

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 4095

By: Caldwell (Trey)

AS INTRODUCED

An Act relating to oil and gas; amending 63 O.S. 2021, Section 142.2, as amended by Section 1, Chapter 211, O.S.L. 2023 (63 O.S. Supp. 2023, Section 142.2), which relates to definitions; modifying definition; defining terms; amending 63 O.S. 2021, Section 142.6, which relates to notice of proposed demolition, explosion or excavation; disallowing certain excavation; requiring notice within certain time frame for certain projects; providing for expiration of notice; modifying certain time frames; requiring certain information be provided; requiring certain parties to be present; modifying type of information certain notice contains; amending 63 O.S. 2021, Section 142.8, as amended by Section 2, Chapter 211, O.S.L. 2023 (63 O.S. Supp. 2023, Section 142.8), which relates to additional notice required; requiring certain meeting request be submitted within certain time frame; requiring notice contain certain information; requiring meeting take place within certain time frame; allowing certain parties to meet at their choosing; requiring certain parties be notified; requiring certain coordination; providing for submission and transmission of certain notices; amending 63 O.S. 2021, Section 142.10, which relates to the statewide notification center; requiring certain records be kept for four years; and providing an effective date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. AMENDATORY 63 O.S. 2021, Section 142.2, as  
3 amended by Section 1, Chapter 211, O.S.L. 2023 (63 O.S. Supp. 2023,  
4 Section 142.2), is amended to read as follows:

5 Section 142.2 As used in the Oklahoma Underground Facilities  
6 Damage Prevention Act:

7 1. "Certified project" means a project where the public agency  
8 responsible for the public project, in consultation with the  
9 statewide one-call notification center, as part of its procedure,  
10 certifies that the project right-of-way is free and clear of  
11 underground facilities or wherein the public agency responsible for  
12 such project, as part of its procedure, notifies all persons  
13 determined by the public agency to have underground facilities  
14 located within the construction right-of-way and certifies that all  
15 known underground facilities are duly located or noted on the  
16 engineering drawings for the project;

17 2. "Damage" means any impact upon or removal of support from an  
18 underground facility as a result of explosion, excavation or  
19 demolition which according to the operating practices of the  
20 operator of the underground facilities would necessitate the repair  
21 thereof;

22 3. "Demolish" means to wreck, raze, render, move or remove a  
23 structure by means of any equipment or explosive;

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1 4. "Demolition" means the act or operation of demolishing a  
2 structure;

3 5. "Excavate" means to dig, compress or remove earth, rock or  
4 other materials in or on the ground by use of mechanized equipment  
5 or blasting, including, but not necessarily limited to, augering,  
6 boring, backfilling, drilling, grading, pile driving, plowing in,  
7 pulling in, trenching, tunneling and plowing; provided, however,  
8 that neither:

9 a. the moving of earth by tools manipulated only by human  
10 or animal power, except in a private or public  
11 easement or right-of-way,

12 b. the moving of earth by tools manipulated only by human  
13 power for burying communication lines of a  
14 communications provider in a private or public  
15 easement or right-of-way when depth is not greater  
16 than twelve (12) inches and within twelve (12) inches  
17 of a communications provider terminal,

18 c. any form of cultivation for agricultural purposes, nor  
19 any augering, dozing by noncommercial dozer operators  
20 or digging for postholes, farm ponds, land clearing or  
21 other normal agricultural purposes,

22 d. routine maintenance,

23 e. work by a public agency or its contractors on a  
24 preengineered project,  
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- 1 f. work on a certified project,
- 2 g. work on a permitted project,
- 3 h. the opening of a grave in a cemetery,
- 4 i. a solid waste disposal site which is a preengineered
- 5 project, nor
- 6 j. any individual excavating on his or her own property
- 7 and who is not in the excavating business for hire,
- 8 except in a private or public easement or right-of-
- 9 way,

10 shall be deemed excavation;

11 6. "Excavation" means the act or operation of excavating;

12 7. "Excavator" means a person or public agency that intends to

13 excavate or demolish within ~~the~~ this state;

14 8. "Notification center" means the statewide center currently

15 known as the Oklahoma One-Call System, Inc., which has as one of its

16 purposes to receive notification of planned excavation and

17 demolition in a specified area from excavators, and to disseminate

18 such notification of planned excavation or demolition to operators

19 who are members and participants;

20 9. "Operator" shall mean and include any person or public

21 agency owning or operating underground facilities;

22 10. "Permitted project" means a project where a permit for the

23 work to be performed must be issued by a state or federal agency

24 and, as a prerequisite to receiving such permit, the applicant must

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1 locate all underground facilities in the area of the work and in the  
2 vicinity of any blasting and notify each owner of such underground  
3 facilities;

4 11. "Person" includes any individual, partnership, corporation,  
5 association, cooperative, trust or other entity, including a person  
6 engaged as a contractor by a public agency, but not including a  
7 public agency;

8 12. "Preengineered project" means a public project wherein the  
9 public agency responsible for such project, as part of its  
10 engineering and contract procedures, holds a meeting prior to the  
11 commencement of any construction work on such project in which all  
12 persons, determined by the public agency, in consultation with the  
13 statewide one-call notification center, to have underground  
14 facilities located within the construction area of the project are  
15 invited to attend and given an opportunity to verify or inform the  
16 public agency of the location of their underground facilities, if  
17 any, within the construction area and where the location of all  
18 known underground facilities are duly located or noted on the  
19 engineering drawing and specifications for the project;

20 13. "Public agency" means the state or any board, commission or  
21 agency of the state;

22 14. "Routine maintenance" means the grading of roads and barrow  
23 or drainage ditches, the removal and replacement of pavement,  
24 including excavation relating thereto and the installation and  
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1 maintenance of drainage and bridge facilities, signs, guardrails,  
2 and electrical and communications facilities in or on the public  
3 rights-of-way by a public agency;

4 15. "Underground facility" means any underground line, cable,  
5 facility, system and appurtenances thereto, for producing, storing,  
6 conveying, transmitting or distributing communication (including  
7 voice, video, or data information), electricity, power, light, heat,  
8 intrastate and interstate gas pipelines, as described in 49 CFR Part  
9 192.1, intrastate and interstate hazardous liquid or carbon dioxide  
10 pipelines, as described in 49 CFR Part 195.1, water (including storm  
11 water), steam, sewage and other commodities and any oil and gas  
12 pipeline located in a private or public easement or right-of-way;  
13 ~~and~~

14 16. "Design" or "survey" means a notice to facility operators  
15 to provide underground facility information during the design or  
16 engineering phase of a project to mitigate potential impact to  
17 existing underground facilities;

18 17. "Watch and Protect" means an operator or its designated  
19 representative is present to observe an excavation that exists to  
20 their underground facility;

21 18. "Pre-Excavation Meeting Request" means a notice to  
22 Underground facility operators to participate in scheduled meetings  
23 for the purpose of planning large projects and coordinate resources  
24 accordingly; and  
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1        19. "Large projects" are those excavation projects that involve  
2 one of the following:

- 3            a. exceeds distances defined in paragraph 5 of subsection  
4                    D of Section 142.6 of this title, or  
5            b. estimated duration is more than ninety (90) days.

6        SECTION 2.        AMENDATORY        63 O.S. 2021, Section 142.6, is  
7 amended to read as follows:

8        Section 142.6 A. Before an excavator shall demolish a  
9 structure, discharge any explosive or commence to excavate in a  
10 highway, street, alley or other public ground or way, on or near the  
11 location of an operator's underground facilities, or a private  
12 easement, such excavator shall first notify all operators in the  
13 geographic area defined by the notification center who have on file  
14 with the notification center a notice pursuant to Section 142.3 of  
15 this title to determine whether any operators have underground  
16 facilities in or near the proposed area of excavation or demolition.  
17 When an excavator has knowledge that an operator does not have  
18 underground facilities within the area of the proposed excavation,  
19 the excavator need not notify the operator of the proposed  
20 excavation. However, an excavator shall be responsible for damage  
21 to the underground facilities of an operator if the notification  
22 center was not notified. When an excavator has actual knowledge  
23 that an operator has unmarked hydrocarbon and hazardous liquid  
24 underground facilities within the area of proposed excavation, the  
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1 excavator shall not commence excavation or demolition until notice  
2 has been given and such facilities have been marked. For purposes  
3 of this section, "actual knowledge" shall mean direct and clear  
4 knowledge; provided, however, actual knowledge may be demonstrated  
5 through circumstantial evidence and if the circumstances are such  
6 that a defendant must have known, an inference of actual knowledge  
7 is permitted. The excavator shall maintain and preserve all  
8 hydrocarbon and hazardous liquid markings for the duration of the  
9 excavation or demolition and shall notify the notification center if  
10 such marks are no longer visible or are removed and underground  
11 facilities have not been exposed. An excavator must check for  
12 positive response at the notification center prior to excavating or  
13 demolishing to ensure that all operators have responded and that all  
14 facilities that may be affected by the proposed excavation or  
15 demolition have been marked. Notice shall be given no less than  
16 forty-eight (48) hours, excluding the date of notification,  
17 Saturdays, Sundays and legal holidays, prior to the commencement of  
18 the excavation or demolition. If a positive response of Watch and  
19 Protect has been indicated, no excavation may take place without the  
20 operator or its designated representative present to observe the  
21 excavation within ten (10) feet of the operator's markings. Notice  
22 shall expire fourteen (14) calendar days from the excavation start  
23 date. In the case of a large project, notice shall be given no less  
24 than one hundred twenty (120) hours, excluding the date of

1 notification, Saturdays, Sundays and legal holidays, prior to the  
2 commencement of the excavation or demolition. Notice for Large  
3 Projects shall expire thirty (30) calendar days from the excavation  
4 start date. No excavation may continue after the ~~fourteenth day~~  
5 notice expiration unless subsequent notice has been submitted  
6 pursuant to notice requirements. If excessive and unreasonable  
7 requests for marking are made by an excavator when no excavation is  
8 taking place ~~within fourteen (14) calendar days~~ prior to notice  
9 expiration, the excavator may be liable to the owner or operator for  
10 the reasonable cost of such marking.

11 B. Each operator served with notice in accordance with  
12 subsection A of this section either directly or by notice to the  
13 notification center shall, prior to the date and time work is  
14 scheduled to begin, unless otherwise agreed to between the excavator  
15 and operator, locate and mark or otherwise provide the approximate  
16 location of the underground facilities of the operator in a manner  
17 as to enable the excavator to employ hand-dug test holes to  
18 determine the precise location of the underground facilities in  
19 advance of excavation. However, during any state of emergency  
20 declared by the Governor or Legislature that impacts the area of  
21 excavation or demolition, the time limitations of this subsection  
22 shall be inapplicable. Each operator shall provide a positive  
23 response to the notification center prior to the expiration of the  
24 required notice period. This response shall indicate the status of  
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1 the required activities of the operator or designated representative  
2 in regard to the proposed excavation or demolition. For the purpose  
3 of the Oklahoma Underground Facilities Damage Prevention Act, the  
4 approximate location of the underground facilities shall be defined  
5 as a strip of land two (2) feet on either side of such underground  
6 facilities. If the positive response is Watch and Protect the  
7 operator shall provide the name and phone number of the contact for  
8 Watch and Protect and a representative shall be on site at the  
9 ticket work to begin date and time or at the start date and time  
10 agreed upon in writing by the excavator and operator. Whenever an  
11 operator is served with notice of an excavation or demolition and  
12 determines that the operator does not have underground facilities  
13 located within the proposed area of excavation or demolition, the  
14 operator shall communicate this information to the excavator  
15 originating the notice prior to the commencement of such excavation  
16 or demolition.

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

4 D. Every notice given by an excavator to an operator pursuant  
5 to this section or to the notification center pursuant to Section  
6 142.3 of this title shall contain at least the following  
7 information:

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

9 2. The location of the proposed area of excavation or  
10 demolition;

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

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

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

20 6. Whether or not the discharging of explosives is anticipated;  
21 and

22 7. The date and time when work is to begin.  
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1 E. In marking the approximate location of underground  
2 facilities, an operator shall follow the standard color coding  
3 described herein:

4 OPERATOR AND TYPE OF PRODUCT	SPECIFIC GROUP IDENTIFYING COLOR
5 Electric Power Distribution	
6 and Transmission.....	Safety Red
7 Municipal Electric Systems.....	Safety Red
8 Gas Distribution and	
9 Transmission.....	High Visibility Safety Yellow
10 Oil Distribution and	
11 Transmission.....	High Visibility Safety Yellow
12 Dangerous Materials, Product	
13 Lines, Steam Lines.....	High Visibility Safety Yellow
14 Telephone and Telegraph	
15 Systems.....	Safety Alert Orange
16 Police and Fire	
17 Communications.....	Safety Alert Orange
18 Cable Television.....	Safety Alert Orange
19 Water Systems.....	Safety Precaution Blue
20 Slurry Systems.....	Safety Precaution Blue
21 Sewer Systems.....	Safety Green

22 SECTION 3. AMENDATORY 63 O.S. 2021, Section 142.8, as  
23 amended by Section 2, Chapter 211, O.S.L. 2023 (63 O.S. Supp. 2023,  
24 Section 142.8), is amended to read as follows:  
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1 Section 142.8 A. In addition to the notice required by Section  
2 142.6 of this title, whenever the demolition of a structure is  
3 proposed, operators in the geographic area defined by the  
4 notification center who have a notice on file with the notification  
5 center pursuant to Section 142.3 of this title shall be given at  
6 least seven (7) business days' notice of the proposed demolition  
7 before the demolition work begins. Such notice shall be initiated  
8 by the notification center after the excavator has met local code  
9 requirements for a demolition permit. When an operator is served  
10 with notice and determines that underground facilities are within  
11 the proposed area of demolition and such facilities require  
12 additional protection, service removal or termination, the operator  
13 shall communicate this information to the excavator and by mutual  
14 agreement the operator and excavator shall determine a date to begin  
15 the demolition which shall not exceed sixty (60) business days from  
16 the original demolition notice. If a public agency determines that  
17 the structure endangers the public health or safety, then the public  
18 agency may, in the manner provided by law, order the immediate  
19 demolition of the structure.

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

4 C. Excavators involved in large projects may submit a Pre-  
5 Excavation Meeting Request no less than fourteen (14) calendar days  
6 prior to beginning excavation or blasting activities. Such  
7 notification shall include the excavator's proposed meeting date,  
8 time, location, and contact information including name, telephone,  
9 and email. The date of the meeting shall be a minimum of seventy-  
10 two (72) hours after the notification has been submitted.

11 Notwithstanding the information above, nothing prevents the  
12 excavator and underground facility operators from choosing to meet  
13 otherwise. All affected facility owners shall be notified once the  
14 pre-excavation meeting request has been submitted and in turn will  
15 provide a positive response within seventy-two (72) hours to the  
16 notification center indicating their ability to meeting on the  
17 proposed meeting date. All parties involved in the Pre-Excavation  
18 Meeting will coordinate a marking plan. Locate notices for  
19 excavation can then be submitted to the notification center and  
20 notices will be transmitted to all affected facility operators.

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

23 Section 142.10 A. This act recognizes the value of and  
24 authorizes the establishment of a statewide notification center.  
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1 B. Upon establishment, the notification center shall operate  
2 twenty-four (24) hours a day, seven (7) days a week. Notification,  
3 as required by Section 142.6 of this title, to operators who are  
4 members of or participants in the notification center, shall be  
5 given by notifying the notification center by telephone or other  
6 acceptable means of communication, the content of such notification  
7 to conform to Section 142.6 of this title.

8 C. All operators who have underground facilities within the  
9 defined geographical boundary of the notification center shall be  
10 required to be members in good standing of the notification center .

11 D. A suitable record shall be maintained for not less than four  
12 (4) years by the notification center to document the receipt of ~~the~~  
13 notices from excavators and positive responses from operators as  
14 required by this act.

15 Public agencies, as defined in ~~this act~~ the Underground Facility  
16 Damage Prevention Act, shall have access to the record of  
17 underground facilities.

18 SECTION 5. This act shall become effective November 1, 2024.

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