



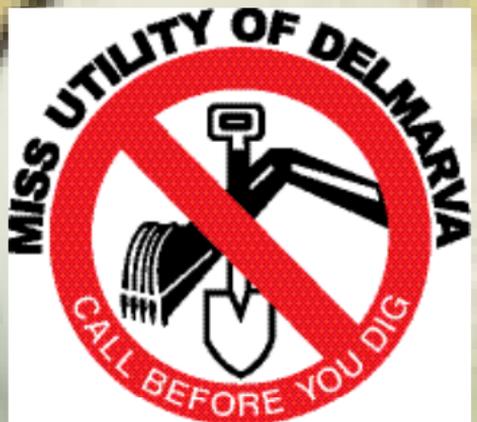
USPCD

HANDBOOK



Using the One Call Notification Center

REVISED APRIL 2013



Delaware: 1-800-282-8555
Maryland Eastern Shore: 1-800-441-8355
Website: www.missutilitydelmarva.com

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WHO IS USPCD?

Our official name is Utilities Service Protection Center of Delmarva, Inc. (USPCD), but we are commonly referred to as Miss Utility of Delmarva.

We prepared this handbook for excavators and member operators as a reference tool they can use when interacting with USPCD. This handbook reflects the policies of the board of directors at USPCD. It is not a rule, and it does not have the force and effect of law. The three governing laws are included as appendixes at the end of this guide: Title 26, Public Utilities, Chapter 8, Underground Utility Damage Prevention and Safety for Delaware; 12-101 through 12-112 of the Maryland Code; and OSHA standard 1926.651.

Every effort has been made to accurately reproduce these laws and regulations, but USPCD, its officers, employees, and agents make no representations or warranties as to the accuracy of this reproduction. This handbook is not intended to alter the requirements of Delaware or Maryland laws, and it should not be used as a legal reference document. Persons seeking interpretations of the law should contact their own attorneys. While familiarity with the handbook is recommended for all excavators and member operators, their responsibilities are as provided by law.

This handbook does not have a copyright. Order additional copies or access the PDF version of the handbook to make your own copies at **www.missutilitydelmarva.com**.

This handbook has been updated for use on and after APRIL 3rd, 2013. Its contents are subject to change without notice.



USPCD is:

- The “approved notification center” for the State of Delaware as per Delaware Code.
- Certified by the Maryland Public Service Commission to be the “one-call system” for the portion of Maryland on the Delmarva Peninsula commonly referred as the Eastern Shore of Maryland.
- A not-for-profit corporation whose purpose is to prevent damage to underground infrastructure by
 - Performing the “approved notification center” and “one-call system” functions.
 - Fostering a sense of shared responsibility for the protection of underground facilities.
 - Developing and conducting education programs and public awareness campaigns.

Members include owners and operators of underground facilities, excavators, contractors, and other interested parties. If you are not a member, we encourage you to join. If you are a member or are interested in becoming a member, you are invited to our monthly membership meetings held the third Thursday of every month. The meetings provide an excellent forum for voicing your concerns about the process and getting an opportunity to meet other interested parties face-to-face. As a USPCD member, you will have access to the monthly meeting minutes and may have the opportunity to improve the process by serving on the board of directors or one of the various committees. Contact information and the calendar of events are available on the Web site: www.missutilitydelmarva.com/.



INTRODUCTION

Excavation damage can cause injury, loss of life, and environmental damage. It also causes interruptions to vital services and can involve tremendous repair costs. So please, *Dig Safely*.

1. Contact Miss Utility before you dig.

- Call 811 in Delaware or Maryland.
- Call 800.282.8555 in Delaware.
- Call 800.441.8355 on the Eastern Shore of Maryland.
- Visit **www.missutilitydelmarva.com** (Internet site for both contractors and homeowners).
- Use the QR Code.



2. Wait the required time and obtain a positive response from Miss Utility by phone, or online through Ticket Check®.

3. Respect and maintain the marks.

4. Dig with care (hand dig in tolerance zones, test hole, and protect facilities).

PREFACE

We developed this handbook for Delaware and Maryland's Eastern Shore excavators as a reference tool for using the Miss Utility of Delmarva one-call and notification center operated by USPCD. We suggest that you keep this guide on hand for future reference when questions or problems arise.

We also suggest that you give a copy of this handbook to all employees who regularly contact the Underground Facilities Information Exchange System. Because we have not copyrighted the material in this handbook, you may copy it for employees and include it as part of their safety training. You may also request printed copies via

e-mail at info@missutilitydelmarva.com or order copies at www.missutilitydelmarva.com, the USPCD Web site.

We have tried to ensure that the information provided is accurate as of the date of publication. Only those practices receiving approval by a consensus of USPCD members were included. USPCD shall not be held responsible for typographical or other errors, changes that occur after the date of this publication, or any subsequent federal, state, or local regulations that may apply. If there are any conflicts between the contents of this publication and any federal, state, or local regulations, then follow the federal, state, or local regulations.

Note: The contents of this publication are subject to change without notice.

A list of all directors, call center contacts, utility members, associate members, and other contact information is available on the USPCD Web site: www.missutilitydelmarva.com.

WHY CONTACT MISS UTILITY?

It's The Law

Delaware and Maryland statutes require notification of all owners and operators who are members of the Notification/One-Call System in your work area of your intent to dig, blast, or drill.

- Delaware Code: Title 26, Public Utilities, Chapter 8, Underground Utility Damage Prevention and Safety (see Appendix A)
- Maryland Code: Title 12, Underground Facilities, Subtitle 1, Excavation or Demolition Near Underground Facilities (see Appendix B)

- OSHA Subpart P, Excavation Standard, 29 CFR 1926.651 (see Appendix C; see also www.osha.gov)

Most underground facility owners are required to be members to receive notifications of your excavation. Our members must respond to your notification of a planned excavation.

Saves Time & Money

Time is money. Time spent notifying underground operators costs you money. However, work stoppages due to underground facility damage and repairs to those damaged facilities cost even more.

Just one toll-free call, fax, or Internet entry on your part and you can rely on the Miss Utility of Delmarva Notification Center to transmit your locate requests to member facility owners/ operators quickly and efficiently. Miss Utility of Delmarva is set up to work for you, but only if you make the contact.

Because a utility's underground facilities are marked when you call the Miss Utility of Delmarva Notification Center, your risk of hitting a line is reduced, and that means less chance of having a work stoppage. Plus, if you haven't called and you hit an underground facility, you may be held liable for the repair of any damage incurred. Repairs and OSHA fines can be costly.

Why waste time and money when the Miss Utility of Delmarva Notification Center can save you both?

Note: Please understand that there are owners of underground facilities who are not members and thus do not receive notifications.

Reduces Complicated Record-Keeping

Due to the ever-increasing number of cable television, telecommunications, and fiber optics companies, all with underground facilities, it is virtually impossible for you to identify and keep track of all those companies on your own. When you use the Miss Utility of Delmarva Notification Center, there's no need to keep complicated and time-consuming records. Our system does most of the work for you because our members have told us if they have facilities in any given area. You tell us where you want to excavate, and we tell you if any member utility has told us it has underground lines in or near that location.

Provides Safer Working Conditions

By notifying member facility owners and operators through the Miss Utility of Delmarva Notification Center, you enhance your safety, that of your work crew, and the public.

Provides Support

If you ever need verification or backup in the case of legal proceedings, Miss Utility of Delmarva Notification Center can be invaluable. All incoming calls are recorded and kept on file for six years. Verification of your call is available to resolve conflicts that may arise with facility owners/operators. There is a fee for obtaining a copy of the ticket and the associated conversation.

WHO MUST CONTACT MISS UTILITY

If you are going to dig or excavate, by law, you must call the Miss Utility of Delmarva Notification Center.

Workdays are considered 7 a.m. to 5 p.m., Monday through Friday, excluding holidays. Emergency locate requests are accepted 24 hours a day, 7 days a week, 365 days a year. Please note that facility owners may have different working hours or holiday schedules.

WHEN TO CONTACT THE UTILITY

Contact the utility directly to:

- Report damage to any type of facility.
- Report any type of service outage.
- Resolve any type of billing problem.
- Request any type of facility removal or relocation, including mandatory meter or service removals prior to demolition of a building. (However, you still need to call Miss Utility for the excavation notice.)
- Request any type of utility service.

HOW TO CONTACT MISS UTILITY

Internet

- Go to www.missutilitydelmarva.com and select the RED tab for Homeowner or Excavator to submit an Internet ticket.
- Click on Eastern Shore Maryland & Delaware to start the application process. Eastern Shore Maryland counties include Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester.

We strongly encourage all Miss Utility of Delmarva members to use this method of ticket entry because it saves time for the excavator and money for the facility owner member. The ticket cost from the vendor is 30 percent less if no customer service representative (CSR) is involved.

Phone

- In Delaware, call **811** or **1.800.282.8555**.
- On Eastern Shore of Maryland, call **811** or **1.800.441.8355**

Fax

(Professional Excavators Only)

Miss Utility of Delmarva allows excavators to fax standard, nonemergency locate requests or planning-purpose requests to Miss Utility of Delmarva, as opposed to calling them in.

Submit the toll-free fax ticket entry to 1.800.845.4608.

To use the Fax-a-Locate Program, you must first become a Fax-a-Locate member. Miss Utility of Delmarva will send the excavator a fax package, which contains an application to be a Fax-a-Locate member, the procedures to follow, district codes for current Miss Utility of Delmarva members, a list of abbreviations to use on the fax form, and a pad of fax location request forms (this is the specific form for entering the information). To enroll in the Fax-a-Locate Program, please call 410.782.2025 for the application.

TICKET CHECK®

As an excavator in Maryland or Delaware, you can contact Ticket Check® by calling the toll-free number, 1.866.821.4226. A voice-prompt will guide you through the steps to retrieve statuses on your tickets. You will be asked to enter an ID code. Please use the contact telephone number you provided when you called Miss Utility. Again, this is the callback telephone number that you provided to the operator. Ticket Check® will identify the telephone number on each individual ticket. If this information changes, make sure you use the telephone number that was used at the time of each call. For further information on how to use this system, contact a Customer Service Center supervisor at 1.800.441.8355.

You may also access Ticket Check® on our Web site, www.missutilityofdelmarva.com, by selecting the RED button labeled Ticket Search & Status Check on the home page.

LOCATOR STATUS CODES

Delaware and Maryland facility owner/ operator locators will use the following eight status codes to communicate each ticket's locate status:

Code 1 Clear/No Conflict

If code 1 is selected, it will be locked out as the final selection. The owner/ operator cannot change or delete a code 1 response.

Code 2 Marked

If code 2 is selected, the only code it can be changed to is a code 1.

Code 3 24- Hour Delay

When code 3 expires after 24 business hours, the utility owner will be sent a "no response" every 24 hours until job is assigned a code 1 or 2 or until the ninth business day after the originating date of the ticket.

Code 4 48-Hour Delay

When code 4 expires after 48 business hours, the utility owner will be sent a "no response" every 24 hours until job is assigned a code 1 or 2 or until the ninth business day after the originating date of the ticket.

Code 5 Not Complete/In Progress

The locator has spoken with the excavator and they have agreed to this message.

Code 8 Utility Locator Has Not Yet Responded

If the ticket is not assigned a status code by the second full business day, the utility company will only be able to assign a status of code 1 or code 2. If the ticket is not assigned a status code by the second full business day, the utility company will automatically be sent a “no response” ticket. This notice is to inform the locator that he or she has not assigned a status code to the ticket in the required time frame. A “no response” will be sent every day until the ninth business day OR until the locator codes the ticket with a marked or clear status.

Code 9 Marked Up to Privately Owned Utility

Code 10/A Incorrect Address Information/Please Call Miss Utility to Reschedule

If code 10(A) is selected, it will be locked out as the final selection. The locators cannot change or delete a code 10 response.

The following five codes apply to Delaware only:

Code 11/B Installation, Maps or Other Documentation Has Been Provided

If code 11(B) is selected, it will be locked out as the final selection. The locators cannot change or delete a code 11 response.

Code 12/C Locator Could Not Gain Access to Property

If code 12(C) is selected, it can only be updated to a code 1 or code 2.

Code 13/D No Locate; Contractor Work Completed

If code 13(D) is selected, it will be locked out as the final selection. The locators cannot change or delete a code 13 response.

Code 14/E No Locate; Locator Requests Meeting with Excavator

If code 14(E) is selected, it can only be updated to a code 1, code 2, or code 5.

Code 15/F No Locate; Locator Requests White Lining of Area Due to Large Scope of Work or Unclear Extent of Work

If code 15(F) is selected, it can only be updated to a code 1, code 2, or code 5.

EXCAVATOR STATUS CODES

The excavator can use this system to communicate with the locator. Excavators have access to the two status codes listed below.

Code 6 Locate Discrepancy

The excavator can utilize code 6 if, when you are listening to the status of a ticket, a utility has selected code 1 or code 2. The system will prompt you with a question asking if you would like to send a discrepancy ticket. The selection of code 6 will generate the “discrepancy” ticket. When the locator receives this ticket, it is his or her responsibility to contact you to determine why you have a discrepancy with the marked or clear status of the locate request.

Code 7 Not Complete/In Progress Dispute

The excavator can utilize code 7 if, when you are listening to the status of a ticket, a utility has selected code 5. The selection of code 7 will be documented on a daily report stating that the locator did not contact you. A dispute will be logged one time per utility per ticket.

Maryland Positive Response Faxbacks

In Maryland, if you provide a fax number when you call Miss Utility, an automated faxback detailing the status activity on each ticket will be sent to you at 5 p.m. two full business days following the original call date on the ticket. For example, if a ticket is called in at 7 a.m. on Monday morning, it will be faxed at 5 p.m. on Wednesday. It is your responsibility to call the Owner–Contractor Information Exchange System to follow up on any statuses that have not yet been posted at the time of the fax.

TYPES OF INTENT-TO- EXCAVATE NOTIFICATIONS

Miss Utility of Delmarva can process several types of intent-to-excavate notices, including:

- Normal: Excavation or demolition with work description
- Design: Planning or designing for a future excavation (Delaware)
- Meeting: Reviewing project scope or schedule (Delaware)
- Emergency
- Insufficient Notice and Short Notice

Normal

Normal excavation calls are the most common. Excavator/contractors must give a complete and accurate description of the work site. One method for explaining a large or complex project is to send a copy of the drawing, map, or print to involved members, describing the excavation site. It is still necessary to file a locate request with Miss Utility of Delmarva and indicate on the ticket that “Prints will be sent for reference only—print #.”

Note: Members will not be able to locate their facilities until the copy of the drawing, map, or print has been received. The selected work-to-begin date will become invalid if the prints or drawings are not received at least two full working days prior to the requested date. Owner/operators will then communicate a new work-to-begin date that is two full working days (Delaware) or 48 hours (Maryland) after the receipt of the prints.

Normal Delaware Excavation Notices

Excavators in Delaware are to give notice two full working days prior to the day they plan to start work. In general, the day you called is excluded, since any call after 7 a.m. is not a full day's notice. Working days are defined in the law as any day other than Saturday, Sunday, and holidays (state, federal, and, in Delaware, operator holidays). Thus, Miss Utility of Delmarva will issue a normal work-to-begin date and time for 7 a.m. of the third day (excluding weekends and holidays) after the day you called.

Owner/operator USPCD members that received the notice are to respond back to the excavator two full working days day after the excavator called. In general, this should be the workday (excluding weekends and holidays) prior to the work-to-begin date.

Delaware Example: A call made at 11 a.m. on the Friday before a normal two-day weekend will have a work-to-begin date of the following Wednesday at 7 a.m. Delaware owner/operator USPCD members should respond to Ticket Check® before 7 a.m. Wednesday.

Excavators must query Ticket Check® by phone, at 1.866.821.4226, or the Internet, www.missutility.net/searchstatus, to see how those receiving an excavation notice responded. Miss Utility will make up to three fax attempts to reach excavators who provided a fax number. The fax will indicate the responses.

| Delaware Guide to Operator's Required Response to Mark Out Requests | | |
|--|----------------------------|--|
| Call After 7 a.m. On | Locator Work Days | Earliest Excavator Work-to-Begin Date |
| Monday | Tuesday, Wednesday | Thursday |
| Tuesday | Wednesday, Thursday | Friday |
| Wednesday | Thursday, Friday | Monday |
| Thursday | Friday, Monday | Tuesday |
| Friday | Monday, Tuesday | Wednesday |
| Saturday | Monday, Tuesday | Wednesday |
| Sunday | Monday, Tuesday | Wednesday |

Note: Each federal, state, or operator holiday adds a day to the work-to-begin date.

Normal Maryland Excavation Notices

Excavators in Maryland must give notice two full business days (excluding weekends and legal holidays) prior to the day they plan to start work. Miss Utility will issue a normal response-due-by date and time (excluding weekends and holidays). Owner-members who receive the notice in Maryland are to contact Ticket Check® by 11:59 p.m. the second full business day. Excavators must check Ticket Check® by phone, at 1.866.821.4226, or the Internet, www.missutility.net/searchstatus, to see how those receiving the notice responded. Please refer to Maryland law § 12-127 (A).

Maryland example: A call made at 10 a.m. on the Friday before a normal two-day weekend will have a response-due-by date of the following Tuesday at 11:59 p.m. Maryland owner-members should notify Ticket Check® by 11:59 p.m. on Tuesday. If a person provides an e-mail address or fax number, a fax or e-mail from Ticket Check® will be sent to the person after 11:59 p.m. on Tuesday.

Design

Another type of call processed by Miss Utility of Delmarva is the planning excavation location request in Delaware. Excavation in the immediate future is not intended with this type of request. Rather, a construction project is in the planning stage and information on the location of existing facilities is being sought. Miss Utility of Delmarva CSRs will process a planning call in much the same way they would an excavation call. A full description of the proposed job site is required. Members will respond to a planning notice within 15 days after receipt of the notice by conducting field markings, providing records, or making other appropriate responses.

Meeting

Most locate requests can be explained to the Miss Utility of Delmarva Service Center by phone, e-mail, or fax.

Meeting requests should only be requested when it seems impossible to explain the project over the phone. Many times, what seems to be a complicated project can be easily described over the phone if it is broken into several pieces.

In situations where excavation projects are large, complicated, and will extend more than 20 days, a Meeting Request is recommended so that a mutually agreeable construction and locate schedule can be agreed upon by all parties. Such pre-job meetings are important for major or unusual excavations. The meeting will facilitate communications, coordinate the marking with actual excavation, and ensure identification of high-priority facilities. This includes projects such as road, sewer, water, or other projects that cover a large area, progress from one area to the next, or project sites located near critical or high-priority facilities. Such facilities include, but are not limited to, high-pressure gas, high-voltage electric, fiber optic communication, and major pipe or water lines.

In a Meeting Request, the CSR will take a general description of the work site. A time will be set for the excavator/contractor to meet with locating staffs from the facility owners/operators at the job site. If the appointment time cannot be met, the member will contact the excavator to arrange a new time.

If it is necessary to set up an appointment with representatives of member companies, the excavator/contractor has two options:

- The excavator may contact each facility operator or his or her locator after receiving a ticket number from Miss Utility of Delmarva.
- The Miss Utility of Delmarva Service Center can set up an appointment between 9 a.m. and 3 p.m. two full working days from the time of the call. Because the appointment will explain a large and complex project, a mutually agreed upon construction and locate schedule should be made at the meeting. Some facility owners/operators will require written locate instructions before locating.

The location of the meetings for all Meeting Tickets should be at the actual job site or very close to it.

Emergency

An emergency location is defined in each respective state's law. In general, an emergency exists only when one or more of the following conditions exist:

- The unforeseen excavation, if not performed, could present a clear and present danger to the life or health of individuals.
- Excavation is required to prevent property damage to public and public property.
- The excavation is required to repair a service outage.
- An unstable condition exists that may result in any of the conditions listed above (for example, a leak in any service or main or a fault in a primary or secondary wire and/or cable).

When calling in an emergency excavation, inform the CSR that an emergency situation exists and be prepared to explain which of the above conditions is in effect. The CSR will prepare the ticket for immediate transmission and issue a work-to-begin date equal to the time the excavation is scheduled to commence.

Emergency locates are not to be used to circumvent the two full working days' requirement (7 a.m. of third working day after notice) in Delaware or two business days' notice in Maryland. Abuse of emergency locate requests will not be tolerated.

Insufficient Notice and Short Notice

Maryland law no longer allows such requests. In Delaware, however, when it is absolutely necessary to start nonemergency excavation prior to the standard two working days prior to the workday notice, the Miss Utility of Delmarva Underground Facilities Information Exchange System will issue the request. However, positive response must be received from all the members involved via Ticket Check® or the excavation may not begin. If you begin excavation, you are in violation of the law and may be held liable for any direct or indirect damages that occur.

PREPARING FOR NON-EMERGENCY AND OTHER NOTIFICATIONS

Prenotification Site Inspection

Check that the work site is ready for your excavation. Verify that all required permits have been received and the property owners have been prenotified of the planned excavation. It is recommended that you also prenotify property owners adjacent and across the street from the planned excavation. On the prenotification site visit, please make note of any indications of underground facilities such as manholes, hydrants, valve boxes, pedestals, pad-mount transformers, and metering devices.

To ensure the correct area is located, white surface marks, flags, stakes, or laths should be placed at intervals of 10 to 30 feet along the intended route. Surface marks can be made with white paint or tape and should be approximately 1-1/2 inches wide by 12 inches long. To indicate the excavation needed to install manholes, vaults, poles, trees, vents, anchors, or other such objects, white surface marks, flags, stakes, or laths should be placed at intervals of 3 to 5 feet around the perimeter of the intended excavation.

To indicate grading, pavement removal, basements, or other large excavations, white surface marks, flags, stakes, or laths should be placed at intervals of 3 to 30 feet around the perimeter of the intended large excavation. If possible, identify the amount of cut or fill. If it is two to ten working days before the day you plan to start excavating, it is now time to make your notification to Miss Utility of Delmarva.

Separate Locate Requests

Every excavator on the job must have a separate one-call reference number (ticket number) before excavating. Often, several excavators are on a job site performing work. The construction schedule may dictate different types of work requiring excavation from different specialty contractors simultaneously. In these situations, it is imperative for each excavator to obtain a one-call reference number before excavation to ensure that the specific areas have been appropriately marked by any affected underground facility owner/operator.

Notification Process

The Miss Utility of Delmarva Underground Facilities Information Exchange System needs to obtain specific information concerning locate requests. There is a specific reason for every question asked. This section will provide a brief explanation of the reason for each. Locate request processing is easier if the excavator/contractor has an understanding of the questions and is prepared to answer them.

Preparation is the key. Customer Service Center call-taking procedures state that a separate ticket will be filed for each job site. Major projects within one municipality or unincorporated area can be covered by one ticket, provided the work involves a stretch of single road. For example, gas main construction that runs along Delaware Avenue from 18th Street to 10th Street and then on 10th Street to State Street would require that separate tickets be filled as described below:

Ticket No. 1: On Delaware Avenue from 18th Street to 10th Street

Ticket No. 2: On 10th Street from Delaware Avenue to State Street

If the information appears to be incomplete, the Underground Facilities Information Exchange System will note that the information obtained is the best available. The locate request will still be transmitted to members, however, they may need further explanation of the excavation area to determine whether the area contains any underground facilities. If so, the work-to-begin date will be 7 a.m. of the morning following two working days in Delaware or 48 hours in Maryland after the required information is provided.

The following sections provide a brief explanation of each question asked by Miss Utility of Delmarva CSRs or each item that needs to be completed in ITIC.

Type of Call Being Placed

The Underground Facilities Information Exchange System CSR will not specifically ask what type of call is being placed. Whether this is a normal, design, meeting, emergency, insufficient notice, or short notice call generally becomes clear from the excavator/contractor's opening remarks.

1. Company/Person ID.

All excavator/contractors are assigned a unique ID number, which is used to expedite future calls. This information is also helpful in the event it is necessary to contact you for further information and may be needed to verify your identity (this must be obtained by phone prior to using ITIC).

- Excavator/Contractor's Name, Company Name, and Mailing Address. The excavator/contractor's name and company name are taken to maintain records of all locate requests. The mailing address of the excavator/contractor or the excavator/contractor's company is used to periodically notify excavators of information pertaining to Miss Utility of Delmarva.
- Telephone Number. The telephone number (with area code) of the excavator/contractor is taken in case additional information is required at a later time and for use by those members who call to confirm appointments or respond to an emergency excavation request.
- Fax Number. Providing a fax number allows the excavator/contractor to receive positive response information from the Miss Utility of Delmarva Service Center.

- Alternate Contact (for example, the field representative's name and phone number). If the person in charge of the work is different than the excavator/contractor, a field contact is needed. Locate requests can often be expedited when the person supervising the work can be reached directly.

2. County and State.

The Underground Facilities Information Exchange System accepts calls for all counties in the state of Delaware and Eastern Shore of Maryland. The county and place of the work site are needed to identify the job site location. The accuracy of this information may affect which members are notified.

3. Map Page and Grid.

The Underground Facilities Information Exchange System uses Alexandria Drafting Company (ADC) map books in the counties where they are available. ADC does not produce maps for Somerset County, Maryland. If you do not have a map book, the Customer Service Center will attempt to determine the page and grid for the notice. The accuracy of this information may affect which members are notified.

4. Work-to-Begin Date and Time.

The Underground Facilities Information Exchange System will ask when the work is scheduled to begin, or default in the earliest start based on the respective state code.

The notice ticket only shows the requested work-to- begin date. The legal work-to-begin date is based solely on the respective state codes, which do not permit the excavation to begin until the facility operators/owners have all provided the appropriate positive response, except for legitimate emergencies.

5. Place Name.

The Underground Facilities Information Exchange System recognizes both legal municipalities (cities, civil towns, and villages) and unincorporated communities, including subdivisions that appear on official Delaware and Maryland Department of Transportation maps. It is very important to identify the exact place name in which the work will be performed. Additionally, providing a development name can help the locator find your location.

6. Street Address of Work Site.

The Underground Facilities Information Exchange System also uses the street name to identify which members are to be notified. It should be noted that the members of USPCD use different types of mapping records. To ensure that the information received is recognizable by all members, the Service Center has requirements for identifying the location of the job site. The best information is a street address.

7. Nearest Intersecting Street.

Miss Utility of Delmarva can process a locate request only if a road intersecting the work site road or the township, range, section, and quarter section for the work site is provided.

This information ensures that Miss Utility of Delmarva is accurately identifying the work site on the computer map, which further ensures that the proper facility owners are receiving the locate request information. Other location information that may be helpful also will be taken, although details such as route and box numbers are insignificant by themselves. In rural areas, the Miss Utility of Delmarva Service Center will also ask for the name of the occupant and phone number where the excavation will occur.

The following are examples of proper information when identifying the location of the job site:

- 2040 W. Delaware Avenue
- S41 W23456 Industrial Road
- On the east side of 23rd Street, approximately one-half block north of Delaware Avenue.

8. Type of Work.

Facility owner/operator locating staffs need to know the extent of the job. Excavators, therefore, need to identify the specific reason for the work and the work method. For example, “boring sanitary sewer lateral” is more helpful than “digging for a sewer line.” Due to the number of damages that occur with boring, facility owners/operators need to be aware if boring will take place at the work site.

9. Extent of Work.

After identifying the location of the job site, the Underground Facilities Information Exchange System needs to identify what portion of the job site is to be marked out.

It is assumed that the excavator will work with facility owners, informing them where and when work will occur, so that marking can be accomplished in a timely manner. In all cases, the Customer Service Center is looking for a detailed description of the area to be marked out so that facility owner/operator can determine if an underground facility is within 5 feet of the horizontal plane of the planned excavation. The Service Center will not accept instructions to mark a particular facility (that is, “mark the gas line at this address”).

- **White Line or Stake the Planned Excavation.** Whenever possible identify the proposed work area with white paint, flags, or stakes. This will provide locators with an accurate understanding of the proposed excavation area. When the location of proposed excavation is identified in this manner, the boundaries of the proposed site should be indicated in white to avoid conflict with the colors used to identify existing underground facilities. Facility owners may identify proposed excavations for new facilities by using white paint or flags or marking tape striped with the appropriate facility color code. Such markings should identify the owner of the facility.

- **Detailed Description of Excavation.** Use the following guidelines when identifying proposed excavations, such as cable, conduit, or pipe. In identifying this area, consider the following guidelines:

- a) Right and left should not be used as directions because they are relative points of view. Use north, south, east and west instead.

- b) If the excavation is in a roadway, marking instructions could include:
- i) Mark from curb to curb.
 - ii) Mark from lot line to lot line in the roadway.
 - iii) Mark from the center line of road to N, S, E, W lot line or curb.
- c) Try to refrain from using “mark the entire lot.” Rural lots are very large and are, therefore, difficult to mark. List the specific area to be marked out. The following are a few examples:
- i) Mark the west 20 feet of the lot.
 - ii) Mark the front of the house to the curb.
 - iii) Mark a 10-foot radius of the NW corner of the lot.
 - iv) Mark the area from the house north approximately 100 feet to the barn.
 - v) Mark a 20-foot radius around the perimeter of the home.
- d) If excavation is planned in a development or subdivision, let the CSR know the name. Many streets in close proximity have the same or similar names, and the development or trailer park name helps the locators get to the correct excavation site.
- Explosives. The state laws require the excavators to inform all facility owners/operators if they are using explosives as part of their excavation methods. Gas safety regulations require gas facility owners to perform leakage surveys in the vicinity of any excavation or demolition after blasting has been performed.

10. Work Being Done For.

Identifying who the work is being performed for is another resource for obtaining additional information about the project. The customer's name or the general excavator's name is sufficient.

11. Additional Comments.

The Service Center will also record any additional information deemed appropriate, such as the subdivision name.

After all the information is verified, the Miss Utility of Delmarva Service Center will issue a ticket number. It is very important to keep this ticket number, because future inquiries concerning the ticket will be expedited if the ticket number is available. The Underground Facilities Information Exchange System will also list the members that will receive the locate request. This list should be checked against the Prenotification Site Inspection and the information obtained from the property owner(s). In Delaware, the excavator must have the ticket number on-site.

WHAT HAPPENS AFTER THE EXCAVATION CONTACT IS MADE?

1. The Intent-to-Excavate Notice (Ticket) Is Processed by the Customer Service Center.

After the CSR completes the locate request, the notice ticket is processed at Miss Utility of Delmarva. The computer analyzes the polygon drawn around the proposed excavation site to identify which members have elected to receive the information.

The computer transmits the notice/ticket to the facility owner/operator member of USPCD via direct dial communication links or the Internet. Members receive the information via a Teletype printer, fax, e-mail, or directly to their own computer.

Note: Miss Utility of Delmarva does not mark the lines. The USPCD facility owner/operator member marks or clears the described proposed excavation area.

2. USPCD Owner/Operator Member's Office Receives the Intent-to-Excavate Notice (Ticket) and Determines Appropriate Response.

The information is received at the facility owner/operator member's mapping or screening department or in some cases by a contractor responsible for responding to the excavation notice (ticket). Trained personnel review the locate request in comparison with their maps and records. It is their job to decide whether or not the location of the work site is within 5 feet of the horizontal plane of the underground facility to existing underground facilities. Facility owners and operators may notify the excavator that they are unable to locate at the requested work-to-begin date and time and inform the excavator when the facilities will be marked. If the owner/operator cannot mark the location within two working days in Delaware or two full business days in Maryland, the operator will notify the excavator of the date and time when the location will be marked. Such extraordinary situations may include, but are not limited to,

government emergencies, emergencies declared by owners/operators, hazardous inclement weather, or during major owner/operator outage restoration efforts.

3. USPCD Owner/Operator Member's Field Locator Performs the Appropriate Response.

Once it is determined that markings are required, the ticket is dispatched to a facility owner/operator field locator, who will locate and mark the excavation site with paint, stakes, and/or flags. The locator for the facility owner/operator member of USPCD (or the contract locator) will mark facilities within 5 feet of the planned excavation according to specific guidelines and color codes and provide the required positive response to the Underground Facilities Information Exchange System.

WHAT SHOULD EXCAVATOR DO AFTER NOTIFYING MISS UTILITY?

Request Locates from Facilities Not Operated/Owned by USPCD Members

The service center informs excavators of any facilities operated or owned by USPCD members that will receive a notification ticket. USPCD suggests contacting the property owner for identification of other buried facilities owned or operated by nonmembers in the planned excavation. Contact those facility owners directly to request their lines be marked. There also may be homeowner or property-owner facilities that are on public right-of-ways or private property (for example, electric, lighting,

gas fuel lines, irrigation systems, and dog fences). The homeowner or property owner would need to provide locate information, except in Maryland where homeowners are excluded from the requirements of Chapter 12.

Wait for Positive Response from Those Notified of Planned Excavation

A person may begin a standard nonemergency excavation or demolition only if the person contacts or receives notification from Ticket Check® confirming that all applicable owners have either marked the approximate location of their underground facilities or reported that they have no underground facilities in the vicinity of the excavation or demolition.

Emergency Excavation Response. Most USPCD owner/operator members have agreed informally to make a best effort to respond to emergency notices that are a clear and present danger to life, health, or property within two hours of receiving the notice or by the requested work-to-begin date and time. In emergency excavations or demolitions, the excavator may excavate prior to receiving the facility operator's/owner's response without violating the respective state laws, but is still responsible to ensure the safety of the general public and employees and prevent damage to the underground facilities.

1. Verifying Locate Information.

Prior to excavation, excavators verify they are at the correct location and verify locate markings and, to the best of their ability, check for unmarked facilities. Upon arrival at the

excavation site prior to beginning the excavation, verify that the dig site matches the one-call request and is timely. Verify that all facilities have been marked, reviewing color codes if in doubt. Verify all service feeds from buildings and homes. Check for any visible signs of underground facilities, such as pedestals, risers, meters, and new trench lines. Check for any facilities that are not USPCD members and contact someone to get them located. Use of a pre-excavation checklist is recommended by insurers and practiced by responsible excavating contractors.

2. Handling Facility Relocations.

The excavator must coordinate work that requires temporary or permanent interruption of a facility owner/operator's service directly with the affected facility owner/operator in all cases. Any temporary or permanent interruption requires the active participation of the facility owner/operator and the excavator to ensure protection of facilities through a joint preplanning meeting or conference calls. The Service Centers can note special contractor requests for a joint meeting on the ticket to the facility owner/operator to initiate the process. There will likely be a significant fee from the facility owner/operator for relocations.

3. Using a Competent Person.

A competent person should be present during the excavation. This person should be capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees. This person must also have the

authorization to take prompt corrective measures to eliminate such conditions. The excavator's designated competent person at each job site should have access to the names and phone numbers of all facility owner/ operator contacts and the one-call/notification center. Situations may arise on the job site that require the immediate notification of the facility owner/ operator, one-call center, or local emergency personnel. If telephone communication is unavailable, radio communication to the home office [whose home office?] is available so that timely notification can be made. The home office should also have immediate access to all appropriate names and telephone numbers.

4. Maintaining the Marks.

Protect in a prudent and careful manner all markings provided by facility owners/ operators. In the event of the obliteration, destruction, or removal of the markings, the excavator shall notify the approved notification center of the need for remarking of utility lines by the facility owner/operators. After the excavation is complete, please complete the maintenance by removing the flags or other temporary marks that may be a hazard to others or as required for site restoration by the private or public property owner.

5. Testing/Pot Holing Underground Utility Lines.

When excavation operations approach the estimated location of underground installations, the exact location of the installations shall be determined by safe and acceptable means such

as testing/pot holing all marked lines within the planned excavation to confirm the exact line location and depth prior to using power excavating equipment or subsurface boring equipment. USPCD owner/operator members do not provide any depth information. During perpendicular crossings, lines should be exposed to visually confirm no damage occurs.

6. Using an Excavation Observer.

The excavator should have an observer to assist the equipment operator when operating excavation equipment around known underground facilities. The observer is a worker who is watching the excavation activity to warn the equipment operator while excavating around a utility to prevent damaging that buried facility.

7. Protecting the Marked Underground Utility Lines.

This protection shall include but may not be limited to hand digging within the limits of the planned excavation or demolition. It also includes any benching, starting 24 inches in Delaware and 18 inches in Maryland on either side of the extremities of the underground utility line for other than parallel type excavations and at reasonable distances along the line of excavation for parallel type excavations. There should be no power excavating equipment, subsurface boring excavations, or heavy equipment supports (for example, out riggers) within the tolerance zone.

Any excavation within close proximity to underground facilities may require the excavator to provide bracing or shoring to protect the lines. A person shall exercise due care to avoid

interference with or damage to an underground facility that a facility owner/ operator has marked. Most facility owner/ operator members require a minimum final separation of 12 to 18 inches between underground facilities. While the excavation is open, underground installations shall be protected and supported as necessary to safeguard employees. Please contact the owner/ operator for removal or relocation of any facilities, for additional guidance, or if any explosives will be used. Always assume all lines are active or energized.

8. Protecting Exposed Facilities.

Excavators need to support and protect exposed underground facilities from damage. Protection of exposed underground facilities is as important as preventing damage to the facility when digging around the utility. Protecting exposed underground facilities helps ensure that the utility is not damaged and at the same time helps protect employees working in the vicinity of the exposed facility. Exposed facilities can shift, separate, or be damaged when they are no longer supported or protected by the soil around them. Excavators should support or brace exposed facilities and protect them from moving or shifting, which could result in damage to the facility. This can be accomplished in different ways; for example, by shoring the facility from below or by providing a timber support with hangers across the top of an excavation to ensure that the facility does not move or bend. In addition, workers are instructed not to climb on, strike, or attempt to move exposed facilities, which could damage protective coatings,

bend conduit, separate pipe joints, damage cable insulation, damage fiber optics, or in some way affect the integrity of the facility. The Occupational Safety and Health Administration (OSHA) has also addressed this issue in Subpart P, Excavation Standard 29 CFR 1926.651(b)(4), which states, “While the excavation is open, underground installations shall be protected, supported, or removed as necessary to safeguard employees.” For example, an unsupported sewer main could shift, causing the pipe joints to separate, which could flood the trench where employees are working, endangering their safety.

RESPOND TO ANY DAMAGE IMMEDIATELY

If the protective covering of an electrical line is penetrated or gases or liquids are escaping from a broken line, causing a situation that endangers life, health, or property, the excavator should immediately contact the local emergency personnel or call 911 to report the damage location. This practice minimizes the danger to life, health, or property by notifying the proper authorities to handle the emergency situation. In these situations, local authorities are able to evacuate as appropriate and command substantial resources unavailable to the excavator or the underground facility owner/operator.

Also report immediately to the owner/operator any break or leak at its utility lines, as well as any dent, gouge, groove, or other damage to such lines or to the coating or cathodic

protection made or discovered in the course of the excavation or demolition work. The excavator must take immediate steps to protect life, contact local emergency response personnel as appropriate, protect property, and notify the facility owner/operator of the damage.

Alert immediately the occupants of any premises to any emergency that the excavator may have created or discovered at or near such premises. A broken line may cause a hazardous atmosphere that may be explosive, flammable, poisonous, corrosive, oxidizing, irritating, oxygen-deficient, toxic, or otherwise harmful, and that may cause death, illness, or injury.

For example, natural gas is not poisonous, but it is extremely flammable and can cause oxygen deficiency. If, despite all precautions, you hit a natural gas pipeline or have reason to suspect a leak, USPCD urges you to take these six steps to protect yourself and others. (Your local natural gas or propane provider may recommend additional precautions.)

1. Extinguish immediately all open flames, such as welding equipment, heaters, and cigarettes. Turn off machinery.
2. Avoid any action that could cause a spark, such as starting equipment or a vehicle, ringing a doorbell, or using a phone.
3. Alert everyone in the area of the potential danger.

4. Evacuate the site. Tape, rope, or place cones around the area. As a last resort, if no other barricade materials are available, make a human chain a safe distance from the danger to keep others away.

5. From a safe distance, call 911 to report the location of the natural gas odor and call the natural gas delivery company or propane provider.

- Delmarva Power: 302.454.0317
- Chesapeake: 302.734.6730
- Eastern Shore Natural Gas: 302.734.6720

6. Wait for professionals to arrive. Never try to fix a natural gas pipeline yourself or try to extinguish a gas fire. Remember, some of the most serious accidents are caused by well-meaning individuals who try to help when they are not qualified to do so.

FREQUENTLY ASKED QUESTIONS

Please refer to the respective state laws for the specific requirements. These answers only represent normal practice.

Q: How soon can I dig once the locate request has been placed?

A: *You can dig after all facility owners have cleared your ticket in Ticket Check®. It is very important to wait until the facility owners have responded to your request. Beginning work earlier can result in forfeiture of the excavator's rights and protection under Delaware and*

Maryland statutes. USPCD facility owner members will normally respond by the earliest work-to-begin date possible, usually two full working days in Delaware (48 hours from 7 a.m. of the next working day) or 48 hours in Maryland after you contact the Notification Center.

Q: How long is a locate request valid?

A: A ticket remains valid if the described work begins within ten working days after the call date and the work is continuous and the locate marks are still intact. It is the excavator's responsibility to protect the marks. Large projects in Delaware require a mutually agreeable locate schedule with each facility operator. A ticket becomes invalid if the work did not begin within ten work days of the call date and time, or the work scope changes, or the locate marks are missing or disturbed in such a way as to cause doubt.

Q: When should I request an update (remark)?

A: You may ask Miss Utility of Delmarva to issue an update ticket after an original locate request ticket has been placed and one of the following conditions exists:

- *Work scope changes*
- *Missing or disturbed locate markings*
- *Work did not begin within ten days of call date*

The original ticket number is required to obtain a remark. It will take two more working days in Delaware and 48 hours in Maryland for the remark request to be filled.

Q: What about the depth of underground facilities?

A: Utility owners have no control over depth variation caused by human interference, weather, or other circumstances after the original installation. As a result, utilities will only mark the location, not the depth of buried facilities.

Q: Why must I hand dig within a tolerance zone of a marked facility?

A: This is important because locating is not an exact science, and, therefore, the actual location of the facility could vary from the position of the marks. Also, Delaware state law mandates a 24-inch tolerance zone on each side of the extremities of a marked facility. Maryland state law mandates an 18-inch tolerance zone on each side of the extremities of a marked facility. No mechanized equipment can be used within this tolerance zone; only hand digging or vacuum excavation is allowed.

Q: Why do utility locators say they cannot locate private lines?

A: There are customer or privately owned underground lines for a variety of reasons. Often, due to regulatory or economic considerations, the customer decided that it was less expensive to have someone other than the utility install the underground facility. For example, excerpts from a public utility tariff reads “underground services to serve . . . customers shall be installed,

owned and maintained by the Customer. Upon the Customer's request, the Company may install the service at the Customer's expense." Thus, it was up to the customer, not the utility, to determine who owns and operates the facility. The property owner or builder typically hires a plumbing contractor to install the property owner's water and sewer services. Some utilities have codes of conduct that govern regulated utility activities such as locating company lines and restrict unregulated activities such as locating noncompany lines. Electrical or locating contractors can locate customer or privately owned underground lines. The utility does not have the right or authority to maintain or locate lines that they do not own or operate. Generally, utilities do not maintain records of facilities that they do not own or operate, and thus, they have no basis to provide an approximate locate.

Q: How do I get underground facilities marked by underground facility operators or owners who are not members of USPCD (Miss Utility of Delmarva)?

A: *USPCD suggests contacting each property owner for help identifying owners of other buried facilities. Then contact the facility owners directly to request their lines be marked. There also may be homeowner or property-owner facilities situated before or beyond the meter (for example, electric, lighting, gas fuel line, irrigation systems, and dog fences) for which the owner would need to provide locate information. Homeowners are exempt from some aspects of the state laws.*

In addition, private facility owners may not know they own underground lines or do not readily have the means to locate the underground lines they own. OSHA 1926.651 states that when owners do not “establish the exact location of these installations, the employer may proceed, provided the employer does so with caution, and provided detection equipment or other acceptable means to locate utility installations are used.” You can also find locating contractors in the Yellow Pages of some phone books and on the USPCD Web site: www.missutilitydelmarva.com.

Q: What about fiberglass poles or existing marks that warn about underground facilities in the area?

A: Any fiberglass poles warning of underground facilities are not markings. They are only reminders to call to have the area marked. You should always contact the Notification Center to obtain your own marks and not rely on marks already in the field. Those marks will not be valid for your work.

REPORTING PROBLEMS

Excavators may encounter problems during the locating process. USPCD (Miss Utility of Delmarva) will assist in the resolution of these problems.

1. Correcting Errors.

If, at any time, it is discovered that incorrect information was provided to Miss Utility of Delmarva, excavators/contractors should notify Miss Utility of Delmarva as soon as possible.

The Notification Center will correct the problem by filing a new ticket, correction, or update as appropriate. Note: A new work-to-begin date will be issued.

Corrections to a ticket will only be accepted from excavators/contractors working for the same company that originated the ticket (in other words, a subcontractor may not change information on a ticket filed by the general excavator).

2. Missing or Incorrect Marks.

If the work-to-begin date and time issued by Miss Utility of Delmarva has arrived and a member has failed to respond and mark the facilities or has marked the facilities incorrectly, it is best to contact that facility owner directly. The Miss Utility of Delmarva Customer Service Center can provide the appropriate phone numbers if needed. To ensure the safety of the excavation crews and the general public, excavation should not begin until the excavator is confident that all facilities have been marked correctly.

3. Recurring Problems with Facility Operators/Owners.

If a member company consistently fails to mark facilities prior to the work-to-begin date, it is best to contact the facility owner or the regulatory body that oversees that facility owner, or seek legal advice from a qualified source. The Delaware or Maryland Public Service Commissions may regulate some public utility facility owners, and municipal facility owners may report to a municipal governmental authority or council. For member contact information, consult this Web site: www.missutilitydelmarva.com.

4. Problems or Questions with the Miss Utility Notification Center.

As with any other problem, USPCD is interested in the excavator's concerns and will assist in any way possible. We meet the third Thursday of every month at various locations on the Delmarva Peninsula. Meeting dates and addresses are posted on our Web site: www.missutilitydelmarva.com. You may also contact USPCD directly to present your concern by e-mail or traditional mail:

E-mail: info@missutilitydelmarva.com

Postal Mail:

Executive Secretary
USPCD
Box 600
Greenwood, DE 19950

5. Damaged Lines

According to Miss Utility of Delmarva bylaws, all members are required to report damages monthly for statistical analysis and to help with development of education programs. The reporting form is available on the Miss Utility Web site: www.missutilitydelmarva.com. Select Damage Report from the GREEN menu bar on the top of the home page.

Appendix A: Delaware Code

This portion of Delaware Code extracted from the following Web site on December 18, 2007:
<http://delcode.delaware.gov/title26/c008/index.shtml#TopOfPage>

TITLE 26

Public Utilities

CHAPTER 8. UNDERGROUND UTILITY DAMAGE PREVENTION AND SAFETY

§ 801. Purpose; citation; construction.

(a) For the purposes of providing for the protection of the public health and safety, certain procedures are necessary to assure that persons performing excavation or demolition operations know, prior to commencing such operations, of the presence or location of underground utilities in the excavation or demolition area. Certain precautions must be taken to avoid injuries and damage to life, limb and property, to avoid disruption and discontinuation of utility services to members of the public and to promote safe operations during excavation and demolition.

(b) This act shall be known and may be cited as the Underground Utility Damage Prevention and Safety Act. This chapter shall be liberally construed and applied to promote its underlying purposes and policies. (62 Del. Laws, c. 148, § 2; 69 Del. Laws, c. 455, § 1.)

§ 802. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Approved notification center” shall mean an organization identified by § 807 of this title and which complies with the requirements of § 807 of this title and is otherwise operated in accordance with the Federal Pipeline Safety Regulations codified at 49 C.F.R. Ch. 1, § 198.39.

(2) “Damage” shall mean, but is not limited to:

a. The complete or partial destruction, dislocation or weakening of structure or lateral support of a utility line, or

b. The complete or partial penetration or destruction on any utility line, appurtenance, protective coating, covering, housing or other protective device, or

c. The complete or partial severance of any utility line.

(3) “Demolish or demolition” shall mean any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment or discharge of explosives capable of damaging underground or submarine utility lines.

(4) “Designer” shall mean any architect, engineer or other person, acting either as an employer or employee, who prepares a drawing for a construction or other project which requires excavation or demolition.

(5) “DNREC Regulated Site” shall mean any parcel of land or portion thereof for which a final permit, remediation plan, institutional or administrative control, use restriction or similar limitation is imposed under the authority granted to the Department of Natural Resources and Environmental Control under 7 Delaware Code and for which due process opportunities have been provided.

(6) “Emergency” shall mean any condition constituting a clear and present danger to life, health or property by reason of escaping gas or petroleum products, exposed or broken wires, other breaks or defects in an operator’s utility line or by reason of any disaster of artificial or natural causes.

(7) “Excavate” or “excavation” shall mean any operation in which earth, rock or other material in the ground is moved, removed or otherwise displaced or disturbed by means of any tools, equipment or explosives and includes, without limitation, grading, trenching, digging, dredging, ditching, drilling, augering, tunnelling, boring, backfilling, post pounding, driving objects into the ground, installation of form pins, hammering, scraping, cable or pipe plowing or driving, but does not include the surface cultivation of the soil for agricultural purposes, such as tilling, or patch-type paving where the same, including cutback, does not exceed 12 inches in depth measured from the surface of the pavement being patched.

(8) “Excavator” shall mean any person, including those acting either as an employer or employee, intending to perform or performing excavation or demolition work.

(9) “Operator” shall mean any person who furnishes or transports materials or services by means of a utility line.

(10) “Person” shall mean any individual, firm, joint venture, partnership, corporation, association, municipality, other political subdivision, state or federal governmental unit, department or agency, state cooperative association, joint stock association and shall include any assignee, trustee, receiver or personal representative thereof.

(11) “Underground pipeline facility operator” shall mean an operator of a buried pipeline facility used in the transportation of gas, such as propane and natural gas, subject to the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. § 1671 et. seq.) [repealed by act, July 5, 1994, P.L. 103-272], or used in the transportation of hazardous liquid subject to the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. § 2001 et. seq.) [repealed by act, July 5, 1994, P.L. 103-272]; Underground Pipeline Facility Operators include, without limitation, natural gas, propane gas, master meter, LP gas and interstate and intrastate gas and liquid distribution facility operators as defined by these acts.

(12) “Utility line” shall mean any item of personal property which shall be buried or placed below ground or submerged for use in connection with the storage or conveyance of water, sewage, electronic, cable television, telephonic or telegraphic communications, electric energy, oil, petroleum products, gas or other substances, and shall include, but not be limited to, pipes, sewers, conduits, cables, fiber optic conductors, valves, lines, wires, manholes, vaults, attachments and those portions of poles, pylons or other supports below ground or submerged.

(13) “Working day” shall mean every day, except Saturday, Sunday and state, federal and recognized operator holidays. (62 Del. Laws, c. 148, § 2; 69 Del. Laws, c. 455, § 1; 72 Del. Laws, c. 323, §§ 1, 2.)

§ 803. Duties of operator.

It shall be duty of each operator:

(1) To participate in the approved notification center.

(2) To give written notice to such approved notification center which shall state:

- a. The name of the operator;
- b. The location of the operator’s lines; and
- c. The operator’s office address (street, number and political subdivision) and the telephone numbers to which inquiries may be directed as to the location of such lines.

(3) To give like written notice within 5 working days after any of the matters stated in the last previous notice shall have changed.

(4) To respond to requests from an excavator or operator who identifies the site of excavation or demolition, or proposed excavation or demolition, for information as to the approximate location and type of the operator's utility lines in the area, not more than 2 working days after receipt of such requests.

(5) To inform excavators or operators who identify the site of excavation or demolition, or proposed excavation or demolition, not more than 2 working days after receipt of a request therefor, of the following:

a. If it is determined by an operator that a proposed excavation or demolition is planned within 5 feet of a utility line as measured in the horizontal plane and that the utility line may be damaged, the operator shall notify the person who proposes to excavate or demolish and shall physically mark the horizontal location of the utility line within 18 inches of the utility line on the ground by means of stakes, paint or other suitable means within 2 working days after the request. The operator shall also notify the person who proposes to excavate or demolish as to the size of the utility line, the type of temporary marking provided and how to identify the markings. In the case of extraordinary circumstances, if the operator cannot mark the location within 2 working days, the operator shall, upon making such determination, notify the person who proposes to excavate or demolish and shall, in addition, notify the person of the date and time when the location will be marked;

- b. The cooperative steps which the operator may take, either at or off the excavation or demolition site, to assist in avoiding damage to its lines;
- c. Suggestions for procedures that might be followed in avoiding such damage;
- d. If the operator has no utility line within 5 feet of the proposed excavation or demolition as measured in the horizontal plane and if a proposed excavation or demolition by blasting is not planned in such proximity to the operator's utility lines that the utility lines may be damaged, the operator shall advise the person who proposes to excavate or demolish that marking is unnecessary and that the person may therefore begin the excavation or demolition;
- e. In marking the approximate location of utility lines, the operator shall follow the color coding described herein:

Electric power distribution and transmission— Safety red

Municipal electric systems—Safety red

Gas distribution and transmission—High visibility safety yellow

Oil and petroleum products distribution and transmission—High visibility safety yellow

Dangerous materials, product lines, steam lines—High visibility safety yellow

Telephone and telegraph systems—Safety alert orange

Police and fire communications—Safety alert orange

Cable television—Safety alert orange

Water systems—Safety precaution blue

Slurry systems—Safety precaution blue

Sewer systems—Safety green

(6) To respond to requests from designers who identify the site of excavation or demolition, for information as to the approximate location and type of the operator's utility lines in the area within 15 working days of receipt of a request therefor.

(7) To inform designers who identify the site of excavation or demolition, or proposed excavation or demolition, not more than 15 working days after receipt of a request therefor of the information set forth at subsection (5) of this section.

(8) Upon receipt of a request pursuant to paragraphs (4), (5), (6) and/or (7) of this section to assign such request an identifying number (which may be the same as the number assigned by the approved notification center in accordance with § 807(b)(5) of this title), inform the requestor of such number and maintain a record showing the name, address and telephone number of the requestor, the site to which the request pertains and the identifying number assigned to the request. (62 Del. Laws, c. 148, § 2; 69 Del. Laws, c. 455, § 1; 70 Del. Laws, c. 186, § 1.)

§ 804. Additional duties of operators who are also underground pipeline facility operators.

It shall be the duty of each underground pipeline facility operator to:

- (1) Participate in the approved notification center.
- (2) Provide as follows for inspection of pipelines that such operator has reason to believe could be damaged by excavation activities:
 - a. The inspection must be done as frequently as necessary during and after the excavation activities to verify the integrity of the pipeline; and
 - b. In case of blasting, any inspection must include leakage surveys. (69 Del. Laws, c. 455, § 1.)

§ 805. Duties of designers.

It shall be the duty of each designer:

- (1) To contact the approved notification center and obtain the identity of operators whose facilities are listed, as required by § 803 of this title, in the area of the proposed excavation or demolition;
- (2) To obtain the information prescribed in § 803(6) or (7) of this title from each operator identified as required by § 803(2) of this title;
- (3) To show upon the drawing the type of each line, derived pursuant to the request made as required in paragraph (2) of this section, the name of the operator and telephone number of the approved notification center, and instructions to “notify the approved notification center not less than 2 working days, but no more than 10 working days, prior to the excavation or demolition activities.” (62 Del. Laws, c. 148, § 2; 69 Del. Laws, c. 455, § 1.)

§ 806. Duties of excavators.

(a) Prior to undertaking any excavation or demolition activities, it shall be the duty of each excavator to:

(1) Ascertain the telephone number of the approved notification center;

(2) Notify the approved notification center not less than 2 working days, but no more than 10 working days, prior to the day of the commencement of such work of the following:

a. The name of the person notifying the approved notification center;

b. The name, address and telephone number of the excavator;

c. The specific location, starting date and description of the intended excavation or demolition activity;

(3) Ascertain the location and type of utility lines, and information prescribed by § 803(5) of this title and the identifying number(s) assigned (pursuant to § 807 of this title) by the approved notification center in response to the notice prescribed in paragraph (2) of this subsection;

(4) Inform each person employed by the excavator at the site of such work of the information obtained pursuant to paragraph (3) of this subsection;

(5) Maintain in a prudent and careful manner all markings provided by operators in accordance with the provisions of § 803 of this title and, in the event of the obliteration, destruction or removal of the markings, the excavator shall notify the approved notification center of the need for remarking of utility line by the operators;

(6) Establish and maintain a mutually agreeable schedule of required utility locating with each involved operator to insure that the purpose of this chapter is met whenever the intended excavation or demolition will occur at multiple locations, on various dates, on a construction site or public works project with a duration in excess of 20 working days. Proper establishment and prudent, careful, compliance with such a schedule, after initial notice as required under paragraph (2) of this subsection, shall be considered as notice required in paragraph (2) for the balance of the construction project;

(7) Excavate prudently and carefully and to take all reasonable steps necessary to properly protect, support and backfill underground utility lines. This protection shall include but may not be limited to hand digging, within the limits of the planned excavation or demolition, starting 2 feet of either side of the extremities of the underground utility line for other than parallel type excavations and at reasonable distances along the line of excavation for parallel type excavations;

(8) Report immediately to the operator any break in, or leak on, its utility lines, any dent, gouge, groove or other damage to such lines or to the coating or cathodic protection made or discovered in the course of the excavation or demolition work;

(9) Alert immediately the occupants of any premise as to any emergency that the excavator may create or discover at or near such premises.

(b) The requirements of paragraphs (a)(1) through (5) of this section shall not apply to an excavator performing excavation or demolition work in any emergency. However, excavators performing excavation or demolition activities in an emergency shall notify the approved notification center at the earliest practicable moment of the information prescribed in subsection (a)(2) of this section. (69 Del. Laws, c. 455, § 1; 70 Del. Laws, c. 186, § 1.)

§ 807. Approved notification center.

(a) The approved notification center shall be Utilities Service Protection of Delmarva, Inc.

(b) The approved notification center shall:

(1) Receive and record information prescribed by § 803 of this title regarding the location of operators' utility lines within the State;

(2) Receive and record information prescribed by §§ 805 and 806 of this title regarding notice by excavators or designers of intended excavation or demolition activity;

(3) Promptly transmit to the operators identified in accordance with § 803 of this title, the information received as prescribed by paragraph (2) of this subsection;

(4) Maintain records of each notice received in accordance with paragraph (2) of this subsection for a period of not less than 6 years;

(5) Assign an identifying number to the notice prescribed in paragraph (2) of this subsection;

(6) Notify those persons giving notice as prescribed by § 806 of this title, of the names of participating operators to whom the notice will be transmitted as prescribed by paragraph (3) of this subsection and approved notification center's identifying number assigned (pursuant to paragraph (5) of this subsection) to the notice prescribed in paragraph (2) of this subsection;

(7) Provide a toll-free telephone number for use by any person providing notice as prescribed by §§ 803, 805 and 806 of this title;

(8) Identify persons who normally engage in excavation activities in this State;

(9) Notify the persons identified in paragraphs (7) and (8) of this subsection and the general public as often as necessary to make them aware of:

a. The existence of the approved notification center;

b. The purpose and general requirements of this chapter;

c. How to learn the location of utility lines before excavation or demolition activities are begun; and

d. The toll-free telephone number provided as required by paragraph (7) of this subsection.

(10) Promptly transmit to the appropriate contact of DNREC the information contained in the notice by excavators or designers of intended excavation or demolition activity as to any DNREC Regulated Site. (62 Del. Laws, c. 148, § 2; 69 Del. Laws, c. 455, § 1; 72 Del. Laws, c. 323, § 3.)

§ 808. Exemptions.

No penalties provided for in § 810 of this title shall apply to any excavation or demolition done by the owner of a private residence when such excavation or demolition is made entirely on the land on which the private residence is situated and provided there is no encroachment on any operator's rights-of-way or easement. However, this exemption shall have no effect on the civil liability of such private residence owner pursuant to § 811 of this title. (69 Del. Laws, c. 455, § 1.)

§ 809. Injunction; mandamus.

Whenever it appears that any person has engaged in, is engaging in or is about to engage in excavation or demolition in a manner contrary to safe practices, thereby posing a threat or potential threat, of injury or damage to life, limb or property, not necessarily limited to utility lines, or has otherwise violated, is about to violate or is violating any provision of this chapter, the Attorney General or any operator or owner of said utility line may institute an action for the purpose of having such excavation or demolition stopped or prevented, either by mandatory or prohibitive injunction, mandamus or for other relief including interim equitable relief and punitive damages, in a court of competent jurisdiction in the county in which the excavation or demolition has occurred,

is occurring or is about to occur, or in which the defendant's or respondent's principal place of business is located. The procedure for all such proceedings shall be as provided in the rules of procedure in the court where said action is commenced or as established by the usual practice and procedure in said court. The court may join as parties any and all persons necessary to make its judgment or processes effective. (62 Del. Laws, c. 148, § 2; 69 Del. Laws, c. 455, § 1.)

§ 810. Penalties.

It is unlawful and a misdemeanor for any person to do any act forbidden, or fail to perform an act required by this chapter.

(1) Except as provided in paragraph (2) of this section, whoever, by action or inaction, violates a provision of this chapter shall, for the 1st offense, be fined not less than \$100 nor more than \$500. For each subsequent like offense, such person shall be fined not less than \$200 nor more than \$1,000 for each violation.

(2) Operators of underground pipeline facilities, excavators, and the approved notification center shall, upon violation of any applicable requirements of 49 C.F.R. part 198, Subpart C [49 C.F.R. § 198.31 et seq.], be subject to civil penalties not to exceed \$10,000 for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed \$500,000 for any related series of violations. In determining the amount of the fine, the court shall consider the nature, circumstances and gravity of the violation and, with respect to the person

found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the fine and such other matters as justice may require. (62 Del. Laws, c. 148, § 2; 69 Del. Laws, c. 455, § 1.)

§ 811. Civil liability.

(a) Obtaining information as required by this chapter does not excuse any person making any excavation or demolition from doing so in a careful and prudent manner, nor shall it excuse any person from liability for any damage or injury resulting from the excavation or demolition.

(b) If the information required to be provided by operators pursuant to § 803 of this title is not provided in accordance with the terms thereof, any person damaging or injuring underground facilities of such operator shall not be liable for such damage or injury except on proof of negligence.

(c) Failure by DNREC to notify or otherwise contact an excavator or designer prior to a properly noticed excavation or demolition at any DNREC Regulated Site shall not relieve such excavator or designer from complying with all applicable federal, state, county or municipal laws or regulations, nor shall it create any liability in DNREC for any damage or injury resulting from any such excavation or demolition. (62 Del. Laws, c. 148, § 2; 69 Del. Laws, c. 455, § 1; 72 Del. Laws, c. 323, § 4.)

§ 812. Conviction not admissible.

A conviction under this chapter, even when obtained pursuant to a guilty plea, shall not be admissible in any civil proceedings involving personal injury, wrongful death or property damage. (62 Del. Laws, c. 148, § 2; 69 Del. Laws, c. 455, § 1.)

§ 813. Effective date.

The effective date of this chapter shall be January 1, 1995. (69 Del. Laws, c. 455, § 1.)

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Appendix B: Maryland Code

Maryland Code: Title 12 “Underground Facilities”; Subtitle 1:

“Excavation or Demolition Near Underground Facilities” (Appendix A)

<http://www.missutility.net/maryland/mdstatelaw.asp>

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§12-101.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Authority” means the Maryland Underground Facilities Damage Prevention Authority.
- (c) “Business day” means a calendar day other than a Saturday, Sunday, or legal holiday.
- (d) “Demolition” means an operation in which a structure or mass of material is wrecked, razed, rended, moved, or removed using any tool, equipment, or explosive.

(e) “Designer” means a licensed architect, professional engineer, professional land surveyor, or licensed landscape architect, as those terms are defined in the Business Occupations and Professions Article, who prepares a drawing for a project that may require excavation or demolition.

(f)(1) “Excavation” means an operation in which earth, rock, or other material in or on the ground is moved, removed, or otherwise displaced by using any tool, equipment, or explosive.

(2) “Excavation” includes grading, trenching, digging, ditching, dredging, drilling, boring, augering, tunnelling, scraping, cable or pipe plowing and driving a mass of material.

(g) “Fund” means the Maryland Underground Facilities Damage Prevention Education and Outreach Fund.

(h) “Legal holiday” means:

(1) the day on which a legal holiday, as defined in Article 1, § 27 of the Code, is observed; or

(2) a federal legal holiday.

(i) “One-call system” means a communications system in the State that:

(1) allows a person to notify owner-members of planned excavation or demolition by:

(i) calling a toll-free number or abbreviated dialing code; or

(ii) initiating an interactive Internet ticket request; and

(2) maintains an underground facilities information exchange system.

(j)(1) “Owner” means a person that:

(i) owns or operates an underground facility; and

(ii) has the right to bury an underground facility.

(2) “Owner” includes:

- (i) a public utility;
- (ii) a telecommunications corporation;
- (iii) a cable television corporation;
- (iv) a political subdivision;
- (v) a municipal corporation;
- (vi) a steam heating company;
- (vii) an authority; and
- (viii) a unit of the State.

(k) “Owner–member” means an owner that participates as a member in a one–call system.

(l) (1) “Person” has the meaning stated in §1–101 of this article.

(2) “Person” includes:

- (i) a municipal corporation;
- (ii) the State;
- (iii) a political subdivision of the State; and
- (iv) any governmental unit, department, or agency.

(m) “Ticket” means a numbered document issued by a one–call system to notify owner–members that:

- (1) a person intends to perform an excavation or demolition; or
- (2) a designer has requested information on the location of underground facilities under § 12–131 of this subtitle.

(n) “Underground facilities information exchange system” means an automated voice response unit or interactive Internet access system that is maintained as part of a one–call system.

(o) (1) “Underground facility” means personal property that is buried or submerged for:

(i) use in connection with the storage or conveyance of water, sewage, oil, gas, or other substances; or

(ii) transmission or conveyance of electronic, telephonic, or telegraphic communications or electricity.

(2) “Underground facility” includes pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those portions of poles below ground.

(3) “Underground facility” does not include a stormwater drain.

§12–102.

It is the intent of the General Assembly to protect underground facilities of owners from destruction, damage, or dislocation to prevent:

(1) death or injury to individuals;

(2) property damage to private and public property; and

(3) the loss of services provided to the general public.

§12–103.

This subtitle does not apply to an excavation or demolition performed or to be performed by an owner or lessee of a private residence when the excavation or demolition is performed or to be performed:

(1) entirely on the land on which the private residence of the owner or lessee is located; and

(2) without the use of machinery.

§12-106.

(a) There is a Maryland Underground Facilities Damage Prevention Authority.

(b) It is the intent of the General Assembly that the Authority not be funded by appropriations from the State budget.

§12-107.

(a) The Authority consists of nine members appointed by the Governor.

(b) The nine members shall be appointed as follows:

(1) one member from a list submitted to the Governor by the Associated Utility Contractors of Maryland;

(2) one member from a list submitted to the Governor by the Public Works Contractors Association of Maryland;

(3) two underground facility owners that are members of a one-call system from a list submitted to the Governor by the Maryland members of the Maryland/DC Subscribers Committee;

(4) one member from a list submitted to the Governor by the one-call centers operating in the State;

(5) one member who represents the State's underground utility locator community from a list submitted to the Governor by the Maryland members of the Maryland/DC Damage Prevention Committee;

(6) one member who has experience in the field of underground utilities from a list submitted to the Governor by the Maryland Association of Counties;

(7) one member who has experience in the field of underground utilities from a list submitted to the Governor by the Maryland Municipal League; and

(8) one member of the general public from a list submitted to the Governor by the other appointed and qualified members of the Authority.

(c) To the extent practicable, members appointed to the Authority shall reasonably reflect the geographic, racial, and gender diversity of the State.

(d) (1) The term of a member is 2 years.

(2) The terms of members are staggered as required by the terms provided for members of the Authority on October 1, 2010.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member may not be appointed for more than two consecutive full terms.

(6) To the extent practicable, the Governor shall fill any vacancy in the membership of the Authority within 60 days after the vacancy.

(e) On the recommendation of the Authority, the Governor may remove a member for incompetence or misconduct.

§12-108.

(a) From among its members, each year the Authority shall select a chair.

(b) Subject to subsection (c) of this section, the manner of selection of the chair and the chair's term of office shall be as the Authority determines.

(c) A member may not serve more than 2 consecutive years as chair of the Authority.

§12-109.

- (a) Five members of the Authority are a quorum.
- (b) The Authority shall meet at least once every 3 months at the times and places it determines.
- (c) A member of the Authority:
 - (1) may not receive compensation as a member of the Authority; and
 - (2) is not entitled to reimbursement for expenses.

§12-110.

- (a) The Authority may:
 - (1) adopt bylaws for the conduct of its business;
 - (2) adopt a seal;
 - (3) maintain an office at a place it designates;
 - (4) maintain facilities for the purpose of holding hearings under this subtitle;
 - (5) employ a staff;
 - (6) accept a grant, a loan, or any other assistance in any form from any public or private source, subject to the provisions of this subtitle;
 - (7) enter into contracts and execute the instruments necessary or convenient to carry out this subtitle to accomplish its purposes; and
 - (8) do all things necessary or convenient to carry out the powers expressly granted by this subtitle.
- (b) The Authority shall adopt a code of conduct for its members.

§12–111.

(a) The Authority may obtain funding for its operational expenses from:

- (1) a federal or State grant;
- (2) filing fees and administrative fees for complaints heard by the Authority as authorized under § 12–112(b)(1) of this subtitle; and
- (3) any other source.

(b) Except as provided in subsection (a)(2) of this section, the Authority may not impose a charge or assessment against any person, directly or indirectly, to obtain funding for its operational expenses.

§12–112.

(a) To enforce this subtitle, the Authority may:

- (1) hear complaints for violations of this subtitle;
- (2) after a hearing, assess a civil penalty under § 12–135 of this subtitle; and
- (3) reach a settlement instead of assessing a civil penalty.

(b) (1) The Authority may:

- (i) establish reasonable complaint filing fees and administrative fees for complaints heard by the Authority; and
- (ii) use the services of a third party to collect civil penalties.

(2) If the Authority determines that an individual cannot afford to pay a fee established under paragraph (1)(i) of this subsection, the Authority may exempt the individual wholly or partly from the fee.

(c) The Authority may not assess a civil penalty against a person unless the person:

- (1) receives reasonable prior notice of the complaint; and
- (2) has an opportunity to be heard under § 12–113 of this subtitle.

§12–113.

(a) In a hearing before the Authority for an alleged violation of this subtitle:

(1) all testimony shall be given under oath; and

(2) the proceedings shall be recorded.

(b) The chair or a member of the Authority may administer the oath.

(c) The Authority may compel the attendance of a witness by subpoena.

(d) (1) The Authority shall issue its decision in writing, stating the reason for its decision.

(2) A copy of the decision shall be delivered or mailed to all parties to the complaint proceedings.

(e) (1) A person aggrieved by a decision of the Authority may, within 30 days after receiving the decision, request judicial review of the decision by the circuit court.

(2) In accordance with the judicial review and appeals process under the Administrative Procedure Act, the circuit court shall hear and determine all matters connected with the decision of the Authority for which judicial review is requested.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, the costs of the judicial review, including the costs of preparing a record and transcript, shall be paid by the party filing the request for judicial review.

(ii) If the party filing the request for judicial review prevails, the circuit court may require that the costs of the judicial review, including the costs of preparing a record and transcript, be paid by the Authority.

(4) If the request for judicial review is dismissed, the circuit court shall award attorney's fees to the Authority unless the Authority waives the award of attorney's fees.

(f) (1) The record of a hearing conducted under this section, including any record of testimony or evidence offered at the hearing, is not admissible in any administrative or civil proceeding involving the same subject matter or the same parties.

(2) Paragraph (1) of this subsection does not apply to judicial review of the Authority's decision.

§12-114.

Beginning January 1, 2012, the Authority shall report each year to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on the activities of the Authority and any recommendations of the Authority.

§12-117.

(a) There is a Maryland Underground Facilities Damage Prevention Education and Outreach Fund.

(b) The purpose of the Fund is to cover the costs of:

(1) public education and outreach programs; and

(2) the development of safety procedures to prevent damage to underground facilities.

(c) The Authority shall hold and administer the Fund.

(d) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(e) The Fund consists of:

(1) civil penalties paid into the Fund under §12–135 of this subtitle;

(2) investment earnings of the Fund; and

(3) any other money from any other source accepted for the benefit of the Fund.

(f) (1) The Fund may be used only for:

(i) public education and outreach programs for the prevention of damage to underground facilities; and

(ii) the development of safety procedures for excavation and demolition projects conducted in the area of underground facilities.

(2) The Authority may make grants to local governments or private entities consistent with the purposes of the Fund.

§12–120.

(a) Except as provided in subsections (b) and (c) of this section, a person that obtains the information required under this subtitle is not excused from:

(1) performing an excavation or demolition in a careful and prudent manner; and

(2) liability for damages or injury that results from the excavation or demolition.

(b) If an underground facility is damaged by a person that fails to comply with this subtitle, the person is deemed negligent and is liable to the owner for the total cost of repair of the underground facility, unless the owner has failed to become an owner–member in accordance with § 12–123 of this subtitle.

(c) If an underground facility is damaged by a person who is in compliance with this subtitle and the owner has failed to become an owner–member in accordance with § 12–123 of this subtitle:

(1) the person is not liable to the owner for the cost of repair of the underground facility; and

(2) the owner is liable for any repairs or restoration of property damaged by the excavation or demolition.

(d) Subsection (c) of this section may not be construed to interfere with the right of:

(1) a third party to recover damages arising out of the excavation or demolition from the person or from the owner; or

(2) the person to seek contribution from an owner for damages sought by a third party under paragraph (1) of this subsection.

§12–121.

(a) Subject to § 12–120(b) of this subtitle, if all reasonable precautions have been taken to protect underground facilities, § 12–120(a) of this subtitle and §§ 12–122 through 12–135 of this subtitle do not apply to an emergency excavation or demolition being performed to prevent danger to life, health, or property.

(b) A person performing an emergency excavation or demolition to prevent danger to life, health, or property shall:

(1) take all reasonable precautions to protect underground facilities in and near the excavation or demolition area; and

(2) immediately notify the one–call system serving the geographic area where the emergency excavation or demolition is performed to inform the appropriate owner–members of the excavation or demolition area.

(c) A person that abuses the emergency excavation and demolition procedure set forth in this section is subject to penalties under § 12–135 of this subtitle.

§12–122.

(a) Except as provided in subsection (b) of this section, a person that operates a one–call system in the State shall register with and obtain certification to operate from the Commission.

(b) A person operating a one–call system on or before July 1, 1990, is automatically registered with and certified by the Commission to continue to operate.

(c) (1) The operator of a one–call system shall install and make available an underground facilities information exchange system in its one–call center in the State.

(2) The underground facilities information exchange system shall be available to any caller at all times.

(d) The Commission may grant, amend, or revoke the certification of a person operating a one–call system.

§12–123.

(a) (1) An owner shall be a member of a one–call system.

(2) Except as provided in paragraph (3) of this subsection, an owner becomes a member of a one–call system by registering with the one–call system.

(3) The Department of Transportation, its administrations, and the Maryland Transportation Authority shall become members of the one-call system through a separate agreement and using the information collected under § 12-124(b)(2) of this subtitle.

(b) (1) An owner-member of a one-call system shall submit to the one-call system, in writing, the telephone number of the person to which calls concerning proposed excavations or demolitions shall be directed.

(2) An owner-member shall ensure that all contact information provided to the one-call system remains current.

§12-124.

(a) A person that intends to perform an excavation or demolition in the State shall initiate a ticket request by notifying the one-call system serving the geographic area where the excavation or demolition is to be performed of the person's intent to perform the excavation or demolition.

(b) Notice provided to a one-call system under subsection (a) of this section shall indicate:

(1) the location of the proposed excavation or demolition;

(2) whether the proposed excavation or demolition is within rights-of-way owned or controlled by the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority and, if so, the entity and the permit number or authorization number obtained from that entity; and

(3) the type of work to be performed in connection with the proposed excavation or demolition.

(c) (1) Except as provided in paragraph (2) of this subsection, on receiving notice, the one-call system shall promptly transmit a copy of the ticket to all owner-members in the geographic area indicated for that ticket.

(2) Based on information collected under §12-124(b)(2) of this subtitle, the one-call system shall promptly transmit a copy of the ticket to the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority, as applicable.

(3) A ticket is valid for 12 business days after the day on which the ticket is transmitted by the one-call system to an owner-member.

§12-125.

(a) A person shall repeat the notification required under § 12-124 of this subtitle if the person:

(1) has not completed or will not complete the excavation or demolition within the time period authorized by the ticket; or

(2) intends to expand the excavation or demolition beyond the location indicated in the notice under § 12-124(b) of this subtitle.

(b) A person shall repeat the notification regardless of:

(1) any delays by an owner-member in marking its underground facilities; or

(2) an agreement between the person and an owner-member regarding the time for marking underground facilities.

§12-126.

(a) An owner-member shall mark its underground facility if the owner-member has determined that a proposed excavation or demolition:

(1) is within 5 feet of the horizontal plane of the underground facility; or

(2) because of planned blasting, is so near to the underground facility that the underground facility may be damaged or disturbed.

(b) (1) An owner-member shall mark the location of its underground facility by marking on the ground within 18 inches on a horizontal plane on either side of the underground facility.

(2) (i) When marking the location of an underground facility, an owner-member shall use the current color codes established by the American Public Works Association for marking underground facilities.

(ii) If two or more owner-members share the same color code, each owner-member shall include information with the marking that indicates the owner-member of the marked underground facility.

(c) Except as provided in subsection (d) of this section, within 2 business days after the day on which a ticket is transferred to an owner-member, the owner-member shall:

(1) mark the location of the owner-member's underground facility and report to the underground facilities information exchange system that the underground facility has been marked; or

(2) report to the underground facilities information exchange system that the owner–member has no underground facilities in the vicinity of the planned excavation or demolition.

(d) (1) If an owner–member is unable to mark the location of the owner–member’s underground facility within the time period prescribed in subsection (c) of this section because of the scope of the proposed excavation or demolition, the owner–member shall:

(i) promptly notify the underground facilities information exchange system and the person that intends to perform the excavation or demolition; and

(ii) work with the person that intends to perform the excavation or demolition to develop a mutually agreeable schedule for marking the underground facility.

(2) If the owner–member and person that intends to perform the excavation or demolition cannot reach a mutually agreeable schedule for marking under paragraph (1) of this subsection, the owner–member shall mark that portion of the site where excavation or demolition will first occur, and the owner–member shall mark the remainder of the site within a reasonable time.

(3) If, due to circumstances beyond an owner– member’s control and for reasons other than those specified in paragraph (1) of this subsection, an owner–member is unable to mark the location of the owner–member’s underground facility within the time period prescribed in subsection (c) of this section, the owner–member shall report to the underground facilities information exchange system that an extension is required.

(4) In connection with extensive or contiguous excavation or demolition projects, the person performing the excavation or demolition and the owner–member may establish a working agreement regarding the time periods for marking the underground facility.

§12–127.

(a) A person may begin excavation or demolition only after the person receives notification from the underground facilities information exchange system of the one–call system confirming that all applicable owner–members have:

- (1) marked their underground facilities in accordance with § 12–126(c) of this subtitle;
- (2) marked the applicable portion of their underground facilities in accordance with §12–126(d) of this subtitle; or
- (3) reported that they have no underground facilities in the vicinity of the excavation or demolition.

(b) (1) After an owner–member has marked the location of an underground facility in accordance with § 12–126 of this subtitle, the person performing the excavation or demolition is responsible for the maintenance of the designated marker.

(2) If the marker is obliterated, destroyed, or removed, the person shall repeat the notification required under § 12–124 of this subtitle.

(c) (1) A person performing an excavation or demolition shall exercise due care to avoid interference with or damage to an underground facility that an owner–member has marked in accordance with § 12–126 of this subtitle.

(2) Before using mechanized equipment for excavation or demolition within 18 inches of an underground facility marking, a person shall expose the underground facility to its outermost surfaces by hand or other nondestructive techniques.

(3) A person may not use mechanized equipment to excavate within 18 inches of the outermost surface of an exposed underground facility.

(d) (1) The person performing an excavation or demolition immediately shall notify the owner-member of the facility if the person discovers or causes any damage to or dislocation or disturbance of an underground facility in connection with the excavation or demolition.

(2) If the damage, dislocation, or disturbance results in the escape of a flammable, toxic, or corrosive gas or liquid, the person performing the excavation or demolition immediately shall report the damage to the 9-1-1 emergency system.

(e) (1) If a person knows or has reason to know that an underground facility in the area of a planned or ongoing excavation or demolition is not marked as required by this subtitle, the person may not begin or continue the excavation or demolition unless the person:

(i) has repeated the notification required under § 12-124 of this subtitle; and

(ii) receives notification from the underground facilities information exchange system of the one-call system confirming that all applicable owner-members that have underground facilities in the vicinity of the excavation or

1. the underground facilities in accordance with § 12–126(c) of this subtitle; or
2. the applicable portion of the underground facilities in accordance with 12–126(d) of this subtitle.

(2) If the underground facility is not marked as required by this subtitle after the person receives notification from the underground facilities information exchange system under paragraph (1) of this subsection, the person may proceed with the excavation or demolition.

§12–128.

(a) A political subdivision, municipal corporation, the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority may charge, assess, or collect from a person a one–time initial marking fee not exceeding \$35 for reimbursement of expenses that the political subdivision, municipal corporation, the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority incurs to comply with this subtitle.

(b) If re–marking is requested, or is required after renotification under § 12–108(b) of this subtitle, a political subdivision, municipal corporation, or any of the transportation entities specified in subsection (a) of this section may charge, assess, or collect from a person a re–marking fee not exceeding \$15 for reimbursement of expenses that the political subdivision, municipal corporation, or any of the transportation entities specified in subsection (a) of this section incurs to comply with this subtitle.

§12-131.

(a) In connection with a project that may require excavation or demolition, a designer may initiate a ticket request by notifying the one-call system serving the geographic area covering the planned project.

(b) A designer initiating a ticket request under this section:

(1) may initiate only one ticket request for a single project; and

(2) shall, in connection with a ticket request:

(i) indicate that the request is for design purposes only and may not be used for the purpose of excavation or demolition;

(ii) notify the one-call system of any owner-members from which the designer does not require underground facilities information; and

(iii) on the request of an owner-member, provide the owner-member with a preliminary drawing that indicates the scope of the project.

(c) (1) Within 15 business days after receiving notice from a one-call system that a designer has made a request under this section, an owner-member of an underground facility in the area of the project shall notify the designer of the type and approximate location of the underground facility.

(2) An owner-member may provide notice of the approximate location of an underground facility through the use of:

- (i) field locates;
- (ii) maps;
- (iii) surveys;
- (iv) installation records; or
- (v) other similar means.

(d) (1) Information provided to a designer under this section is for informational purposes only.

(2) An owner–member or agent of an owner– member may not be held liable for any inaccurate information provided to a designer under this section.

§12–134.

(a) To stop or prevent a negligent or unsafe excavation or demolition, an owner or the Attorney General may file an action for a writ of mandamus or injunction in a court of competent jurisdiction in Baltimore City or the county in which the excavation or demolition is being performed or is to be performed or in which the person resides or has its principal place of business, if the person:

(1) is performing an excavation or demolition in a negligent or unsafe manner that has resulted in or is likely to result in damage to an underground facility; or

(2) is intending to use procedures to carry out the excavation or demolition that are likely to result in damage to an underground facility.

(b) (1) To make its judgment or processes effective, the court may join as parties any persons necessary or proper.

(2) If appropriate, the court shall issue a final order granting the injunction or writ of mandamus.

§12–135.

(a) (1) A person that performs an excavation or demolition without first providing the notice required under § 12–124(a) of this subtitle and damages, dislocates, or disturbs an underground facility is deemed negligent and is subject to a civil penalty assessed by the Authority not exceeding:

- (i) \$2,000 for the first offense; and
- (ii) subject to subsection (c) of this section, \$4,000 for each subsequent offense.

(2) Instead of or in addition to a civil penalty assessed under this subsection, the Authority may:

- (i) require that a person:
 - 1. participate in damage prevention training; or
 - 2. implement procedures to mitigate the likelihood of damage to underground facilities;or
- (ii) impose other similar measures.

(3) A person that violates any provision of Part IV of this subtitle is subject to a civil penalty assessed by the Authority not exceeding \$2,000.

(b) (1) This subsection applies if a proceeding has not been initiated before the Authority.

(2) A court of competent jurisdiction may assess a civil penalty of up to 10 times the cost of repairs to the underground facility caused by the damage, dislocation, or disturbance against a person that has committed a subsequent offense under subsection (a)(1) of this section.

(3) An action to recover a civil penalty under this subsection shall be brought by an owner of a damaged, dislocated, or disturbed underground facility or the Attorney General in a court of competent jurisdiction in Baltimore City or the county in which the damage, dislocation, or disturbance occurred.

(4) The party bringing an action under this subsection may recover reasonable attorney's fees.

(c) The Authority may not assess a civil penalty under subsection (a)(1)(ii) of this section if an action to recover a civil penalty has been brought under subsection (b) of this section.

(d) All civil penalties recovered under this section shall be paid into the Fund.

Appendix C: OSHA Regulation

Disclaimer of Liability

This reproduction of the OSHA regulation is provided solely as a convenience for the persons or person requesting it. Refer to the OSHA or MOSHA regulations themselves. Reasonable efforts have been made to reproduce the applicable sections of the Maryland Code accurately. However, neither the Utilities Services Protection Center of Delmarva, Inc. (Miss Utility of Delmarva) nor any of either corporation's officers, directors, members, employees or agents make any representation of warranties as to the accuracy of this reproduction.

OSHA Regulation

U.S Department of Labor
Occupational Safety & Health Administration
www.osha.gov

§ 1926.650—Scope, application, and definitions applicable to this subpart.

- (a) Scope and application. This subpart applies to all open excavations made in the earth's surface. Excavations are defined to include trenches.
- (b) Definitions applicable to this subpart. (refer to web-site for definitions)

§ 1926.651—Specific excavation requirements.

- (a) Surface encumbrances. All surface encumbrances that are located so as to create a hazard to employees shall be removed or supported, as necessary, to safeguard employees.

(b) Underground installations.

(b)(1) The estimated location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, shall be determined prior to opening an excavation.

(b)(2) Utility companies or owners shall be contacted within established or customary local response times, advised of the proposed work, and asked to establish the location of the utility underground installations prior to the start of actual excavation. When utility companies or owners cannot respond to a request to locate underground utility installations within 24 hours (unless a longer period is required by state or local law), or cannot establish the exact location of these installations, the employer may proceed, provided the employer does so with caution, and provided detection equipment or other acceptable means to locate utility installations are used.

(b)(3) When excavation operations approach the estimated location of underground installations, the exact location of the installations shall be determined by safe and acceptable means.

(b)(4) While the excavation is open, underground installations shall be protected, supported or removed as necessary to safeguard employees.

(c)(2) Means of egress from trench excavations. A stairway, ladder, ramp or other safe means of egress shall be located in trench excavations that are 4 feet (1.22 m) or more in depth so as to require no more than 25 feet (7.62 m) of lateral travel for employees.

(d) Exposure to vehicular traffic. Employees exposed to public vehicular traffic shall be provided with, and shall wear, warning vests or other suitable garments marked with or made of reflectorized or high-visibility material.

(e) Exposure to falling loads. No employee shall be permitted underneath loads handled by lifting or digging equipment. Employees shall be required to stand away from any vehicle being loaded or unloaded to avoid being struck by any spillage or falling materials. Operators may remain in the cabs of vehicles being loaded or unloaded when the vehicles are equipped, in accordance with 1926.601(b)(6), to provide adequate protection for the operator during loading and unloading operations.

(f) Warning system for mobile equipment. When mobile equipment is operated adjacent to an excavation, or when such equipment is required to approach the edge of an excavation, and the operator does not have a clear and direct view of the edge of the excavation, a warning system shall be utilized such as barricades, hand or mechanical signals, or stop logs. If possible, the grade should be away from the excavation. the operator does not have a clear and direct view of the edge of the excavation, a warning system shall be utilized such as barricades, hand or mechanical signals, or stop logs. If possible, the grade should be away from the excavation.

(h) Protection from hazards associated with water accumulation.

(h)(1) Employees shall not work in excavations in which there is accumulated water, or in excavations in which water is accumulating, unless adequate precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but could include special support or shield systems to protect from cave-ins, water removal to control the level of accumulating water, or use of a safety harness and lifeline.

(h)(2) If water is controlled or prevented from accumulating by the use of water removal equipment, the water removal equipment and operations shall be monitored by a competent person to ensure proper operation.

(h)(3) If excavation work interrupts the natural drainage of surface water (such as streams), diversion ditches, dikes, or other suitable means shall be used to prevent surface water from entering the excavation and to provide adequate drainage of the area adjacent to the

(i) Stability of adjacent structures.

(i)(1) Where the stability of adjoining buildings, walls, or other structures is endangered by excavation operations, support systems such as shoring, bracing, or underpinning shall be provided to ensure the stability of such structures for the protection of employees.

(i)(2) Excavation below the level of the base or footing of any foundation or retaining wall that could be reasonably expected to pose a hazard to employees shall not be permitted except when:

(i)(2)(i) A support system, such as underpinning, is provided to ensure the safety of employees and the stability of the structure; or

(i)(2)(ii) The excavation is in stable rock; or

(i)(2)(iii) A registered professional engineer has approved the determination that the structure is sufficiently removed from the excavation so as to be unaffected by the excavation activity; or

(i)(2)(iv) A registered professional engineer has approved the determination that such excavation work will not pose a hazard to employees.

(i)(3) Sidewalks, pavements and appurtenant structure shall not be undermined unless a support system or another method of protection is provided to protect employees from the possible collapse of such structures.

(j) Protection of employees from loose rock or soil.

(j)(1) Adequate protection shall be provided to protect employees from loose rock or soil that could pose a hazard by falling or rolling from an excavation face. Such protection shall consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection.

(j)(2) Employees shall be protected from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations. Protection shall be provided by placing and keeping such materials or equipment at least 2 feet (.61 m) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary.

(k) Inspections.

(k)(1) Daily inspections of excavations, the adjacent areas, and protective systems shall be made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections shall also be made after every rainstorm or other hazard increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated.

(k)(2) Where the competent person finds evidence of a situation that could result in a possible cave-in, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions, exposed employees shall be removed from the hazardous area until the necessary precautions have been taken to ensure their safety.

(l) Walkways shall be provided where employees or equipment are required or permitted to cross over excavations. Guardrails which comply with 1926.502(b) shall be provided where walkways are 6 feet (1.8 m) or more above lower levels.



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APWA UNIFORM COLOR CODE

WHITE : Proposed Excavation

PINK : Temporary Survey Markings

RED : Electric Power Lines, Cables,
Conduit and Lighting Cables

YELLOW : Gas, Oil, Steam, Petroleum or
Gaseous Materials

ORANGE : Communication, Alarm or Signal
Lines, Cables or Conduit

BLUE: Potable Water

PURPLE : Reclaimed Water, Irrigation and
Slurry Lines

GREEN: Sewer and Drain Lines

THE COLOR CODE!



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