~***~~

28 ~~(13) To maintain existing records of main lines abandoned on~~
29 ~~or after the effective date of this paragraph and to mark,~~
30 ~~locate or identify the main lines if [possible] practicable,~~

1 ~~based upon the existing records. The records shall include~~
2 ~~written or electronic documents or drawings in the possession of~~
3 ~~the facility owner that show the location of an existing line or~~
4 ~~facility.~~

5 ~~Section 2.1. Section 3.1(d)(7) of the act is amended to~~
6 ~~read:~~

7 ~~Section 3.1. * * *~~

8 ~~(d) The One Call System shall be governed by a board of~~
9 ~~directors to be chosen by the facility owners. No less than~~
10 ~~twenty percent of the seats on the board shall be held by~~
11 ~~municipalities or municipal authorities. The board shall include~~
12 ~~all of the following:~~

13 ~~* * *~~

14 ~~(7) [An owner or operator or a representative] Two owners or~~
15 ~~operators or representatives of an owner or operator of~~
16 ~~pipelines associated with conventional oil and gas wells. The~~
17 ~~owner or operator may be a facility owner or a pipeline owner or~~
18 ~~operator who voluntarily submits maps of its lines or facilities~~
19 ~~to the One Call System.~~

20 ~~* * *~~

21 ~~Section 3. Sections 4(4) and (5), 5(2.1), (8), (15), (16)~~
22 ~~and (17) and 6.1(1), (2) and (7) of the act are amended and the~~
23 ~~sections are amended by adding clauses to read:~~

24 ~~Section 4. It shall be the duty of each designer preparing a~~
25 ~~drawing which requires excavation or demolition work within this~~
26 ~~Commonwealth:~~

27 ~~* * *~~

28 ~~(2.2) To submit a design ticket notification through the One~~
29 ~~Call System when a design drawing is completed.~~

30 ~~(2.3) To timely respond to notifications received from~~

1 ~~excavators in accordance with section 5(15).~~

2 ~~(2.4) To inform the project owner of the project owner's~~
3 ~~duties under section 5(15) and 6.1(1).~~

4 ~~(2.5) To comply with all requests for information by the~~
5 ~~commission relating to the commission's enforcement authority~~
6 ~~under this act within thirty business days of receipt of the~~
7 ~~request.~~

8 * * *

9 ~~(4) To make a reasonable effort to prepare the construction~~
10 ~~drawings to depict all lines or facilities and quality levels~~
11 ~~obtained through the subsurface utility engineering process in~~
12 ~~the planning and design phases, including test hole data sheet~~
13 ~~details for all lines or facilities crossing existing lines or~~
14 ~~facilities in accordance with the American Society of Civil~~
15 ~~Engineers (ASCE) most recently published standard CI/ASCE 38 22~~
16 ~~and 75 22 to avoid damage to and minimize interference with a~~
17 ~~facility owner's facilities in the construction area by~~
18 ~~maintaining the clearance as provided for in the applicable~~
19 ~~easement condition or an eighteen inch clearance of the facility~~
20 ~~owner's facilities if no easement restriction exists.~~

21 ~~(5) A designer shall be deemed to have met the obligations~~
22 ~~of clause (2) if he [calls] notifies the One Call System and~~
23 ~~shows, as proof, the serial number of one call notice on~~
24 ~~drawings. The designer shall also show the toll free number of~~
25 ~~the One Call System on the drawing near his serial number.~~

26 * * *

27 ~~Section 5. It shall be the duty of each excavator who~~
28 ~~intends to perform excavation or demolition work within this~~
29 ~~Commonwealth:~~

30 ~~(2.1) To submit a locate request to identify the location~~

1 ~~and type of facility owner lines at each work site by notifying~~
2 ~~the facility owner through the One Call System. Notification~~
3 ~~shall be not less than three nor more than ten business days in~~
4 ~~advance of beginning excavation or demolition work. No work~~
5 ~~shall begin earlier than the lawful start date which shall be on~~
6 ~~or after the third business day after notification. The lawful~~
7 ~~start date shall exclude the date upon which notification was~~
8 ~~received by the One Call System and notification received on a~~
9 ~~Saturday, Sunday or holiday, which shall be processed on the~~
10 ~~following business day. In the case of a complex project,~~
11 ~~notification shall not be less than ten business days in advance~~
12 ~~of the beginning of excavation or demolition work.~~

13 ~~* * *~~

14 ~~(8) To immediately notify 911 and the facility owner if the~~
15 ~~damage results in the escape of any flammable, toxic or~~
16 ~~corrosive gas or liquid [which endangers life, health or~~
17 ~~property]. The excavator shall take reasonable measures, based~~
18 ~~on its knowledge, training, resources, experience and~~
19 ~~understanding of the situation, to protect themselves and those~~
20 ~~in immediate danger, the general public, the property and the~~
21 ~~environment until the facility owner or emergency responders~~
22 ~~have arrived and completed their assessment and shall remain on~~
23 ~~the work site to convey any pertinent information to responders~~
24 ~~that may help them to safely mitigate the situation.~~

25 ~~* * *~~

26 ~~(15) When the information required from the facility owner~~
27 ~~under section 2(5)(i) cannot be provided or, due to the nature~~
28 ~~of the information received from the facility owner, it is~~
29 ~~reasonably necessary for the excavator to ascertain the precise~~
30 ~~location of any line or abandoned or unclaimed lines by prudent~~

1 ~~techniques, which may include hand dug test holes, vacuum-~~
2 ~~excavation or other similar devices, the excavator shall-~~
3 ~~promptly notify the project owner or the project owner's-~~
4 ~~representative, either orally or in writing. If oral-~~
5 ~~notification is given, the notice shall be reduced to writing-~~
6 ~~within a reasonable time by the project owner or excavator.-~~
7 ~~After giving such notice, the excavator shall be entitled to-~~
8 ~~compensation from the project owner for this additional work as-~~
9 ~~provided in the latest edition of the Pennsylvania Department of-~~
10 ~~Transportation Form 408 specifications for extra work performed-~~
11 ~~on a force account basis. The provisions of this subsection-~~
12 ~~shall not be deemed to limit any other rights which the-~~
13 ~~excavator has under its contract with the project owner or-~~
14 ~~otherwise. Provisions in any contract, public or private, which-~~
15 ~~attempt to limit the rights of excavators under this section-~~
16 ~~shall not be valid for any reason, and any attempted waiver of-~~
17 ~~this section shall be void and unenforceable as against public-~~
18 ~~policy and any such attempted waiver shall be reported to the-~~
19 ~~[commission.] commission's prosecutorial staff for appropriate-~~
20 ~~action, including the imposition of administrative penalties-~~
21 ~~under section 7.10.~~

22 ~~(16) To submit a report of an alleged violation to the-~~
23 ~~commission through the One Call System not more than [ten]-~~
24 ~~thirty business days after striking or damaging a facility-~~
25 ~~owner's line during excavation or demolition or if the excavator-~~
26 ~~believes a violation of this act has been committed in-~~
27 ~~association with excavation or demolition work. The report of an-~~
28 ~~alleged violation shall be in a form and manner as required by-~~
29 ~~the commission.~~

30 ~~(17) To comply with all requests for information by the-~~

1 ~~commission relating to the commission's enforcement authority~~
2 ~~under this act within thirty business days of the receipt of the~~
3 ~~request.~~

4 * * *

5 ~~(22) To not delegate the excavator's duty to submit a locate~~
6 ~~request under clause (21) to another person. The excavator shall~~
7 ~~have the sole duty to submit a locate request under clause (21).~~

8 Section 6.1. ~~It shall be the duty of each project owner who~~
9 ~~engages in excavation or demolition work to be done within this~~
10 ~~Commonwealth.~~

11 ~~(1) To utilize sufficient [quality levels of] subsurface~~
12 ~~utility engineering process or other similar techniques whenever~~
13 ~~practicable to properly determine the existence and positions of~~
14 ~~underground facilities when designing known complex projects~~
15 ~~having an estimated cost of four hundred thousand dollars~~
16 ~~(\$400,000) or more.~~

17 ~~(2) To timely respond to notifications received from~~
18 ~~excavators pursuant to section 5(15). Provisions in any~~
19 ~~contract, public or private, which attempt to limit the rights~~
20 ~~of excavators under this section shall not be valid for any~~
21 ~~reason, and any attempted waiver of this section shall be void~~
22 ~~and unenforceable as against public policy and any such~~
23 ~~attempted waiver shall be reported to the commission's~~
24 ~~prosecutorial staff for appropriate action, including the~~
25 ~~imposition of administrative penalties under section 7.10.~~

26 * * *

27 ~~(7) To submit a report of alleged violation to the~~
28 ~~commission through the One Call System not more than [ten]~~
29 ~~thirty business days after striking or damaging a facility~~
30 ~~owner's line during excavation or demolition work activities,~~

1 ~~after a project owner's contracted excavator strikes or damages~~
2 ~~a facility owner's line during excavation or demolition~~
3 ~~activities or if the project owner believes a violation of this~~
4 ~~act has been committed in association with excavation or~~
5 ~~demolition. The report of alleged violation shall be in a form~~
6 ~~and manner as required by the commission.~~

7 ~~(8) To comply with all requests for information by the~~
8 ~~commission relating to the commission's enforcement authority~~
9 ~~under this act within thirty business days of the receipt of the~~
10 ~~request.~~

11 ~~Section 4. Section 7.8(a) (2), (d) and (e) (3) of the act are~~
12 ~~amended and the section is amended by adding subsections to~~
13 ~~read:~~

14 ~~Section 7.8. (a) A damage prevention committee shall be~~
15 ~~established as follows:~~

16 ~~* * *~~

17 ~~(2) A person appointed to the committee must maintain~~
18 ~~employment within the industry the person represents and have~~
19 ~~expertise within the operation of this act.~~

20 ~~* * *~~

21 ~~(d) Except for alleged violations involving injury or death,~~
22 ~~the provisions of subsection (c) [may] shall be applied in~~
23 ~~advance or instead of filing a formal complaint against a person~~
24 ~~determined, in a report issued by a damage prevention~~
25 ~~investigator, to have committed an alleged violation. An~~
26 ~~informal determination of the committee shall be binding on the~~
27 ~~commission unless the person rejects the informal determination.~~

28 ~~(d.1) Notwithstanding any other provision of this act, the~~
29 ~~committee shall only have the powers and duties enumerated in~~
30 ~~subsections (b) and (c) if the committee completes its review of~~

1 ~~an alleged violation and issues an informal determination within~~
2 ~~270 days of the occurrence of the alleged violation.~~

3 ~~(d.2) Notwithstanding any other provision of this act, in~~
4 ~~acting upon an alleged violation, the committee or any of the~~
5 ~~damage prevention investigators may not look beyond the~~
6 ~~allegations contained in the report of the alleged violation or~~
7 ~~otherwise seek to investigate or introduce information,~~
8 ~~documentation or evidence extraneous to those matters listed in~~
9 ~~the report of alleged violation. The committee or any of the~~
10 ~~damage prevention investigators may not take additional action~~
11 ~~based on any information not contained in the initial report of~~
12 ~~alleged violation.~~

13 ~~(e) The committee shall have the following additional~~
14 ~~duties:~~

15 ~~* * *~~

16 ~~(3) Submit an annual report containing relevant damage~~
17 ~~prevention data to the commission, the Committee on Consumer~~
18 ~~Protection and Professional Licensure of the Senate and the~~
19 ~~Committee on Consumer Affairs of the House of Representatives.~~
20 ~~At a minimum, each annual report must provide relevant metrics~~
21 ~~to demonstrate how the committee's actions further the goal of~~
22 ~~minimizing the occurrence of line hits and enhance public~~
23 ~~safety.~~

24 ~~* * *~~

25 ~~Section 5. Section 7.10 of the act is amended by adding a~~
26 ~~subsection to read:~~

27 ~~Section 7.10. * * *~~

28 ~~(e.1) The following shall apply:~~

29 ~~(1) A party violating this act shall pay an administrative~~
30 ~~penalty recovered under this section to the commission within~~

1 ~~sixty days of issuance of an informal determination under~~
2 ~~section 7.8(b)(2), unless the party rejects the informal~~
3 ~~determination within thirty days in accordance with section~~
4 ~~7.8(c)(2).~~

5 ~~(2) The commission shall impose an additional administrative~~
6 ~~penalty of one hundred dollars (\$100) per day, not to exceed a~~
7 ~~total of five thousand dollars (\$5,000), for each day that a~~
8 ~~party fails to pay an administrative penalty to the commission~~
9 ~~within the time period specified under clause (1).~~

10 ~~(3) A party subject to an informal determination under~~
11 ~~section 7.8(b)(2) that requires the party to attend a damage~~
12 ~~prevention educational program under section 7.8(b)(4) shall~~
13 ~~successfully complete the program within sixty days of issuance~~
14 ~~of the informal determination. The commission shall impose the~~
15 ~~additional administrative penalty specified under clause (2) for~~
16 ~~each day the party fails to successfully complete the program~~
17 ~~within sixty days of issuance of the informal determination.~~

18 * * *

19 Section 5.1. The act is amended by adding a section to read:

20 ~~Section 7.11. Except as otherwise provided in this act, an~~
21 ~~action for the recovery of any penalty or forfeiture incurred~~
22 ~~under the provisions of this act or a prosecution on account of~~
23 ~~any matter or thing mentioned in this act may not be maintained~~
24 ~~unless brought within three years from the date at which the~~
25 ~~liability arose.~~

26 Section 6. Section 39 of the act is amended to read:

27 Section 39. This act shall expire on December 31, [2024]
28 2031.

29 Section 7. This act shall take effect as follows:

30 (1) The following shall take effect immediately:

1 ~~(i) The amendment of section 39 of the act.~~
2 ~~(ii) This section.~~
3 ~~(2) The remainder of this act shall take effect in 60~~
4 ~~days.~~

5 SECTION 1. THE DEFINITIONS OF "ALLEGED VIOLATION," <--
6 "EMERGENCY," "EXCAVATION WORK," "HORIZONTAL DIRECTIONAL
7 DRILLING," "INJURY," "LOCATE REQUEST" AND "SUBSURFACE UTILITY
8 ENGINEERING" OR "SUE" IN SECTION 1 OF THE ACT OF DECEMBER 10,
9 1974 (P.L.852, NO.287), REFERRED TO AS THE UNDERGROUND UTILITY
10 LINE PROTECTION LAW, ARE AMENDED AND THE SECTION IS AMENDED BY
11 ADDING DEFINITIONS TO READ:

12 SECTION 1. THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS
13 ACT SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS
14 THE CONTEXT CLEARLY INDICATES OTHERWISE:

15 * * *

16 "ALLEGED VIOLATION" MEANS AN INSTANCE WHEN A PERSON BY ACTION
17 OR INACTION [FAILS] IS ALLEGED TO HAVE FAILED TO FULFILL THE
18 OBLIGATIONS OF THIS ACT.

19 * * *

20 "DAMAGE PREVENTION INVESTIGATOR" MEANS AN EMPLOYEE OF THE
21 COMMISSION TASKED WITH REVIEWING AND INVESTIGATING AN ALLEGED
22 VIOLATION REPORTED TO THE COMMISSION UNDER SECTIONS 2(10), 4(8),
23 5(16) AND 6.1(7) AND OFFERING RECOMMENDATIONS TO THE COMMITTEE
24 TO ADDRESS THE ALLEGED VIOLATION IN THE FORM OF A WARNING
25 LETTER, ADMINISTRATIVE PENALTY OR PARTICIPATION IN AN
26 EDUCATIONAL PROGRAM ESTABLISHED BY THE COMMISSION.

27 * * *

28 "DRAWING" MEANS A TYPE OF TECHNICAL PLAN THAT SHOWS
29 INFORMATION ABOUT EXISTING AND PROPOSED UNDERGROUND FACILITIES,
30 GRADING, LANDSCAPING OR OTHER SITE DETAILS FOR THE PURPOSE OF

1 PROVIDING A CLEAR PICTURE OF CONSTRUCTION TO THE EXCAVATOR. THE
2 TERM DOES NOT INCLUDE SKETCHES MADE FOR THE PURPOSE OF OBTAINING
3 EXCAVATION RELATED TO PERMITS.

4 "EMERGENCY" MEANS A SUDDEN OR UNFORESEEN OCCURRENCE INVOLVING
5 A CLEAR AND IMMEDIATE DANGER TO LIFE, PROPERTY [AND] OR THE
6 ENVIRONMENT, INCLUDING, BUT NOT LIMITED TO, SERIOUS BREAKS OR
7 DEFECTS IN A FACILITY OWNER'S LINES.

8 "EXCAVATION WORK" MEANS THE USE OF POWERED EQUIPMENT OR
9 EXPLOSIVES IN THE MOVEMENT OF EARTH, ROCK OR OTHER MATERIAL, AND
10 INCLUDES, BUT IS NOT LIMITED TO, ANCHORING, AUGERING,
11 BACKFILLING, BLASTING, BORING, DIGGING, DITCHING, DREDGING,
12 DRILLING, DRIVING-IN, GRADING, PLOWING-IN, PULLING-IN, RIPPING,
13 SCRAPING, TRENCHING AND TUNNELING. THE TERM DOES NOT INCLUDE
14 SOFT EXCAVATION TECHNOLOGY SUCH AS VACUUM, HIGH PRESSURE AIR OR
15 WATER, TILLING OF SOIL FOR AGRICULTURAL PURPOSES TO A DEPTH OF
16 LESS THAN EIGHTEEN INCHES, PERFORMING MINOR ROUTINE MAINTENANCE
17 UP TO A DEPTH OF LESS THAN EIGHTEEN INCHES MEASURED FROM THE TOP
18 OF THE EDGE OF THE CARTWAY OR THE TOP OF THE OUTER EDGE OF AN
19 IMPROVED SHOULDER, IN ADDITION TO THE PERFORMANCE OF INCIDENTAL
20 DE MINIMIS EXCAVATION ASSOCIATED WITH THE ROUTINE MAINTENANCE
21 AND THE REMOVAL OF SEDIMENT BUILDUP, WITHIN THE RIGHT-OF-WAY OF
22 PUBLIC ROADS OR WORK UP TO A DEPTH OF TWENTY-FOUR INCHES BENEATH
23 THE EXISTING SURFACE WITHIN THE RIGHT-OF-WAY OF A STATE HIGHWAY,
24 WORK PERFORMED BY PERSONS WHOSE ACTIVITIES MUST COMPLY WITH THE
25 REQUIREMENTS OF AND REGULATIONS PROMULGATED UNDER THE ACT OF MAY
26 31, 1945 (P.L.1198, NO.418), KNOWN AS THE SURFACE MINING
27 CONSERVATION AND RECLAMATION ACT, THE ACT OF APRIL 27, 1966 (1ST
28 SP.SESS., P.L.31, NO.1), KNOWN AS THE BITUMINOUS MINE SUBSIDENCE
29 AND LAND CONSERVATION ACT, OR THE ACT OF SEPTEMBER 24, 1968
30 (P.L.1040, NO.318), KNOWN AS THE COAL REFUSE DISPOSAL CONTROL

1 ACT, THAT RELATE TO THE PROTECTION OF UTILITY FACILITIES OR THE
2 DIRECT OPERATIONS ON A WELL PAD FOLLOWING CONSTRUCTION OF THE
3 WELL PAD AND THAT ARE NECESSARY OR OPERATIONS INCIDENTAL TO THE
4 EXTRACTION OF OIL OR NATURAL GAS.

5 * * *

6 ["HORIZONTAL DIRECTIONAL DRILLING" MEANS THE USE OF
7 HORIZONTAL BORING DEVICES THAT CAN BE GUIDED BETWEEN A LAUNCH
8 POINT AND A RECEPTION POINT BENEATH THE EARTH'S SURFACE.]

9 "INJURY" MEANS A BODILY HARM TO A PERSON, WHO, AS A RESULT OF
10 THE BODILY HARM, IMMEDIATELY RECEIVES MEDICAL ATTENTION AT A
11 HEALTH CARE FACILITY AWAY FROM THE SCENE OF THE INCIDENT.

12 * * *

13 "LOCATE REQUEST" MEANS A COMMUNICATION OR NOTIFICATION
14 BETWEEN AN EXCAVATOR OR DESIGNER AND THE ONE CALL SYSTEM IN
15 WHICH A REQUEST FOR LOCATING FACILITIES IS PROCESSED. LOCATE
16 REQUESTS SUBMITTED BY AN EXCAVATOR PERFORMING WORK WITHIN THE
17 RIGHT-OF-WAY OF ANY STATE HIGHWAY, EITHER UNDER CONTRACT TO THE
18 DEPARTMENT OF TRANSPORTATION OR UNDER AUTHORITY OF A PERMIT
19 ISSUED BY THE DEPARTMENT OF TRANSPORTATION, SHALL INCLUDE THE
20 NUMBER OF THE DEPARTMENT OF TRANSPORTATION CONTRACT OR PERMIT.

21 * * *

22 "SKETCH" MEANS A PHYSICAL DEPICTION OF A WORK SITE GENERALLY
23 FOR PERMITTING PURPOSES AND NOT SOLELY OR SPECIFICALLY
24 APPLICABLE TO DESIGN REQUIREMENTS.

25 * * *

26 "SUBSURFACE UTILITY ENGINEERING" OR "SUE" MEANS THOSE
27 TECHNIQUES SET FORTH IN THE AMERICAN SOCIETY OF CIVIL ENGINEERS
28 (ASCE) MOST RECENTLY PUBLISHED STANDARD CI/ASCE [38-02] 38, OR
29 ITS SUCCESSOR DOCUMENT AS DETERMINED BY THE ONE CALL SYSTEM.

30 * * *

1 "TRENCHLESS TECHNOLOGY" MEANS A FAMILY OF CONSTRUCTION
2 TECHNIQUES FOR INSTALLING OR REHABILITATING UNDERGROUND
3 INFRASTRUCTURE WITH MINIMAL DISRUPTION TO SURFACE TRAFFIC,
4 BUSINESSES AND RESIDENTS.

5 * * *

6 "VIOLATION" MEANS AN INSTANCE WHEN IT HAS BEEN DETERMINED BY
7 THE COMMISSION THAT A PERSON BY ACTION OR INACTION HAS FAILED TO
8 FULFILL THE OBLIGATIONS OF THIS ACT.

9 * * *

10 SECTION 2. SECTION 2(1)(II) AND (IV), (5)(I), (10) AND (13)
11 OF THE ACT ARE AMENDED, CLAUSE (5) IS AMENDED BY ADDING
12 SUBPARAGRAPHS AND THE SECTION IS AMENDED BY ADDING A CLAUSE TO
13 READ:

14 SECTION 2. IT SHALL BE THE DUTY OF EACH FACILITY OWNER:

15 (1) TO BE A MEMBER OF AND GIVE WRITTEN NOTICE TO THE ONE
16 CALL SYSTEM. SUCH NOTICE SHALL BE IN A FORM ACCEPTABLE TO THE
17 ONE CALL SYSTEM AND INCLUDE:

18 * * *

19 (II) AS FOLLOWS:

20 (A) THE NAMES OF THE COUNTIES AND MUNICIPALITIES, DOWN TO
21 AND INCLUDING WARDS IN PHILADELPHIA, PITTSBURGH, ALLENTOWN AND
22 ERIE, IN WHICH ITS LINES ARE LOCATED AND OTHER RELATED
23 INFORMATION AS MAY BE REQUIRED BY THE ONE CALL SYSTEM REGARDING
24 THE LOCATION OF A MEMBER'S FACILITIES.

25 [(B) THE ONE CALL SYSTEM MAY NOT REQUIRE ITS MEMBERS TO
26 LOCATE LINES OR FACILITIES INSTALLED BEFORE THE EFFECTIVE DATE
27 OF THIS CLAUSE UNLESS THE MEMBER HAS EXISTING MAPS OF THE LINES
28 OR FACILITIES AND THE MEMBER'S EXISTING MAPS MEET THE
29 SPECIFICATIONS OF THE ONE CALL SYSTEM'S MEMBER MAPPING
30 SOLUTIONS. NOTHING UNDER THIS CLAUSE SHALL PROHIBIT THE ONE CALL

1 SYSTEM MEMBERS FROM VOLUNTARILY SUBMITTING TO THE ONE CALL
2 SYSTEM MAPS OF LINES OR FACILITIES INSTALLED BEFORE THE
3 EFFECTIVE DATE OF THIS CLAUSE.]

4 (C) A FACILITY OWNER MAY NOT BE REQUIRED TO LOCATE LINES OR
5 FACILITIES INSTALLED BEFORE APRIL 30, 2018, UNLESS THE FACILITY
6 OWNER HAS EXISTING MAPS OF THE LINES OR FACILITIES AND THE
7 FACILITY OWNER'S EXISTING MAPS MEET THE SPECIFICATIONS OF THE
8 ONE CALL SYSTEM'S MEMBER MAPPING SOLUTIONS. NOTHING UNDER THIS
9 CLAUSE SHALL PROHIBIT A FACILITY OWNER AS A MEMBER OF THE ONE
10 CALL SYSTEM FROM VOLUNTARILY SUBMITTING TO THE ONE CALL SYSTEM
11 MAPS OF LINES OR FACILITIES INSTALLED BEFORE APRIL 30, 2018.

12 * * *

13 (IV) THE STREET IDENTIFICATIONS OR LIKE INFORMATION WITHIN
14 EACH OF THE MUNICIPALITIES IN WHICH ITS LINES ARE LOCATED. THIS
15 INFORMATION SHALL BE IN A FORM ACCEPTABLE TO THE ONE CALL
16 SYSTEM. UPON ACCEPTANCE OF THE INFORMATION FROM A FACILITY
17 OWNER, THE ONE CALL SYSTEM SHALL PROVIDE THE FACILITY OWNER WITH
18 NOTIFICATION WITHIN THE BOUNDARIES DESCRIBED. ALL FACILITY
19 OWNERS SHALL AGREE TO INDEMNIFY AND HOLD HARMLESS THE ONE CALL
20 SYSTEM FOR ANY ERRORS AND OMISSIONS ON THE PART OF THE FACILITY
21 OWNER OR THE EXCAVATOR OR DESIGNER PROVIDING THE INFORMATION AS
22 THE AGENT OF THE FACILITY OWNER OR MEMBER MAPPING INFORMATION AS
23 REQUIRED BY THE ONE CALL SYSTEM; AND

24 * * *

25 (5) AFTER RECEIPT OF A TIMELY REQUEST FROM AN EXCAVATOR OR
26 OPERATOR WHO IDENTIFIES THE WORK SITE OF EXCAVATION OR
27 DEMOLITION WORK HE INTENDS TO PERFORM AND NOT LATER THAN THE
28 BUSINESS DAY PRIOR TO THE LAWFUL START DATE OF EXCAVATION:

29 (I) TO MARK, STAKE, LOCATE OR OTHERWISE PROVIDE THE POSITION
30 OF THE FACILITY OWNER'S UNDERGROUND LINES AT THE WORK SITE

1 WITHIN EIGHTEEN INCHES HORIZONTALLY FROM THE OUTSIDE WALL OF
2 SUCH LINE IN A MANNER SO AS TO ENABLE THE EXCAVATOR, WHERE
3 APPROPRIATE, TO EMPLOY PRUDENT TECHNIQUES, WHICH MAY INCLUDE
4 HAND-DUG TEST HOLES, TO DETERMINE THE PRECISE POSITION OF THE
5 UNDERGROUND FACILITY OWNER'S LINES. THIS SHALL BE DONE TO THE
6 EXTENT SUCH INFORMATION IS AVAILABLE IN THE FACILITY OWNER'S
7 RECORDS OR BY USE OF STANDARD LOCATING TECHNIQUES OTHER THAN
8 EXCAVATION. STANDARD LOCATING TECHNIQUES SHALL INCLUDE, AT THE
9 UTILITY OWNER'S DISCRETION, THE OPTION TO CHOOSE AVAILABLE
10 TECHNOLOGIES SUITABLE TO EACH TYPE OF LINE OR FACILITY BEING
11 LOCATED AT THE WORK SITE, TOPOGRAPHY OR SOIL CONDITIONS OR TO
12 ASSIST THE FACILITY OWNER IN LOCATING ITS LINES OR FACILITIES,
13 BASED ON ACCEPTED ENGINEERING AND OPERATIONAL PRACTICES.

14 [FACILITY OWNERS SHALL MAKE REASONABLE EFFORTS DURING THE
15 EXCAVATION PHASE TO LOCATE OR NOTIFY EXCAVATORS OF THE EXISTENCE
16 AND TYPE OF ABANDONED LINES.] FACILITY OWNERS SHALL MAKE
17 REASONABLE EFFORTS DURING THE EXCAVATION PHASE TO LOCATE OR
18 NOTIFY EXCAVATORS OF THE EXISTENCE OF ANY KNOWN LINES AND
19 ABANDONED LINES.

20 * * *

21 (I.2) TO DOCUMENT COMMUNICATIONS BETWEEN A FACILITY OWNER
22 AND THE EXCAVATOR TO ENSURE THAT THE EXCAVATOR IS AWARE OF A
23 FACILITY OWNER'S INABILITY TO LOCATE ITS FACILITIES.

24 * * *

25 (V.2) TO TIMELY ENTER A FINAL RESPONSE TO ALL LOCATE
26 REQUESTS.

27 * * *

28 (10) TO SUBMIT A REPORT OF ALLEGED VIOLATION TO THE
29 COMMISSION THROUGH THE ONE CALL SYSTEM NOT MORE THAN THIRTY
30 BUSINESS DAYS AFTER RECEIPT OF NOTICE THAT THE FACILITY OWNER'S

1 LINES HAVE BEEN DAMAGED BY EXCAVATION OR DEMOLITION WORK OR IF
2 THE FACILITY OWNER BELIEVES A VIOLATION OF THIS ACT HAS BEEN
3 COMMITTED IN ASSOCIATION WITH EXCAVATION OR DEMOLITION WORK. THE
4 REPORT OF ALLEGED VIOLATION SHALL BE IN A FORM AND MANNER AS
5 REQUIRED BY THE COMMISSION. [NO REPORT MAY BE REQUIRED WHERE THE
6 COST TO REPAIR THE DAMAGE TO THE FACILITY OWNER'S LINES IS LESS
7 THAN TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500), UNLESS THE SAME
8 PERSON DAMAGED THE FACILITY OWNER'S LINES TWO OR MORE TIMES
9 WITHIN A SIX-MONTH PERIOD.]

10 * * *

11 (13) TO MAINTAIN EXISTING RECORDS OF MAIN LINES ABANDONED ON
12 OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH AND TO MARK,
13 LOCATE [OR] AND IDENTIFY THE MAIN LINES IF POSSIBLE, BASED UPON
14 THE EXISTING RECORDS. THE RECORDS SHALL INCLUDE WRITTEN OR
15 ELECTRONIC DOCUMENTS OR DRAWINGS IN THE POSSESSION OF THE
16 FACILITY OWNER THAT SHOW THE LOCATION OF AN EXISTING LINE OR
17 FACILITY.

18 (14) TO COMPLY WITH ALL REQUESTS FOR INFORMATION BY THE
19 COMMISSION RELATING TO THE COMMISSION'S ENFORCEMENT AUTHORITY
20 UNDER THIS ACT WITHIN THIRTY DAYS OF RECEIPT OF THE REQUEST.

21 SECTION 3. SECTIONS 4(5), 5(2.1), (8), (11.2), (15), (16)
22 AND (20) AND 6.1(1), (2) AND (7) OF THE ACT ARE AMENDED AND THE
23 SECTIONS ARE AMENDED BY ADDING CLAUSES TO READ:

24 SECTION 4. IT SHALL BE THE DUTY OF EACH DESIGNER PREPARING A
25 DRAWING WHICH REQUIRES EXCAVATION OR DEMOLITION WORK WITHIN THIS
26 COMMONWEALTH:

27 * * *

28 (2.2) TO SUBMIT A DESIGN NOTIFICATION THROUGH THE ONE CALL
29 SYSTEM WHEN A DESIGN DRAWING IS COMPLETED.

30 (2.3) TO TIMELY RESPOND TO NOTIFICATIONS RECEIVED FROM

1 EXCAVATORS IN ACCORDANCE WITH SECTION 5(15).

2 (2.4) TO INFORM THE PROJECT OWNER OF THE PROJECT OWNER'S
3 DUTIES UNDER SECTIONS 5(15) AND 6.1(1).

4 (2.5) TO COMPLY WITH ALL REQUESTS FOR INFORMATION BY THE
5 COMMISSION RELATING TO THE COMMISSION'S ENFORCEMENT AUTHORITY
6 UNDER THIS ACT WITHIN THIRTY DAYS OF WRITTEN RECEIPT OF THE
7 REQUEST.

8 * * *

9 (4.1) TO DEPICT LINES OR FACILITIES WITH THE APPROPRIATE
10 QUALITY LEVELS BASED ON THE COMPLEXITY OF THE DESIGN AND
11 CONSTRUCTION ACTIVITIES OBTAINED THROUGH THE SUE PROCESS IN THE
12 PLANNING AND DESIGN PHASES IN ACCORDANCE WITH THE AMERICAN
13 SOCIETY OF CIVIL ENGINEERS (ASCE) MOST RECENTLY PUBLISHED
14 STANDARD CI/ASCE 38.

15 (4.2) IN THE EVENT THAT AS-BUILTS ARE REQUIRED DURING THE
16 CONSTRUCTION PHASE, TO PREPARE THE AS-BUILTS IN ACCORDANCE WITH
17 THE MOST RECENTLY PUBLISHED STANDARD OF CI/ASCE 75.

18 (5) A DESIGNER SHALL BE DEEMED TO HAVE MET THE OBLIGATIONS
19 OF CLAUSE (2) IF HE [CALLS] NOTIFIES THE ONE CALL SYSTEM AND
20 SHOWS, AS PROOF, THE SERIAL NUMBER OF ONE CALL NOTICE ON
21 DRAWINGS. THE DESIGNER SHALL ALSO SHOW THE TOLL-FREE NUMBER OF
22 THE ONE CALL SYSTEM ON THE DRAWING NEAR HIS SERIAL NUMBER.

23 * * *

24 SECTION 5. IT SHALL BE THE DUTY OF EACH EXCAVATOR WHO
25 INTENDS TO PERFORM EXCAVATION OR DEMOLITION WORK WITHIN THIS
26 COMMONWEALTH:

27 (2.1) TO [REQUEST] SUBMIT A LOCATE REQUEST TO IDENTIFY THE
28 LOCATION AND TYPE OF FACILITY OWNER LINES AT EACH WORK SITE BY
29 NOTIFYING THE FACILITY OWNER THROUGH THE ONE CALL SYSTEM.
30 NOTIFICATION SHALL BE NOT LESS THAN THREE NOR MORE THAN TEN

1 BUSINESS DAYS IN ADVANCE OF BEGINNING EXCAVATION OR DEMOLITION
2 WORK. NO WORK SHALL BEGIN EARLIER THAN THE LAWFUL START DATE
3 WHICH SHALL BE ON OR AFTER THE THIRD BUSINESS DAY AFTER
4 NOTIFICATION. THE LAWFUL START DATE SHALL EXCLUDE THE DATE UPON
5 WHICH NOTIFICATION WAS RECEIVED BY THE ONE CALL SYSTEM AND
6 NOTIFICATION RECEIVED ON A SATURDAY, SUNDAY OR HOLIDAY, WHICH
7 SHALL BE PROCESSED ON THE FOLLOWING BUSINESS DAY. IN THE CASE OF
8 A COMPLEX PROJECT, NOTIFICATION SHALL NOT BE LESS THAN TEN
9 BUSINESS DAYS IN ADVANCE OF THE BEGINNING OF EXCAVATION OR
10 DEMOLITION WORK.

11 * * *

12 (8) TO IMMEDIATELY NOTIFY 911 AND THE FACILITY OWNER IF THE
13 DAMAGE RESULTS IN THE ESCAPE OF ANY FLAMMABLE, TOXIC OR
14 CORROSIVE GAS OR LIQUID [WHICH ENDANGERS LIFE, HEALTH OR
15 PROPERTY]. THE EXCAVATOR SHALL TAKE REASONABLE MEASURES, BASED
16 ON ITS KNOWLEDGE, TRAINING, RESOURCES, EXPERIENCE AND
17 UNDERSTANDING OF THE SITUATION, TO PROTECT THEMSELVES AND THOSE
18 IN IMMEDIATE DANGER, THE GENERAL PUBLIC, THE PROPERTY AND THE
19 ENVIRONMENT UNTIL THE FACILITY OWNER OR EMERGENCY RESPONDERS
20 HAVE ARRIVED AND COMPLETED THEIR ASSESSMENT AND SHALL REMAIN ON
21 THE WORK SITE TO CONVEY ANY PERTINENT INFORMATION TO RESPONDERS
22 THAT MAY HELP THEM TO SAFELY MITIGATE THE SITUATION.

23 * * *

24 (11.2) [IF USING HORIZONTAL DIRECTIONAL DRILLING (HDD), AT]
25 IF USING TRENCHLESS TECHNOLOGY, AT A MINIMUM, TO UTILIZE THE
26 BEST PRACTICES PUBLISHED BY THE [HDD CONSORTIUM] COMMON GROUND
27 ALLIANCE.

28 * * *

29 (15) WHEN THE INFORMATION REQUIRED FROM THE FACILITY OWNER
30 UNDER SECTION 2 (5) (I) CANNOT BE PROVIDED OR, DUE TO THE NATURE

1 OF THE INFORMATION RECEIVED FROM THE FACILITY OWNER, IT IS
2 REASONABLY NECESSARY FOR THE EXCAVATOR TO ASCERTAIN THE PRECISE
3 LOCATION OF ANY LINE OR ABANDONED OR UNCLAIMED LINES BY PRUDENT
4 TECHNIQUES, WHICH MAY INCLUDE HAND-DUG TEST HOLES, VACUUM
5 EXCAVATION OR OTHER SIMILAR DEVICES, THE EXCAVATOR SHALL
6 PROMPTLY NOTIFY THE PROJECT OWNER OR THE PROJECT OWNER'S
7 REPRESENTATIVE, EITHER ORALLY OR IN WRITING. IF ORAL
8 NOTIFICATION IS GIVEN, THE NOTICE SHALL BE REDUCED TO WRITING
9 WITHIN A REASONABLE TIME BY THE PROJECT OWNER OR EXCAVATOR.
10 AFTER GIVING SUCH NOTICE, THE EXCAVATOR SHALL BE ENTITLED TO
11 COMPENSATION FROM THE PROJECT OWNER FOR THIS ADDITIONAL WORK AS
12 PROVIDED IN THE LATEST EDITION OF THE PENNSYLVANIA DEPARTMENT OF
13 TRANSPORTATION FORM 408 SPECIFICATIONS FOR EXTRA WORK PERFORMED
14 ON A FORCE ACCOUNT BASIS. THE PROVISIONS OF THIS SUBSECTION
15 SHALL NOT BE DEEMED TO LIMIT ANY OTHER RIGHTS WHICH THE
16 EXCAVATOR HAS UNDER ITS CONTRACT WITH THE PROJECT OWNER OR
17 OTHERWISE. PROVISIONS IN ANY CONTRACT, PUBLIC OR PRIVATE, WHICH
18 ATTEMPT TO LIMIT THE RIGHTS OF EXCAVATORS UNDER THIS SECTION
19 SHALL NOT BE VALID FOR ANY REASON, AND ANY ATTEMPTED WAIVER OF
20 THIS SECTION SHALL BE VOID AND UNENFORCEABLE AS AGAINST PUBLIC
21 POLICY AND ANY SUCH ATTEMPTED WAIVER SHALL BE REPORTED TO THE
22 COMMISSION PROSECUTOR STAFF FOR APPROPRIATE ACTION, INCLUDING
23 THE IMPOSITION OF AN ADMINISTRATIVE PENALTY UNDER SECTION 7.10.

24 (16) TO SUBMIT A REPORT OF AN ALLEGED VIOLATION TO THE
25 COMMISSION THROUGH THE ONE CALL SYSTEM NOT MORE THAN [TEN
26 BUSINESS] THIRTY DAYS AFTER STRIKING OR DAMAGING A FACILITY
27 OWNER'S LINE DURING EXCAVATION OR DEMOLITION OR IF THE EXCAVATOR
28 BELIEVES A VIOLATION OF THIS ACT HAS BEEN COMMITTED IN
29 ASSOCIATION WITH EXCAVATION OR DEMOLITION WORK. THE REPORT OF AN
30 ALLEGED VIOLATION SHALL BE IN A FORM AND MANNER AS REQUIRED BY

1 THE COMMISSION.

2 * * *

3 (20) TO RENOTIFY THE ONE CALL SYSTEM OF AN UNMARKED OR
4 INCORRECTLY MARKED FACILITY, IF AN ORIGINAL, PROPER [,
5 NONEMERGENCY] LOCATE REQUEST HAS BEEN MADE TO THE ONE CALL
6 SYSTEM AND, UPON INITIAL ARRIVAL AT THE PROPOSED WORK SITE, IT
7 IS APPARENT TO THE EXCAVATOR THAT THERE IS AN UNMARKED OR
8 INCORRECTLY MARKED FACILITY. AN EXCAVATOR MAY NOT BEGIN
9 EXCAVATING IN THE AFFECTED AREA OF THE WORK SITE UNTIL AFTER
10 RECEIVING SUFFICIENT INFORMATION FROM THE FACILITY OWNER TO
11 SAFELY EXCAVATE. IF THE FACILITY OWNER FAILS TO PROVIDE
12 SUFFICIENT INFORMATION TO THE EXCAVATOR WITHIN THREE HOURS AFTER
13 THE EXCAVATOR HAS NOTIFIED THE ONE CALL SYSTEM OF THE UNMARKED
14 OR INCORRECTLY MARKED FACILITY, THE EXCAVATOR MAY PROCEED WITH
15 EXCAVATION SUBJECT TO THE LIMITATIONS UNDER CLAUSE (5). THIS
16 CLAUSE SHALL APPLY TO AN EMERGENCY OR NONEMERGENCY LOCATE
17 REQUEST.

18 * * *

19 (22) TO NOT PROVIDE A MISREPRESENTATION OF AN EMERGENCY
20 EXCAVATION, SUBJECT TO AN ADMINISTRATIVE PENALTY IMPOSED UNDER
21 SECTION 7.10.

22 (23) TO NOT DELEGATE THE EXCAVATOR'S DUTY TO SUBMIT A LOCATE
23 REQUEST TO THE ONE CALL SYSTEM TO ANOTHER PERSON. THE EXCAVATOR
24 SHALL HAVE THE SOLE RESPONSIBILITY TO SUBMIT EACH LOCATE REQUEST
25 TO THE ONE CALL SYSTEM.

26 SECTION 6.1. IT SHALL BE THE DUTY OF EACH PROJECT OWNER WHO
27 ENGAGES IN EXCAVATION OR DEMOLITION WORK TO BE DONE WITHIN THIS
28 COMMONWEALTH:

29 (1) TO UTILIZE [SUFFICIENT QUALITY LEVELS OF] SUBSURFACE
30 UTILITY ENGINEERING OR OTHER SIMILAR TECHNIQUES WHENEVER

1 PRACTICABLE TO PROPERLY DETERMINE THE EXISTENCE AND POSITIONS OF
2 UNDERGROUND FACILITIES WHEN DESIGNING KNOWN COMPLEX PROJECTS
3 HAVING AN ESTIMATED COST OF FOUR HUNDRED THOUSAND DOLLARS
4 (\$400,000) OR MORE.

5 (2) TO TIMELY RESPOND TO NOTIFICATIONS RECEIVED FROM
6 EXCAVATORS PURSUANT TO SECTION 5(15). PROVISIONS IN ANY
7 CONTRACT, PUBLIC OR PRIVATE, WHICH ATTEMPT TO LIMIT THE RIGHTS
8 OF EXCAVATORS UNDER SECTION 5 SHALL NOT BE VALID FOR ANY REASON,
9 AND ANY ATTEMPTED WAIVER OF SECTION 5 SHALL BE VOID AND
10 UNENFORCEABLE AS AGAINST PUBLIC POLICY AND ANY SUCH ATTEMPTED
11 WAIVER SHALL BE REPORTED TO THE COMMISSION PROSECUTOR STAFF FOR
12 APPROPRIATE ACTION, INCLUDING THE IMPOSITION OF AN
13 ADMINISTRATIVE PENALTY UNDER SECTION 7.10.

14 * * *

15 (7) TO SUBMIT A REPORT OF ALLEGED VIOLATION TO THE
16 COMMISSION THROUGH THE ONE CALL SYSTEM NOT MORE THAN [TEN
17 BUSINESS] THIRTY DAYS AFTER STRIKING OR DAMAGING A FACILITY
18 OWNER'S LINE DURING EXCAVATION OR DEMOLITION WORK ACTIVITIES,
19 AFTER A PROJECT OWNER'S CONTRACTED EXCAVATOR STRIKES OR DAMAGES
20 A FACILITY OWNER'S LINE DURING EXCAVATION OR DEMOLITION
21 ACTIVITIES OR IF THE PROJECT OWNER BELIEVES A VIOLATION OF THIS
22 ACT HAS BEEN COMMITTED IN ASSOCIATION WITH EXCAVATION OR
23 DEMOLITION. THE REPORT OF ALLEGED VIOLATION SHALL BE IN A FORM
24 AND MANNER AS REQUIRED BY THE COMMISSION.

25 (8) TO COMPLY WITH ALL REQUESTS FOR INFORMATION BY THE
26 COMMISSION RELATING TO THE COMMISSION'S ENFORCEMENT AUTHORITY
27 UNDER THIS ACT WITHIN THIRTY DAYS OF RECEIPT OF THE WRITTEN
28 REQUEST.

29 SECTION 4. SECTION 7.8(A)(2) AND (5)(I), (B)(1) AND (5), (C)
30 (1)(II) AND (2), (D) AND (E)(3) OF THE ACT ARE AMENDED,

1 SUBSECTION (C) IS AMENDED BY ADDING A CLAUSE AND THE SECTION IS
2 AMENDED BY ADDING A SUBSECTION TO READ:

3 SECTION 7.8. (A) A DAMAGE PREVENTION COMMITTEE SHALL BE
4 ESTABLISHED AS FOLLOWS:

5 * * *

6 (2) A PERSON APPOINTED TO THE COMMITTEE MUST HAVE EXPERTISE
7 WITHIN THE OPERATION OF THIS ACT RELATED TO THE INDUSTRY
8 REPRESENTED.

9 * * *

10 (5) THE INITIAL TERM OF COMMITTEE MEMBERS SHALL BE AS
11 FOLLOWS:

12 (I) TWO REPRESENTATIVES OF FACILITY OWNERS UNDER CLAUSE (1)
13 (IV) SHALL SERVE THREE YEARS, ONE REPRESENTATIVE SHALL SERVE TWO
14 YEARS AND TWO REPRESENTATIVES SHALL SERVE ONE YEAR.

15 * * *

16 (B) THE COMMITTEE SHALL MEET REGULARLY TO CARRY OUT THE
17 FOLLOWING PURPOSES:

18 (1) REVIEW A REPORT OF AN ALLEGED VIOLATION OF THIS ACT AND
19 DAMAGE PREVENTION INVESTIGATOR FINDINGS [AND RECOMMENDATIONS.]
20 CONCERNING THE BASIS OR ROOT CAUSE OF THE ALLEGED VIOLATION
21 REPORTED AND RECOMMENDATIONS PROPOSED TO ADDRESS THE ALLEGED
22 VIOLATION.

23 * * *

24 (5) ISSUE AN INFORMAL DETERMINATION THAT MODIFIES OR
25 DISMISSES A RECOMMENDATION OF [COMMITTEE STAFF] THE DAMAGE
26 PREVENTION INVESTIGATOR.

27 (C) THE FOLLOWING SHALL APPLY TO ALLEGED VIOLATIONS:

28 (1) A PERSON DETERMINED, IN A REPORT ISSUED BY A DAMAGE
29 PREVENTION INVESTIGATOR, TO HAVE COMMITTED AN ALLEGED VIOLATION
30 SHALL DO ONE OF THE FOLLOWING:

1 * * *

2 (II) APPEAR BEFORE THE [COMMISSION] COMMITTEE TO PRESENT ITS
3 POSITION.

4 (2) A PERSON WHO IS SUBJECT TO AN INFORMAL DETERMINATION OF
5 THE COMMITTEE MAY ACCEPT OR REJECT THE RESULT. IF [AN INFORMAL
6 DETERMINATION IS REJECTED,] A PERSON WHO IS SUBJECT TO AN
7 INFORMAL DETERMINATION OPTS TO REJECT THE INFORMAL
8 DETERMINATION, THE PERSON SHALL REJECT THE INFORMAL
9 DETERMINATION IN WRITING WITHIN THIRTY DAYS OF THE DATE WHEN THE
10 INFORMAL DETERMINATION IS MADE BY THE COMMITTEE AND THE MATTER
11 SHALL BE [RETURNED TO THE DAMAGE PREVENTION INVESTIGATOR FOR
12 FURTHER ACTION, IF APPROPRIATE, INCLUDING REFERRING THE MATTER]
13 REFERRED TO THE COMMISSION PROSECUTOR STAFF FOR [THE PURPOSE OF
14 ISSUING A FORMAL COMPLAINT.] AN ACTION RESULTING IN A FORMAL
15 COMPLAINT BEFORE THE COMMISSION. AN ACTION RESULTING IN A FORMAL
16 COMPLAINT BEFORE THE COMMISSION MUST BE BROUGHT BY COMMISSION
17 PROSECUTOR STAFF WITHIN THE TIME LIMITS SPECIFIED UNDER 66
18 PA.C.S. § 3314(A) (RELATING TO LIMITATION OF ACTIONS AND
19 CUMULATION OF REMEDIES).

20 (3) WHEN A WRITTEN REJECTION OF AN INFORMAL DETERMINATION
21 UNDER CLAUSE (2) RESULTS IN A FORMAL COMPLAINT BEFORE THE
22 COMMISSION, THE COMMISSION SHALL CONDUCT A DE NOVO REVIEW OF THE
23 ALLEGED VIOLATION. THE INFORMAL DETERMINATION OF THE COMMITTEE
24 SHALL NOT BE BINDING UPON THE COMMISSION.

25 (D) EXCEPT FOR ALLEGED VIOLATIONS INVOLVING INJURY OR DEATH,
26 THE PROVISIONS OF SUBSECTION (C) [MAY] SHALL BE APPLIED IN
27 ADVANCE OR INSTEAD OF FILING A FORMAL COMPLAINT AGAINST A PERSON
28 DETERMINED, IN A REPORT ISSUED BY A DAMAGE PREVENTION
29 INVESTIGATOR, TO HAVE COMMITTED AN ALLEGED VIOLATION. AN
30 INFORMAL DETERMINATION OF THE COMMITTEE SHALL BE BINDING ON THE

1 COMMISSION UNLESS THE PERSON REJECTS THE INFORMAL DETERMINATION.

2 (D.1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE
3 COMMITTEE SHALL ONLY HAVE THE POWERS AND DUTIES ENUMERATED IN
4 SUBSECTIONS (B) AND (C) IF THE COMMITTEE COMPLETES ITS REVIEW OF
5 AN ALLEGED VIOLATION AND ISSUES AN INFORMAL DETERMINATION WITHIN
6 TWO HUNDRED SEVENTY DAYS OF THE OCCURRENCE OF THE ALLEGED
7 VIOLATION.

8 (E) THE COMMITTEE SHALL HAVE THE FOLLOWING ADDITIONAL
9 DUTIES:

10 * * *

11 (3) SUBMIT AN ANNUAL REPORT CONTAINING RELEVANT DAMAGE
12 PREVENTION DATA TO THE COMMISSION, THE COMMITTEE ON CONSUMER
13 PROTECTION AND PROFESSIONAL LICENSURE OF THE SENATE AND THE
14 COMMITTEE ON CONSUMER [AFFAIRS] PROTECTION, TECHNOLOGY AND
15 UTILITIES OF THE HOUSE OF REPRESENTATIVES. THE REPORT SHALL
16 INCLUDE RELEVANT METRICS TO DEMONSTRATE HOW THE DAMAGE
17 PREVENTION COMMITTEE'S ACTIONS ADVANCE THE GOAL OF MINIMIZING
18 THE OCCURRENCE OF LINE HITS AND ENHANCE PUBLIC SAFETY.

19 * * *

20 SECTION 5. SECTION 7.10(C) OF THE ACT IS AMENDED TO READ:
21 SECTION 7.10. * * *

22 (C) THE FOLLOWING SHALL APPLY:

23 (1) AN ADMINISTRATIVE PENALTY RECOVERED UNDER THIS SECTION
24 SHALL BE PAYABLE TO THE COMMISSION AND COLLECTED IN THE MANNER
25 PROVIDED FOR BY LAW.

26 (2) A PERSON OR ENTITY VIOLATING THIS ACT MUST PAY AN
27 ADMINISTRATIVE PENALTY TO THE COMMISSION WITHIN SIXTY DAYS OF
28 ISSUANCE OF THE INFORMAL DETERMINATION, UNLESS THE PERSON OR
29 ENTITY SUBJECT TO THE INFORMAL DETERMINATION REJECTS THE
30 INFORMAL DETERMINATION WITHIN THIRTY DAYS IN ACCORDANCE WITH

1 SECTION 7.8(C) (2) .

2 (3) THE COMMISSION SHALL ASSESS AN ADDITIONAL ADMINISTRATIVE
3 PENALTY OF ONE HUNDRED DOLLARS (\$100) PER DAY, NOT TO EXCEED A
4 TOTAL OF FIVE THOUSAND DOLLARS (\$5,000), FOR AN ADMINISTRATIVE
5 PENALTY NOT PAID WITHIN THE PERIOD SPECIFIED UNDER PARAGRAPH
6 (2) .

7 (4) A PERSON OR ENTITY SUBJECT TO AN INFORMAL DETERMINATION
8 OF THE COMMITTEE REQUIRING A DAMAGE PREVENTION EDUCATIONAL
9 PROGRAM UNDER SECTION 7.8(B) (4) SHALL SUCCESSFULLY COMPLETE THE
10 PROGRAM WITHIN SIXTY DAYS OF ISSUANCE OF THE INFORMAL
11 DETERMINATION. THE COMMISSION SHALL ASSESS AN ADDITIONAL
12 ADMINISTRATIVE PENALTY OF ONE HUNDRED DOLLARS (\$100) PER DAY,
13 NOT TO EXCEED A TOTAL OF FIVE THOUSAND DOLLARS (\$5,000), ON A
14 PERSON OR ENTITY THAT FAILS TO COMPLY WITH THIS CLAUSE.

15 * * *

16 SECTION 6. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
17 SECTION 7.11. EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, AN
18 ACTION FOR THE RECOVERY OF ANY PENALTY OR FORFEITURE INCURRED
19 UNDER THE PROVISIONS OF THIS ACT OR A PROSECUTION ON ACCOUNT OF
20 ANY MATTER OR THING MENTIONED IN THIS ACT MAY NOT BE MAINTAINED
21 UNLESS BROUGHT WITHIN THREE YEARS FROM THE DATE AT WHICH THE
22 LIABILITY AROSE.

23 SECTION 7. SECTION 39 OF THE IS AMENDED TO READ:

24 SECTION 39. THIS ACT SHALL EXPIRE ON DECEMBER 31, [2024]
25 2031.

26 SECTION 8. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.