

PIPELINE SAFETY CONFERENCE

DAMAGE PREVENTION COMPARING STATE LAWS

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OUTLINE

❖ TIMELINES

- MAKING THE CALL
- OPERATOR RESPONSES
- TICKET LIFE

❖ WHITE LINING

❖ TOLERANCE ZONES

- SPECIAL REQUIREMENTS

❖ PRESERVING MARKS

❖ 2ND REQUESTS

❖ PIGGY BACKING

❖ NOTIFICATION OF DAMAGE/HAZARDOUS RELEASES

❖ TRENCHLESS TECHNOLOGY

❖ EXEMPTIONS

❖ POSITIVE RESPONSE

❖ ABANDONED FACILITIES

❖ LOCATING SEWER LATERALS

❖ REMOVING MARKS

❖ MANDATORY REPORTING

❖ LOCATOR QUALIFICATIONS

❖ ENFORCEMENT AUTHORITIES

❖ PENALTIES

- EXCAVATORS
- OPERATORS

❖ <https://primis.phmsa.dot.gov/comm/DamagePrevention.htm?nocache=4738>



TIMELINES

❖ HOW LONG MUST I WAIT?

- THE STANDARD IS 48 HOURS (TWO WORKING DAYS)
- SOME STATES HAVE LONGER WAITS
 - THREE DAYS – MAINE, MASSACHUSETTS, NEW JERSEY, NORTH CAROLINA, PENNSYLVANIA, RHODE ISLAND, SOUTH CAROLINA, TENNESSEE, WISCONSIN
 - FIVE DAYS – HAWAII

❖ WHEN MUST I START WORK?

- VARIES FROM STATE TO STATE
 - TEN DAYS – 18 STATES
 - FOURTEEN DAYS – 5 STATES
 - LOUISIANA – 120 HOURS (NOT INCLUDING WEEKENDS/HOLIDAYS)

❖ TICKET LIFE

- MASSACHUSETTS, MISSOURI, PENNSYLVANIA – INDEFINITE AS LONG AS WORK IS CONTINUOUS AND MARKS ARE VISIBLE
- OTHER STATES – VARIES FROM 14 DAYS TO 60 DAYS (14-30 DAYS IS MOST PREVELANT)



TIMELINE DEVIATIONS

- ❖ **CALIFORNIA** - PARTIES CAN AGREE TO A DIFFERENT START DATE
- ❖ **GEORGIA/KENTUCKY** - ALLOW FOR COMMENCEMENT IF ALL MARKS/NO CONFLICTS RECEIVED
- ❖ **LOUISIANA** - EXTEND THE MARK BY TIME IF MUTUALLY AGREED UPON
- ❖ **MARYLAND** – IF UNABLE TO MARK BECAUSE OF THE SCOPE OF EXCAVATION, NOTIFY THE EXCAVATOR AND WORK ON A TIME FRAME FOR MARKING. IF THERE IS REASON TO BELIEVE A UTILITY IS IN THE WORK AREA BUT NOT MARKED, NOTICE MUST BE REPEATED
- ❖ **NORTH CAROLINA/SOUTH CAROLINA** – 10 DAYS TO MARK IN SUBAQUEOUS ENVIRONMENTS BUT NOT MORE THAN 20 DAYS IN ADVANCE OF WORK TO BEGIN
- ❖ **OHIO** – IF AN EXCAVATION WILL COVER A LARGE AREA AND WILL PROGRESS FROM ONE AREA TO ANOTHER, THE EXCAVATOR SHALL PROVIDE WRITTEN NOTICE OF EXCAVATION WITH PROJECTED TIMELINES FOR SEGMENTS OF EXCAVATION IN ORDER TO COORDINATE WITH THE OPERATOR AND ESTABLISH A MUTUALLY AGREED UPON SCHEDULE
- ❖ **PENNSYLVANNIA** – COMPLEX PROJECTS MUST WORK WITH UTILITIES TO SCHEDULE WORK AND HOLD PRE-CONSTRUCTION MEETINGS
- ❖ **RHODE ISLAND** – IF DISCHARGING EXPLOSIVES WITHIN 100' OF A UTILITY, MUST NOTIFY THE ENTITY BY PHONE AT LEAST 72 HOURS IN ADVANCE BUT NOT MORE THAN 30 DAYS
- ❖ **SOUTH DAKOTA** – MAY EXTEND MARK BY TIMES FOR NON-EXCAVATION TICKETS



WHITE LINING

❖ WHERE IS WHITE LINING REQUIRED?

- 34 STATES REQUIRE WHITE LINING WITHOUT EXCEPTIONS
- ARIZONA – YES, IF REQUESTED
- ARKANSAS – YES, UNLESS MUTUALLY AGREED UPON BY ALL PARTIES
- ALABAMA, COLORADO, FLORIDA, INDIANA – YES, IF THE LOCATION OF THE EXCAVATION AREA CANNOT BE COMMUNICATED
- LOUISIANA – NOT YET!
 - 40:1749.13.D (Excavation and demolition; prohibitions) – Excavators may use white paint as marking under American Public Works Association guidelines.
 - HB NO. 382 – Filed in 2020 but not heard
- MISSISSIPPI – NO
- NEW MEXICO – YES
- TEXAS - YES



TOLERANCE ZONES

- ❖ 18” – 27 STATES
- ❖ 24” – 22 STATES
- ❖ HAWAII ALLOWS A TOLERANCE ZONE OF 30”
- ❖ MICHIGAN HAS A 48” “CAUTION ZONE”, WITHIN THIS ZONE, PIPELINES MUST BE EXPOSED USING SOFT EXCAVATION
- ❖ ALABAMA – 18”
- ❖ ARKANSAS – 18”
- ❖ LOUISIANA – 18”
- ❖ NEW MEXICO – 18”
- ❖ 42 STATES REQUIRE SOFT EXCAVATION WITHIN THE TOLERANCE ZONE
 - LOUISIANA DOES NOT
 - 40:1749.16(4) (Precautions to avoid damage) – Dig test pits to determine the actual location of facilities or utilities handling electricity, gas, natural gas, oil petroleum products, or other flammable, toxic, or corrosive fluids/gases if these facilities or utilities are to be exposed.
 - ❖ ALABAMA DOES
 - ❖ ARKANSAS DOES
 - ❖ MISSISSIPPI DOES NOT
 - ❖ NEW MEXICO DOES
 - ❖ TEXAS DOES



PRESERVING MARKS

- ❖ 37 STATES REQUIRE OPERATORS TO TAKE CARE TO PRESERVE MARKS
 - ALABAMA – YES
 - ARKANSAS – NO
 - LOUISIANA – YES
 - 40:1749.14.C(1)(b)(iv) (Regional Notification Center) – The excavator shall use all reasonable and prudent means, within common industry practice, to protect and preserve all marks of the underground utility or facility.
 - MISSISSIPPI – NO
 - NEW MEXICO – YES
 - TEXAS - NO
- 31 STATES REQUIRE A NOTIFICATION IF MARKS ARE NO LONGER VISIBLE
 - ALABAMA – YES
 - ARKANSAS – NO
 - LOUISIANA – YES
 - 40:1749.14.C(1)(b)(iii) (Regional Notification Center) – When the utility or facility operator has marked the location...the marking shall be deemed good as long as visible...An additional notice to the regional notification center shall be given by the excavator or demolisher...when the marks are no longer visible...
 - MISSISSIPPI – NO
 - NEW MEXICO – NO
 - TEXAS – YES
- ❖ ARKANSAS, MISSISSIPPI, TENNESSEE AND WISCONSIN DO NOT REQUIRE EXCAVATOR TO PRESERVE MARKS OR NOTIFY IF MARKS ARE NO LONGER VISIBLE



2ND REQUESTS

- ❖ 16 STATES REQUIRE EXCAVATOR TO MAKE A 2ND REQUEST IF NO RESPONSE IS RECEIVED FROM AN OPERATOR OR THERE ARE SIGNS OF UNMARKED FACILITIES
 - CALIFORNIA, COLORADO, CONNECTICUT, GEORGIA, HAWAII, IDAHO, MASSACHUSETTS, MISSOURI, MONTANA, NEVADA, NEW YORK, OREGON, PENNSYLVANIA, TENNESSEE, VIRGINIA, WASHINGTON
 - CONNECTICUT (16-345-4(c)(8))
 - Any excavator performing excavation or demolition within the State of Connecticut shall: Immediately request assistance from the public utility in the event an excavator has reason to believe there are underground facilities of a public utility in the designated area that have not been marked by the public utility in accordance with section 16-345-5 of the Regulations of Connecticut State Agencies.
 - GEORGIA (25-9-7(e))
 - If at the end of the time period specified...any facility owner or operator has not complied...the UPC shall issue a second request to each such facility owner or operator. If the facility owner or operator does not respond by 12:00 Noon of that business day... the person may proceed...provided that there is no visible and obvious evidence of the presence of an unmarked facility...
 - If visible and obvious evidence exists, the excavator shall attempt to designate the facility prior to excavating and shall be able to recoup costs.
 - TENNESSEE (65-31-108(d))
 - If, upon arrival at the site, the excavator observes clear evidence of the presence of an unmarked utility, the excavator shall not proceed until an additional notice is made to the one-call. The excavator may then proceed.



MORE THAN ONE EXCAVATOR PER TICKET?

- ❖ ONLY FOUR STATES DO NOT REQUIRE A SEPARATE REQUEST FOR EACH EXCAVATOR
 - ALASKA
 - GEORGIA
 - MAINE
 - NEW HAMPSHIRE

- ❖ WHY IS THIS SUCH A CONSENSUS?

- ❖ LOUISIANA LAW
 - 40:1749.13.B(1) (Excavation and demolition; prohibitions) Except as provided in R.S. 40:1749.15, prior to any excavation or demolition, each excavator or demolisher shall serve telephonic or electronic notice...



DAMAGE AND RELEASE NOTIFICATIONS

- ❖ ONLY THREE STATES DO NOT REQUIRE OPERATOR NOTIFICATION OF A DAMAGE
 - ARKANSAS
 - MISSOURI
 - NEBRASKA

- ❖ ONLY THREE STATES DO NOT REQUIRE A HAZMAT NOTIFICATION WHEN A HAZARDOUS MATERIAL IS RELEASED DUE TO EXCAVATION DAMAGE
 - DELEWARE
 - GEORGIA
 - NEBRASKA
 - **PERHAPS THESE STATES HAVE A GENERAL REQUIREMENT TO NOTIFY HAZMAT**

- ❖ NOTIFY THE ONE CALL CENTER OF DAMAGE
 - ALABAMA, ARKANSAS, COLORADO, GEORGIA, IDAHO, ILLINOIS, INDIANA, MASSACHUSETTS, MISSISSIPPI, MISSOURI, NEBRASKA, NEW HAMPSHIRE, NEW JERSEY, NEW MEXICO, NORTH CAROLINA, OHIO, SOUTH CAROLINA, SOUTH DAKOTA, TEXAS, WASHINGTON, WEST VIRGINIA, WYOMING
 - MONTANA (IF OPERATOR CANNOT BE REACHED)



TRENCHLESS TECHNOLOGY

- ❖ **ALABAMA** – FOR PARALLEL TYPE EXCAVATIONS, THE EXISTING FACILITY SHALL BE EXPOSED AT INTERVALS AS OFTEN AS NECESSARY TO AVOID DAMAGES
- ❖ **CALIFORNIA** – THE EXCAVATOR SHALL DETERMINE THE EXACT LOCATION OF THE SUBSURFACE INSTALLATIONS IN CONFLICT WITH THE EXCAVATION USING HAND TOOLS BEFORE USING ANY POWER-DRIVEN EXCAVATION OR BORING EQUIPMENT WITHIN THE TOLERANCE ZONE OF THE SUBSURFACE INSTALLATIONS
- ❖ **COLORADO** – WHEN UTILIZING TRENCHLESS EXCAVATION METHODS, THE EXCAVATOR SHALL EXPOSE UNDERGROUND FACILITIES AND VISUALLY OBSERVE THE SAFE CROSSING OF MARKED UNDERGROUND FACILITIES WHEN REQUESTED TO DO SO BY THE UNDERGROUND FACILITY OWNER OR OPERATOR OR THE GOVERNMENT AGENCY THAT ISSUED A PERMIT FOR EXCAVATION
- ❖ **CONNECTICUT** – IF SUCH EXCAVATION WILL CROSS OR ENCROACH WITHIN THE APPROXIMATE LOCATION OF UNDERGROUND FACILITIES EITHER HORIZONTALLY OR VERTICALLY, THE EXCAVATOR SHALL DETERMINE THE ACTUAL LOCATION BY EXPOSING THE UTILITY(S)
- ❖ **GEORGIA** – CITES THE RECOMMENDATIONS OF THE HDD CONSORTIUM AS THEY PERTAIN TO TRENCHLESS EXCAVATION (HORIZONTAL DIRECTIONAL DRILLING GOOD PRACTICES GUIDELINES, MAY 2001)



TRENCHLESS TECHNOLOGY

- ❖ **MISSOURI** – POWER DRIVEN EQUIPMENT FOR TRENCHLESS EXCAVATION NOT ALLOWED WITHIN THE MARKED LOCATION UNTIL THE EXCAVATOR HAS CONFIRMED THE HORIZONTAL AND VERTICAL LOCATION OF THE UTILITY CROSSED
- ❖ **NEW HAMPSHIRE** – EXCAVATOR MUST DETERMINE THE EXACT DEPTH OF THE UNDERGROUND UTILITY AND CLEARANCES REQUIRED BY THE OPERATOR AND INCORPORATING LOCATION DETAILS SO AS TO AVOID DAMAGE
- ❖ **OHIO** – EXPOSE AND CONFIRM ALL FACILITIES AT EACH CROSSING POINT IN A NON DESTRUCTIVE MANNER TO THE INSTALLATION DEPTH OF THE NEW FACILITY AND EXPOSE ALL PARALLEL UTILITIES AT THE BEGINNING AND END OF THE TRENCHLESS EXCAVATION TO THE DEPTH OF THE NEW FACILITY, IF THE PROPOSED ALIGNMENT IS WITHIN THE TOLERANCE ZONE, THE UTILITY SHALL BE EXPOSED EVERY 100’.
- ❖ **OREGON** – EXCAVATOR MUST VISUALLY MONITOR THE DRILL HEAD AND BACK REAMER PASS THROUGH THE TOLERANCE ZONE
- ❖ **PENNSYLVANNIA** – MUST UTILIZE THE BEST PRACTICES PUBLISHED BY THE HDD CONSORTIUM
- ❖ **VERMONT** – EXCAVATOR SHALL EXPOSE UNDERGROUND UTILITIES TO VERIFY THEIR LOCATION AND DEPTH AT EACH LOCATION WHERE THE WORK WILL CROSS A FACILITY AND AT REASONABLE INTERVALS WHEN PARALLELING A FACILITY



TRENCHLESS TECHNOLOGY

- ❖ **MINNESOTA – ALERT NOTICE MNOPS AL-01-2010 TO NATURAL GAS PIPELINE OPERATORS WAS ISSUED DUE TO GAS PIPELINES BEING INSTALLED THROUGH PRIVATELY OWNED SEWER LATERALS**
 1. Open Trench Method
 2. Map and Record Method – May use maps to demonstrate no conflict
 3. Exposed Sewer Method – Pothole and expose sewer service lateral at the gas crossing
 4. Sonde Method – Sonde must be calibrate daily, locate sewer service lateral using the sonde transmitter
 5. Relative Elevation Method – Determine highest elevation of sewer lateral and maintain drilling head at least 3’ above highest elevation at all times
 6. Televising Method – Televiser sewer lateral after gas pipe is installed, no gas may be introduced until the sewer line is televised
 7. Other Methods – MNOPS may approve other methods

- ❖ **AFTER INSTALLATION BY METHODS 3-7, GAS PIPELINE INSTALLERS SHOULD REPORT TO THE LOCAL SEWER OPERATORS THE VERIFIED LOCATIONS OF INDIVIDUAL SEWER LATERALS**



TRENCHLESS TECHNOLOGY

- ❖ **KANSAS** – EACH EXCAVATOR USING TRENCHLESS EXCAVATION TECHNIQUES SHALL DEVELOP AND IMPLEMENT OPERATING GUIDELINES FOR TRENCHLESS EXCAVATION TECHNIQUES. AT A MINIMUM, THE GUIDELINES SHALL REQUIRE THE FOLLOWING:
 1. Training in the requirements of the Kansas Underground Utility Damage Prevention Act;
 2. Training in the use of non-intrusive methods of excavation used if there is an indication of a conflict between the tolerance zone of an existing facility and the proposed excavation path;
 3. Calibration procedures for the locator and sonde if this equipment is used by the excavator;
 4. Recordkeeping procedures for measurements taken while boring;
 5. Training in the necessary precautions to be taken in monitoring a horizontal drilling tool when back-reaming or performing a pullback operation that crosses within the tolerance zone of an existing facility;
 6. Training in the maintenance of appropriate clearance from existing facilities during the excavation operation and during the placement of new underground facilities;
 7. For horizontal directional drilling operations, a requirement to visually check the drill head and pullback device as they pass through potholes, entrances, and exit pits; and
 8. Emergency procedures for unplanned utility strikes.



TRENCHLESS TECHNOLOGY

❖ **VIRGINIA** – ANY PERSON CONDUCTING TRENCHLESS EXCAVATION SHALL TAKE ALL REASONABLE STEPS NECESSARY TO PROTECT AND SUPPORT UNDERGROUND UTILITY LINES

1. The excavator should verify that all utility lines in the area are marked;
2. The excavator shall ensure that bore equipment stakes are installed at a safe distance from marked utility lines;
3. When grounding rods are used, the excavator shall ensure that they are installed at a safe distance (at least 24 inches plus the width of the utility line, if known) away from the marked or staked location of utility lines;
4. The excavator shall ensure sufficient clearance is maintained between the bore path and any underground utility lines during pullback;
5. The excavator shall give special consideration to water and sewer systems within the area that cannot be located accurately;
6. Unless prohibited by other laws, ordinances, regulations, or rules of governmental and regulatory authorities having jurisdiction, the excavator shall expose all utility lines that will be in the bore path by hand digging to establish the underground utility line's location prior to commencing bore. For a parallel type bore, unless prohibited by other laws, ordinances, regulations, or rules of governmental and regulatory authorities having jurisdiction, the excavator shall expose the utility line by hand digging at reasonable distances along the bore path;
7. The excavator shall ensure the drill head locating device is functioning properly and within its specification;
8. The excavator shall visually check the drill head as it passes through potholes, entrances, and exit pits; and
9. If the depth indicated by the locating device is lower than the bottom of the pothole or pit, the excavator shall cease boring until the hole or pit can be hand excavated further to maintain a visual inspection of the drill head.



EXEMPTIONS

❖ AGRICULTURE

- CO, CT (Tilling), GA, IL, IA, KS (Normal farming), KY (Tilling), MN, MT, NE (Tilling), NH (Tilling), NY (Plowing in/Tilling)
- 12" - AL, AK, DE, IN
- 15" - ID
- 18" - NJ
- 24" - MS
- AZ law exempts agriculture activities from civil penalties
- AR law exempts agriculture activities when not on the right of way of a utility
- MI law states excavation does not include farming operations performed in the public right-of-way to a depth of not more than 12" below existing grade if not performed within 6' of any above ground structure that is part of a facility or any farming operation performed outside a public right-of-way and within 25 yards of an existing petroleum or natural gas pipeline to a depth of not more than 18" below the existing...
- SENATE CONCURRENT RESOLUTION NO. 69 OF THE 2020 REGULAR SESSION
 - Forms a study group comprised of seven persons (Dig Law Advisory Committee Chair, three representatives selected by the DLA Committee, the President of the American Sugarcane)

❖ OWNER OF PROPERTY OR RIGHT OF WAY WHEN THERE IS NO ENCROACHMENT

- AL, AR, FL (Less than 10"), KY, LA

❖ MANY STATES HAVE EXEMPTIONS FOR PAVEMENT REPAIRS OR FOR EXCAVATION ONLY UTILIZING A HAND TOOL



EXEMPTIONS

❖ AGRICULTURE - LOUISIANA

- SENATE CONCURRENT RESOLUTION NO. 69 OF THE 2020 REGULAR SESSION
 - Forms a study group comprised of seven persons
 - Dig Law Advisory Committee Chair
 - Three representatives selected by the DLA Committee
 - The President of the American Sugarcane League
 - The executive director of the Louisiana Forestry Association
 - The president of the Louisiana Farm Bureau Federation
- *THE COMMISSIONER OF CONSERVATION SHALL ASSIST THE GROUP IN PERFORMING ITS DUTIES*
- **THE ONE CALL AGRICULTURAL STUDY GROUP SHALL STUDY THE LOUISIANA UNDERGROUND UTILITIES AND FACILITIES DAMAGE PREVENTION LAW AS IT RELATES TO AGRICULTURE AND THE NEEDS OF THE AGRICULTURE INDUSTRY AND MAKE RECOMMENDATIONS AS TO WHETHER THE LAW SHOULD BE AMENDED TO MAKE EXEMPTIONS FOR THE AGRICULTURAL INDUSTRY**
- A REPORT SHALL BE SENT TO THE SENATE AND HOUSE COMMERCE COMMITTEES BY FEBRUARY 1, 2021



POSITIVE RESPONSE

❖ POSITIVE RESPONSE REQUIRED (16 STATES)

- ALABAMA, ARIZONA, CALIFORNIA, DELAWARE, FLORIDA, HAWAII, INDIANA, NEW YORK, OHIO, PENNSYLVANIA, SOUTH CAROLINA, SOUTH DAKOTA, TEXAS, VIRGINIA, WEST VIRGINIA, WYOMING

❖ POSITIVE RESPONSE NOT REQUIRED (34 STATES & DC)

- ALASKA, ARKANSAS, COLORADO, CONNECTICUT, DC, GEORGIA, IDAHO, ILLINOIS, IOWA, LOUISIANA, KANSAS, KENTUCKY, MAINE, MARYLAND, MASSACHUSETTS, MICHIGAN, MINNESOTA, MISSISSIPPI, MISSOURI, MONTANA, NEBRASKA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NEW MEXICO, NORTH CAROLINA, NORTH DAKOTA, OKLAHOMA, OREGON, RHODE ISLAND, TENNESSEE, UTAH, VERMONT, WASHINGTON, WISCONSIN
- LOUISIANA DOES NOT YET HAVE A REQUIREMENT IN STATUTE FOR POSITIVE RESPONSE; HOWEVER, UNDER THE LOUISIANA ADMINISTRATIVE CODE, TITLE 43, PIPELINE OPERATORS ARE REQUIRED TO MAKE A POSITIVE RESPONSE
 - HB No. 382



ABANDONED FACILITIES

- ❖ STATES THAT REQUIRE MARKING OF ABANDONED FACILITIES
 - ALABAMA, ARIZONA, ARKANSAS, CALIFORNIA, COLORADA, CONNECTICUT, GEORGIA, IDAHO, INDIANA, MAINE, MASSACHUSETTS, MINNESOTA, MISSISSIPPI, NORTH DAKOTA, OREGON, PENNSYLVANIA, RHODE ISLAND, TENNESSEE, VIRGINIA, WASHINGTON, WISCONSIN
- ❖ **ALABAMA (37-15-6(a)(40))** – When an excavator encounters an unmarked underground facility on an excavation site where notice of intent to excavate has been made in accordance with the provisions of Section 37-15-4, and attempts a follow-up or second notice relative to revising the original notice to the "One-Call Notification System" or the operator, all operators thus notified must attempt to contact the excavator within four hours and provide a response relative to any of their known underground facilities, active or abandoned, at the site of the excavation.
- ❖ **ARKANSAS (14-271-108(a)(1))** - Each member operator having underground facilities, including those facilities that have been abandoned in place by the member operator but not yet physically removed and that can be identified, shall file a notice with the One Call Center that the member operator has underground facilities. (2) The notice shall include a list of the geographic areas where facilities are located... (d) Member operators shall maintain records and drawings of all changes and additions to their underground facilities.
- ❖ **COLORADO (9-1.5-103(4)(a))** - Owners and operators shall, within the time limits specified in subsection (6) of this section, provide to the excavator evidence, if any, of underground facilities abandoned after January 1, 2001, known to the owner or operator to be in the proposed excavation area.



ABANDONED FACILITIES

- ❖ **GEORGIA (25-9-7(h))** - Facility owners or operators shall either maintain recorded information concerning the location and other characteristics of abandoned utility facilities, maintain such abandoned utility facilities in a locatable manner, or remove such abandoned utility facilities. Facility owners or operators shall provide information on abandoned utility facilities, when possible, in response to a locate request or design locate request. When the presence of an abandoned facility within an excavation site is known, the facility owner or operator should attempt to designate the abandoned facility or provide information to the excavator regarding such facilities. When located or exposed, all abandoned utility facilities and sewer laterals shall be treated as live utility facilities and sewer laterals.
- ❖ **IDAHO (55-2205(4))** If the excavator, while performing the excavation, discovers underground facilities (whether active or abandoned) which are not identified or were not located with reasonable accuracy, the excavator shall cease excavating in the vicinity of the facility and immediately notify the owner or operator of such facilities, or the one-number notification service. The excavator shall have the right to receive compensation from the underground facility owner for standby cost (based on standby rates made publicly available) incurred as a result of waiting for the underground facility owner or the owner's agent to arrive at the work site to identify the unidentified facilities and provided that if the underground facility owner or the owner's agent supplies reasonably accurate locate information within eight (8) hours of the time that the excavator notifies the underground facility owner of facilities not previously located, the excavator's compensation for delay of the excavation project shall be limited to actual costs or two thousand dollars (\$2,000), whichever is less.
- ❖ **MASSACHUSETTS (220 CMR 99.606(F))** Any facility that has been abandoned or is not in service shall also be marked if it falls within the safety zone of an active facility, and shall further be marked so as to indicate its status as abandoned or not in service.



ABANDONED FACILITIES

- ❖ **MISSISSIPPI (77-13-9)** When an excavator, upon arriving at an excavation site, sees evidence of unmarked underground utility lines or underground facilities or encounters an unmarked underground utility line or underground facility on an excavation site after excavation has commenced where notice of intent has been made in accordance with the provisions of this chapter, that excavator must immediately contact Mississippi 811, Inc. All operator(s) thus notified must contact the excavator within four (4) hours and inform the excavator of any of their known underground facilities, active or abandoned, at the site of the excavation.



LOCATING SEWER LATERALS

❖ ARIZONA (ARS 40-360.22.O)

O. For every underground facilities operator of a sewer system:

1. For the purposes of this article, an underground facilities operator of a sewer system is responsible for locating and carefully marking the underground sewer facilities owned by another person pursuant to subsection B of this section if those underground facilities are installed after December 31, 2005 and are in any public street, alley, right-of-way dedicated to public use or public utility easement.
2. In performing the marking required by this subsection, the underground facilities operator of the sewer system shall carefully locate the facility by referring to installation records of the facility and by using one of the methods listed in subsection G of this section.
3. This subsection does not obligate an underground facilities operator of a sewer system to locate and mark the underground sewer facilities owned by another person if the customer receiving sewer service from the underground sewer facility refuses to grant permission to the underground facilities operator of a sewer system to access the real property for the purpose of ascertaining the location of the underground sewer facility in any public street, alley, right-of-way dedicated to public use or public utility easement.
4. This subsection does not obligate an underground facilities operator of a sewer system to maintain, clean or unstop underground sewer facilities owned by another person.

❖ GEORGIA (O.C.G.A. § 25-9-7 (b))

(b) (1) Within 48 hours beginning the next business day following receipt by the UPC of the locate request filed in accordance with Code Section 25-9-6, excluding hours during days other than business days, each sewer system owner or operator shall determine whether or not sewer laterals are located or likely to be located on the tract or parcel of land upon which the excavating or blasting is to occur. If sewer laterals are determined to be present or likely to be present, then the sewer system owner or operator shall assist in designating sewer laterals up to the edge of the public right of way. Such assistance shall not constitute ownership or operation of the sewer lateral by the sewer system owner or operator. Good faith compliance with provisions of this subsection in response to a locate request shall constitute full compliance with this chapter, and no person shall be found liable to any party for damages or injuries as a result of performing in compliance with the requirements of this subsection.



LOCATING SEWER LATERALS

❖ MISSOURI (Missouri Revised Statutes § 319.031)

319.031. Sewer system owner duties upon notification of intent to excavate.

1. In addition to the other requirements of section [319.030](#), the response to a notice of intent to excavate received by a sewer system owner, when such owner has underground facilities located in the area of excavation identified in the notice and when the notice indicates that trenchless excavation methods will be used, shall include a determination of whether sewer service connections exist in the area of the excavation.

2. If the sewer system owner determines that sewer service connections exist in the area of the excavation identified in a notice of intent to excavate, the owner shall provide his or her best available information, or notice that the information does not exist, regarding the location of such connections to the excavator by any of the following methods:

- (1) Placing a triangular green mark at the approximate location of the sewer service connection pointing in the direction of the customer structure serviced;
- (2) Providing electronic copies of the information to the excavator;
- (3) Delivering copies of the information to the excavator by facsimile or by other agreed upon means; or
- (4) Arranging to meet the excavator at the site of the excavation to provide the information.

3. Providing the best available information, or notice that the information does not exist, regarding the location of sewer service connections that exist in the area of excavation identified in a notice of intent to excavate shall constitute full compliance with this section, and a sewer system owner shall not be liable to any party for damages or injuries resulting from an excavation if they are in compliance with this section.

4. Providing the best available information regarding the location of sewer service connections that exist in the area of excavation identified in a notice of intent to excavate shall not in and of itself constitute ownership, operation, control, or management of sewer service lines by a sewer system owner.



LOCATING SEWER LATERALS

❖ VIRGINIA (Code of Virginia § 56-265.19:1)

§ 56-265.19:1. Private sewer laterals and sewer system laterals.

A. Notwithstanding any provision of this chapter to the contrary, the protection of sewer system laterals and private sewer laterals shall be implemented as provided in this section. When an excavation is to take place within a public right-of-way or public sewer easement, the sewer system operator shall exercise reasonable care to mark the approximate horizontal location of sewer system laterals within the public right-of-way or public sewer easement as provided in § [56-265.19](#).

B. When (i) an excavation is to take place outside the public right-of-way or public sewer easement, (ii) the excavation involves the installation or maintenance of gas or electric utility lines by trenchless technology, (iii) the potential for a conflict with a sewer lateral exists, and (iv) sewer system laterals are located in the public right-of-way:

1. The sewer system operator shall exercise reasonable care to mark the approximate horizontal location of sewer system laterals by:

- a. Marking the location of the sewer system lateral where it meets the edge of the right-of-way or public sewer easement, if known; or
- b. If the location described in subdivision B 1 a is unknown, marking the location where the sewer system lateral connects to the sewer system main.

2. When the sewer system laterals have been marked in accordance with subdivision B 1 and the excavator reasonably concludes that a private sewer lateral may be impacted by the planned excavation based upon visual evidence, knowledge of the proposed excavation site, or other information available to the excavator, the excavator shall exercise reasonable care to protect the private sewer lateral. For purposes of this subdivision, reasonable care includes the following actions:

- a. Reviewing information provided by the private sewer lateral owner;
- b. Meeting with the sewer system operator on-site, if the sewer system operator has additional information to provide about the location of private sewer laterals; or
- c. Conducting a visual inspection of the proposed excavation site in an effort to determine the probable path of the sewer lateral.



LOCATING SEWER LATERALS

❖ VIRGINIA (Code of Virginia § 56-265.19:1)

§ 56-265.19:1. Private sewer laterals and sewer system laterals.

C. When (i) an excavation is to take place within or outside the public right-of-way or public sewer easement, (ii) the excavation involves the installation or maintenance of gas or electric utility lines by trenchless technology, (iii) the potential for a conflict with a sewer lateral exists, and (iv) private sewer laterals are located in the public right-of-way or easement:

1. The sewer system operator shall assist the excavator by one of the following methods, unless the operator marks private sewer laterals in the manner required for its sewer system laterals under subsection B:

a. Provide copies of the best reasonably available records regarding the location of the private sewer laterals by electronic message, mail, facsimile, or other delivery method. If an excavation affects 25 or more private sewer laterals, the sewer system operator's response shall be in accordance with the timelines set forth in § [56-265.17:3](#). If the provision of records required by this subsection imposes an unreasonable burden or substantial cost upon a sewer system operator, the excavator and the sewer system operator shall endeavor in good faith to reach an agreement to provide the sewer system operator with additional time to provide the records or any other mutually agreeable accommodation.

b. Provide the best reasonably available records on the Internet or another readily accessible electronic system in order that the records may be retrieved by the excavator from a remote location. If the sewer system operator has implemented such a system, then the sewer system operator shall have no further obligations to provide records under subdivision C 1 a.

c. If the sewer system operator has no such records, but has additional information to provide about the location of private sewer laterals, then the sewer system operator shall notify the excavator of such information and, upon request, either meet with the excavator on-site or convey such information to the excavator.

2. When the records have been made available in accordance with subdivision C 1 and the excavator reasonably concludes that a private sewer lateral may be impacted by the planned excavation based upon visual evidence, knowledge of the proposed excavation site, or other information available to the excavator, the excavator shall exercise reasonable care to protect the private sewer lateral. For purposes of this subdivision, reasonable care includes the following actions:

a. Reviewing information provided by the sewer system operator;

b. Reviewing information provided by the private sewer lateral owner;

c. Meeting with the sewer system operator on-site if the sewer system operator has additional information to provide about the location of private sewer laterals; or

d. Conducting a visual inspection of the proposed excavation site in an effort to determine the probable path of the sewer lateral.



LOCATING SEWER LATERALS

❖ VIRGINIA (Code of Virginia § 56-265.19:1)

§ 56-265.19:1. Private sewer laterals and sewer system laterals.

D. Sewer system operators shall mark utility lines, other than sewer system laterals and private sewer laterals, as provided by other sections of this chapter.

E. Water system operators shall mark water system utility lines as provided by other sections of this chapter, except that a water system operator shall not be responsible for marking private water laterals.

F. Records regarding the location of private sewer laterals provided on the Internet or otherwise made accessible by an electronic system pursuant to subdivision C 1 b shall also be accessible to other public utilities and cable operators or excavators working on their behalf for purposes of compliance with this chapter.

G. In all excavations, the excavator shall exercise reasonable care to protect underground utility lines.
2010, c. [205](#).



REMOVING MARKS

❖ COLORADO

- Any person who willfully or maliciously removes a marking used by an owner or operator to mark the location of any underground facility, except in the ordinary course of excavation, is guilty of a class 2 misdemeanor, and, upon conviction thereof, in addition to any order for restitution, shall be punished by a fine of not more than five thousand dollars for each offense, by imprisonment for not more than one year, or by both such fine and imprisonment.



MANDATORY REPORTING

- ❖ TWENTY-FIVE STATES HAVE SOME TYPE OF MANDATORY REPORTING FOR DAMAGES
 - AL, AZ, CO, CT, DE, GA, ID, IL, KS, KY, ME, MA, MI, MN, MT, NB, NV, NH, NJ, NM, PA, RI, TX, VT, WA
- ❖ **AL (37-15-9-C)** If an event damages any pipe, cable, or its protective covering, or other underground facility, or there is a significant near miss that could have resulted in damage, the operator receiving the notice shall file a report with the One-Call Notification System. Reports must be submitted annually to the system, no later than March 31 for the prior calendar year, or more frequently at the option and sole discretion of the operator. Each report must describe, if known, the cause, nature, and location of the damage. The One-Call Notification System shall establish and maintain a process to facilitate submission of reports by operators or persons excavating.
- ❖ **AZ (R14-2-101)** requires reporting of accidents which involve, death, personal injury or property damage exceeding \$5,000.
- ❖ **CO (9-1.5-103(7)(b))** requires the owner or operator to report the damage within 90 days after service has been restored
- ❖ **IL (83-1-265.100.b)** Except for suspected violations that occur within the boundaries of a municipality of at least one million persons that operates its own underground facility notice system, facilities operators shall report suspected violations of the Act in the following circumstances: An underground natural gas utility facilities operator shall report suspected violations when any gas main is damaged causing a gas leak;
- ❖ **MN – Issued a Pipeline Safety Alert Notice** requiring notification to the MNOPS via e-mail as soon as possible of gas leaks caused by excavation damage.
- ❖ **NJ (48:2-80(c))** An operator shall maintain a record of all damage to its underground facilities, including all damage reported by an excavator pursuant to subsection e. of section 10 of this act. An operator shall provide an updated copy of this record to the board on a quarterly basis.



MANDATORY REPORTING

❖ NM (18.60.5.18) REPORTS OF THIRD PARTY DAMAGE:

- A. A UFO shall report to the director any incident in which the owner or operator's underground facility is damaged by excavation activities. Such report, where practicable, shall be submitted using the commission's website at: www.nmprc.state.nm.us. For purposes of this subsection, incident is to be taken in its general sense and is not to be restricted to the definition given in 49 CFR 191.3.
- B. The report shall be filled out in its entirety.
- C. The report shall be submitted within thirty (30) calendar days of occurrence.
- D. The UFO shall make available to the director within a reasonable time such other information or documentation as the director may require regarding any incident reportable under this section.

- ❖ TX (16.1.18.11.a) Each operator of an underground pipeline shall report to the Commission all damage to its pipelines caused by an excavator. Within 30 days of the damage incident or of the operator's actual knowledge of the damage incident, an operator shall submit the information to the Commission through TDRF, which may be accessed through the Commission's online reporting system using its assigned operator identification code.



LOCATOR QUALIFICATIONS

❖ CALIFORNIA, CONNECTICUT, KANSAS, NEW HAMPSHIRE, NORTH CAROLINA, VIRGINIA

- THESE STATES HAVE QUALIFICATION REQUIREMENTS FOR LOCATORS AND GENERALLY REQUIRE TRAINING TO BE AT LEAST AS STRINGENT AS THE “NATIONAL UTILITY LOCATING CONTRACTORS ASSOCIATION’S” LOCATING TRAINING STANDARDS
- ALL PIPELINE OPERATORS MUST HAVE QUALIFICATIONS FOR THEIR LOCATORS PER THE OPERATOR QUALIFICATIONS STANDARDS IN 192/195.



ENFORCEMENT AUTHORITY

- ❖ ALL STATES HAVE A DESIGNATED AUTHORITY FOR ENFORCING DAMAGE PREVENTION LAWS
 - ❖ ALABAMA – Executive Committee of five reps from the authority board
 - ❖ ALASKA – Civil Court
 - ❖ ARKANSAS – Attorney General, Pipeline Safety investigates and submits the report to the AG
 - ❖ COLORADO – Underground Damage Prevention Safety Commission
 - ❖ CONNECTICUT – Connecticut Department of Energy and Environmental Protection, Public Utilities Regulatory Authority
 - ❖ FLORIDA – Law Enforcement Office
 - ❖ GEORGIA – Georgia Public Service Commission
 - ❖ LOUISIANA – Commissioner of Conservation
 - ❖ MISSISSIPPI – Underground Facilities Damage Prevention Board
 - ❖ NEW MEXICO – New Mexico Public Regulation Commission

 - ❖ Six states designate the AG as the enforcement authority



PENALTIES

- ❖ ALL STATES HAVE THE AUTHORITY TO ISSUE FINES, USUALLY IN SOME TYPE OF TIERED MANNER AGAINST EXCAVATORS
- ❖ SOMES STATE'S FINING AUTHORITY IS IN LINE WITH THEIR PIPELINE SAFETY PROGRAM'S AUTHORITY
 - \$100,000/\$1,000,000 OR \$200,000/\$2,000,000
- ❖ ALL STATE PIPELINE SAFETY PROGRAMS AND PHMSA CAN ASSESS FINES AGAINST OPERATORS FOR VIOLATIONS OF 192.614/195.442
- ❖ MANY STATES MAY REQUIRE EDUCATION AS A PART OF A PENALTY OR IN LIEU OF/PENALTY REDUCTION
 - ❖ LOUISIANA STATUTES REQUIRE EDUCATION AS A PART OF EVERY CITATION



QUESTIONS OR COMMENTS



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