



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 952
OREGON UTILITY NOTIFICATION CENTER

FILED

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ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Changes to Rules for the Oregon Utility Notification Center (Oregon 811)

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 03/31/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

Created in 1995 by the Oregon State Legislature, the Oregon Utility Notification Center (OUNC) is celebrating its 30th anniversary this year. Also known as Oregon 811, OUNC protects underground utilities from preventable damage and promotes public safety for those working above or around them. It is an independent, public benefit corporation with the powers of a state agency and rulemaking authority, per ORS 757.552.

Over the past five years, OUNC has a sustained trend of decreased damages. Continuing this trend requires ensuring that its administrative rules are reviewed and amended as needed on an ongoing basis. The changes in this filing are the result of requests and communication with damage prevention stakeholders, involvement of board members and industry leaders, and deliberation at many committee and board meetings.

After a lengthy process, the Board of Directors for the Oregon Utility Notification Center is proposing one new housekeeping rule, and amendments to four rules with adjustments to three definitions. The OUNC Board decided to group these changes rather than pursue each one piecemeal and implement them on April 1, 2025, during National Safe Digging Month. The following includes information on the proposed rulemaking in this filing.

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ADDING OAR 952-001-0005 - Specifying recruitment partner organizations for OUNC board.

Following advice from the Oregon Department of Justice, clarification is being added to name the specific groups and organizations that nominate or recommend applicants for the OUNC Board of Directors when a position is open for recruitment.

Per ORS 757.547(1)(c), OUNC was required to adopt an administrative rule identifying the organizations that are most representative of the board groups listed in ORS 757.547(1)(a). This also addresses other seats referenced in ORS

757.547(1)(d) and (e). It is something that should have been in place since inception, and needs to be added to OUNC's rules.

- DOJ guidance provided 12/9/2021
- Issue summaries created 4/10/2023 (#23-04-0022) and 6/8/2023 (#23-06-0026)
- Added to OAR log 6/14/2023
- Proposal presented to board, approved 6/14/2023
- Approval at OUNC Board Meeting on 1/16/25

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AMENDING OAR 952-001-0010 – Three Definition Changes to (10), (13), and (23)

Definitions and the references to them are an important part of the OUNC's rules, driving standards for compliance and adherence to best practices. These include the following:

1. Defining "large area" as a project exceeding seven hundred fifty linear feet. [amends OAR 952-001-0010 (10)]

Defining "large area" as a project exceeding seven hundred fifty linear feet amends a definition in OAR 952-001-0010 (10). This is needed to give detail/parameters for the "large area" definition and eliminate confusion about what is considered 'large' for excavators. It was previously described as requiring more work or time to locate utility facilities than can reasonably be completed within the parameters of section (1) of 952-001-0050.

"Large area" is only referenced in 952-001-0050 (4) and 952-001-0080 (2), which require working with the facility operators on proposed excavation. The intent is to have positive and productive communication and collaboration on large projects. This definition change is consistent with Washington and does not impact requirements of locators.

- Added to OAR log 5/29/2019
- Concept tabled in committee 1/28/2022, 3/24/2022, 7/25/2022
- Concept discussed in committee 3/24/2022
- Recommended revision to Board 4/04/23
- Board approval of committee recommendation 4/12/23
- Approval at OUNC Board Meeting on 1/16/25

2. Adding hand digging, air cutting, vacuum excavation or hydro vacuum excavation to the definition of "non-invasive methods." [amends OAR 952-001-0010 (13)]

This is a simple definition enhancement for "non-invasive methods" needed to add specificity and reflect common practices in 2025 that were not included back in 1995.

- Added to OAR log 2/8/2023
- Concept tabled in committee 4/04/23
- Discussion, recommended revision to Board 5/1/23
- Board approval of committee recommendation 5/10/23
- Approval at OUNC Board Meeting on 1/16/25

3. Reducing the ticket length from 45 days to 30 days. [amends OAR 952-001-0010 (23)]

This proposal was prioritized based on a best practices recommendation from an American Gas Association white paper. The advice was that no tickets should be longer than 28 days to ensure marks remain visible. Common Ground Alliance best practices (5.23) also say tickets should not exceed 20 working days. Paint marks are temporary and especially in Oregon winters, they can fade and degrade rapidly.

Previous to changes made in 2019, Oregon's tickets were good "for the life of the project" (no defined expiration). This shifted to the current 45-day standard, which compared to most other states is still an outlier.

After deliberation, committee members recommended 30 days as a reasonable compromise. The focus is on safety, and contractors will simply need to request a refresh at the 30-day mark instead of 45 days. If a project is completed within 30 days, this change will have no impact.

This change does not lessen the responsibility of locators for timely and accurate locates. Inaccurate and delayed locates are covered in other parts of our rules and should be addressed through the PUC complaint process if communication does not yield results.

- Added to OAR log 2/8/2023
- Discussed in committee 4/4/2023
- Amended 28-day proposal to 30 days, recommended revision to Board 5/1/23
- Board approval of committee recommendation 5/10/23
- Approval at OUNC Board Meeting on 1/16/25

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AMENDING OAR 952-001-0040 - Allowing for the use of electronic white lining.

This change has been requested by 811 system users to allow for the use of electronic white lining using the ITICnxt system to identify the area of proposed excavation. Currently the system allows marking this area digitally on the map, but it is utilized for notification only. With assurance that the technology is now accurate enough to be used for this purpose, it's use can help ensure accurate locates and boost system efficiency for users.

Using white paint, providing a site plan, and meeting on site will still be recognized as viable alternatives.

- Added to OAR log 3/4/2021
- Concept tabled in committee 1/28/2022, 3/24/2022, 7/25/2022
- Concept discussed in committee 4/4/2023
- Recommended revision to the Board 5/1/23
- Board approval of committee recommendation 5/10/23
- Approval at OUNC Board Meeting on 1/16/25

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AMENDING OAR 952-001-0050 (2) - Working within a facility enclosure exempted from notification requirement.

This is a specific exemption that does not have widespread/broad implications, but is needed for those performing this kind of work. It addresses working inside of valve/meter boxes and vaults where it may not be possible, practical or necessary to paint/mark inside the enclosure for certain types of work.

- Added to OAR log 5/29/2019
- Recommended revision to Board 08/12/20
- Discussed in committee 4/4/2023, 5/1/2023
- Board approval of committee recommendation 5/10/23
- Approval at OUNC Board Meeting on 1/16/25

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AMENDING OAR 952-001-0080 - Clarifying design locate request process, delivery of drawings and maps owned by facility operators during planning.

This change intends to help address a longstanding need to facilitate better design information review requests when excavation is not yet imminent during the planning phase and paint is not yet needed. Initially a proposal to adopt Washington's Design Information Request/Design Locate Request process, this is intended to encourage and facilitate information sharing, which in some cases can avoid wasting time and resources on unnecessary locates.

- Added to OAR log 7/10/2020
- Discussed concept in committee 1/28/2022, 3/24/2022, 7/25/2022, 12/14/2022
- Issue summary #22-05-0010 created 5/25/2022
- Recommended revision to Board 04/04/23
- Referred back to committee to vet language 4/12/23
- Recommended amended revisions to the Board 5/1/23
- Board approval of committee recommendation 5/10/23
- Approval at OUNC Board Meeting on 1/16/25

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Oregon Utility Notification Center Standards Manual - <https://digsafelyoregon.com/wp-content/uploads/2019/05/Standards-Manual-1-1-19.pdf>

Common Ground Alliance Best Practices Guide - <https://bestpractices.commongroundalliance.com/>

American Gas Association White Paper - https://www.aga.org/wp-content/uploads/2023/02/Damage-Prevention-Paper_Official_Jan2023v2_Manson-Seto.pdf

Dig Safe Washington Design Request System - <https://digsafewashington.com/design-request-system/>

Welcome to ITICnxt, One Call Concepts - <http://or.tryitic.com/>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Oregon Utility Notification Center services are free to use and open to all. Especially for those doing excavation work on their own, our system provides a vital public benefit for Oregonians by protecting them from damaging utilities and hurting themselves or their pocketbook. No matter who calls 811 or contacts the notification center via our website or app, they will receive the same free and beneficial service as anyone else. That is a constant.

Our best path for meaningful and lasting change is through a team effort and the involvement of all stakeholders with a

shared interest in damage prevention -- utility operators, excavators, locators, contractors, cities/counties, special districts/PUDs, coops/munis, UCCs and others. It requires continually evolving and improving, by welcoming involvement and operating with openness and transparency. The OUNC Board supports the adoption of these rules to advance our damage prevention mission for the benefit of all users.

FISCAL AND ECONOMIC IMPACT:

As a not-for-profit, public benefit corporation, the Oregon Utility Notification Center (OUNC) is cognizant of the budgetary constraints faced by its stakeholders and is sensitive to the impacts of decisions made, rules implemented and requirements enacted. OUNC staff and the Board of Directors are focused on ensuring an efficient, effective and sustainable system now and into the future.

As background, OUNC is funded through a service tariff paid by underground facility members on a per ticket/notification. For each request, OUNC pays One Call Concepts for inbound requests based on submission type and receives payment for outgoing tickets at the service tariff rate from the utilities involved. These charges cover the costs of notifying subscribers about underground facility locations and promoting damage prevention in Oregon.

Generally speaking, any efforts that help reduce damages will have a positive fiscal and economic impact. Anticipated fiscal and economic impacts of these specific rule changes are as follows:

ADDING OAR 952-001-0005 - Specifying recruitment partner organizations for OUNC board

No anticipated impacts. This is simply formalizing a board member recruitment process with names of partner organizations that have assisted with this process for 30 years. It requires little to no resources besides the time to identify an interested and available candidate to nominate, appoint or designate to serve.

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AMENDING OAR 952-001-0010 – Definition Changes to (10), (13), and (23)

For OAR 952-001-0010 (10), no anticipated impacts. By putting a metric to the definition of large area instead of a subjective standard, it will eliminate confusion and encourage excavators to communicate collaborate with the facility operators on a reasonable approach, plan and schedule. One could argue that when successful, this helps locator workload/triage, reduces downtime and keeps projects on schedule, thereby providing financial benefits.

For OAR 952-001-0010 (13), no anticipated impacts. Specifying types of non-invasive digging simply provides clarification to an existing definition. Use of these methods as opposed to heavy equipment can help prevent damage when working within the tolerance zone.

For OAR 952-001-0010 (23), possible, but avoidable impacts if the excavator is unaware of the new, 30-day standard and their dig ticket expires. Most projects in Oregon are completed within 30 days and there would be no impact in those instances. Most other states have a much shorter ticket life ranging from 14 to 28 days. By shortening the ticket life by 15 days, the intent is that damage can be prevented in cases where the marks are faded or no longer visible. With the shorter ticket, large/long term projects will need to call in for a refresh or remark before the 30 day expiration. Requesting a ticket or a refresh/remark is free to the excavator. If the ticket expires, they could expose themselves to liability for not excavating with an active ticket, which is required by law, or they could bear the cost of idle crews and equipment while waiting for the fresh marks. With communication, outreach and inclusion on the dig tickets, this can be avoided and will naturally improve with time as users adjust to the new standard. Another expressed possible concern

is increased locate volumes, which could lead to delays and budgetary impacts for the Oregon Utility Notification Center for projects in rural areas.

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AMENDING OAR 952-001-0040 - Allowing for the use of electronic white lining.

Providing a new option for electronic white lining may allow some excavators to use less paint and transportation/field time by shifting to online. There could also be cost and time savings for locators if they can more quickly and clearly ascertain what needs to be marked and minimize or eliminate unnecessary "overmarking." Clearly indicating the area of excavation can also provide cost savings by eliminating wasted time due to confusion and extra calls and trips to determine what needs to be marked.

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AMENDING OAR 952-001-0050 (2) - Working within a facility enclosure exempted from notification requirement.

No anticipated impacts, or negligible. There may be minimal cost savings by eliminating unnecessary and troublesome/problematic locates within valve or meter boxes and vaults. This improvement is beneficial for both excavators and locators in the limited circumstances where this would be applicable.

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AMENDING OAR 952-001-0080 - Clarifying design locate request process, delivery of drawings and maps owned by facility operators during planning.

Potential cost savings through the elimination of unnecessary and unwanted locates. By sharing information instead of having paint put on the ground when no excavation is imminent, the design process can save valuable time for locators that are already facing workload and timing challenges in the heart of the dig season. When developers, engineers and planners collaborate with utilities to get the information they need without prompting extraneous work in the field, the system becomes more effective for all.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Most of the changes are clarifications to definitions and existing rules, so related costs for those changes are anticipated to be negligible (if any). If anything, some of these changes could result in lower costs through streamlining and improved efficiency.

(1) Since the costs of the 811 notification system in Oregon are borne by the Oregon Utility Notification Center and its member utilities, anything that improves or worsens efficiency and related costs will impact the OUNC budget and the resultant increase on the service tariff rate. While cities and counties participate in the system, any with fewer than 50 tickets in a year are exempt from paying and smaller entities are subsidized with a cap of \$500 annually, so those costs are controlled. Members of the public who use our system do not pay for locates, as it is free and will continue to be.

(2) (a) Small businesses that depend on our services are wide ranging, including excavators, contractors, landscapers, arborists, fence companies, sign companies, deck companies, handymen/carpenters, developers, realtors, pool companies, cooperatives, farmers, ranchers, locators and essentially any companies or individuals performing work that involves digging. The number of subscribers (utility operators) is 1,178, of which a large percentage would be considered small. We have more than 350,000 requests annually, with many repeat users, and approximately 80% contractors and 20% homeowners. The only change that could prompt additional costs would be associated with higher ticket volumes due to the shortened 30-day ticket life, but most of them already receive exemptions and subsidies so they would be shielded from cost increases. And there will be no additional costs for the majority of tickets where the work is completed before the expiration.

(b) There are no new reporting, record keeping or administrative activities besides those performed by the notification center contractor and staff of the Oregon Utility Notification Center. For OAR 952-001-0080, the records and information referenced should be something those businesses already possess, and the cost of sharing that information is negligible compared to the cost of unnecessary locates or future damage/ problems that could have been avoided.

(c) There are some possible negligible cost savings in the form of less paint needed and transportation/time in the field, but otherwise the changes are not anticipated to drive additional costs for services, supplies, labor or administration.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Oregon Utility Notification Center Board of Directors includes 21 members representing a wide variety of stakeholders including small businesses. Additionally, OUNC works closely with the Oregon Utility Coordinating Council and regional Utility Coordinating Councils throughout the state that also include and engage with small businesses. These rule changes are the result of stakeholder involvement and engagement aimed at continual improvement.

All rule changes were discussed in publicly noticed committee meetings, including the Oregon Administrative Rules Committee (our RAC) . Written comments were invited starting 1/1/2024, and public comment was welcomed at open public hearings during our board meetings on 7/18/2024 and 10/17/2024. Plans to implement the changes effective 1/1/2025 were postponed to April Safe Digging Month.

While most of the seven proposed changes are not an overhaul or 'sea change' to Oregon's rules, all have been included on publicly noticed committee and board agendas, posted on our home page/website, shared in quarterly Connection newsletters, referenced in every excavation safety training class and OUNC presentations, posted on social media, sent from the notification center through free format messages, shared at Oregon Utility Coordinating Council and regional Utility Coordinating Council meetings, and communicated through our members. Each of our board meetings (and many committee meetings) include OUCC and UCC board members as well, and the expectation is for each of our members to ensure two-way communication with our stakeholder groups.

Whether a board member or a member of the public, small businesses and their representatives always have an open door and a place at the table in our meetings. We created a new concept submission form for ideas and suggestions that anyone can submit with testimony to create, support or oppose changes. Our organization is better with many voices and insights from the field that we may not be privy to from the office, conference centers or board room.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

952-001-0005, 952-001-0010, 952-001-0040, 952-001-0050, 952-001-0080

ADOPT: 952-001-0005

RULE SUMMARY: Following advice from the Oregon Department of Justice, this clarification is being added to name the specific groups and organizations that nominate or recommend applicants for the Oregon Utility Notification Center (OUNC) Board of Directors when a position is open for recruitment. Per ORS 757.547(1)(c), OUNC was required to adopt an administrative rule identifying the organizations most representative of the board groups listed in ORS 757.547(1)(a). This also addresses other seats referenced in ORS 757.547(1)(d) and (e).

- DOJ guidance provided 12/9/2021
- Issue summaries created 4/10/23 (#23-04-0022) and 6/8/2023 (#23-06-0026)
- Added to OAR log 6/14/2023
- Proposal presented to board, approved 6/14/2023
- Approval at OUNC Board Meeting on 1/16/25

CHANGES TO RULE:

952-001-0005

Recruitment Partner Organizations for Board of Directors

(1) Pursuant to ORS 757.547(1)(c) through (e), prospective members of the Oregon Utility Notification Center Board of Directors are solicited from the following organizations:¶

(a) Telecommunications Cooperatives - Oregon Broadband Association¶

(b) Railroads - ODOT Rail Safety, Association of American Railroads, Oregon Short Line Railroad Association, Union Pacific, BNSF Railway¶

(c) Natural Gas Utilities regulated by the Public Utility Commission - Oregon Public Utility Commission, Northwest Natural Gas, Avista Utilities, Cascade Natural Gas¶

(d) Electric Cooperatives - Oregon Rural Electric Cooperative Association¶

(e) Cable System Operators - Oregon Cable Telecommunications Association¶

(f) Counties - Association of Oregon Counties, Oregon Association of County Engineers and Surveyors¶

(g) Oregon Public Utility Commission - Oregon Public Utility Commission, Governor's office¶

(h) Oregon Department of Transportation - Oregon Department of Transportation, Governor's office¶

(i) Electric Utilities regulated by the Public Utility Commission - Oregon Public Utility Commission, Portland General Electric, Pacific Power¶

(j) Contractors - Associated General Contractors, Northwest Utility Contractors Association¶

(k) Special Districts - Special Districts Association of Oregon¶

(l) People's Utility Districts - Oregon People's Utility District Association¶

(m) Telecommunications utilities serving more than 50,000 access lines and regulated by Public Utility Commission - Oregon Broadband Association¶

(n) Municipal Electric Utilities - Oregon Municipal Electric Utilities Association¶

(o) Telecommunications utilities serving fewer than 50,000 access lines and regulated by Public Utility Commission - Oregon Telecommunications Association¶

(p) Interstate Natural Gas Transmission/Pipeline - Oregon Public Utility Commission¶

(q) Cities with a population of 25,000 or more - League of Oregon Cities¶

(r) Oregon Utilities Coordinating Council - Oregon Utilities Coordinating Council¶

(s) Cities with a population under 25,000 - League of Oregon Cities¶

(t) Excavators - Northwest Utility Contractors Association, Associated General Contractors¶

(u) National Utility Locating Association (NULCA) - NULCA¶

(2) Nominations should be submitted directly to the Oregon Governor's office for consideration within 60 days. If the specified organization(s) fail to submit a nomination within this timeframe, the board can request nominations from alternate sources. The Governor also has discretion to appoint someone other than those nominated through the board's process.

Statutory/Other Authority: ORS 757.552(2)(c)

Statutes/Other Implemented: ORS 757.547(1)(c) - (e)

AMEND: 952-001-0010

RULE SUMMARY: There are three changes to definitions in OAR 952-001-0010:

1) 952-001-0010 (10): Defining "Large area" as a project exceeding seven hundred fifty linear feet is consistent with Washington and eliminates confusion about what is considered 'large' for excavators. It gives detail/parameters for the definition compared to what was previously described as a proposed excavation requiring more work or time to locate utility facilities than can reasonably be completed within the parameters of section (1) of 952-001-0050. "Large area" is only referenced in 952-001-0050 and 952-001-0080 (see references below), which require working with the facility operators. The intent is to foster positive and productive communication and collaboration on large projects.

952-001-0050 (4) states: If an excavator intends to perform work at multiple sites or over a large area, the excavator must take reasonable steps to work with the facility operators, including preconstruction meetings, so that the operators may locate their facilities at a time reasonably in advance of the actual start of excavation for each phase of the work.

952-001-0080 (2) states: If a designer intends to perform work at multiple sites or over a large area, the designer must take reasonable steps to work with the facility operators, including preconstruction meetings, so that the operators may locate their facilities at a time reasonably in advance of the actual start of survey or design for each phase of work.

- Added to OAR log 5/29/2019
- Concept tabled in committee 1/28/2022, 3/24/2022, 7/25/2022
- Concept discussed in committee 3/24/2022
- Recommended revision to Board 4/04/23
- Board approval of committee recommendation 4/12/23
- Approval at OUNC Board Meeting on 1/16/25

2) 952-001-0010 (13): This is a simple definition change for "Non-invasive methods" intended to reflect common practices in 2025 that were not included back in 1995. It simply adds "; including the use of hand digging, air cutting, vacuum excavation or hydro vacuum excavation" to the end of the definition.

- Added to OAR log 2/8/2023
- Concept tabled in committee 4/04/23
- Discussion, recommended revision to Board 5/1/23
- Board approval of committee recommendation 5/10/23
- Approval at OUNC Board Meeting on 1/16/25

3) 952-001-0010 (23): Changes "Ticket life" from 45 to 30 days. This proposal was based on a best practices recommendation from an American Gas Association white paper. The advice was that no tickets should be longer than 28 days to ensure marks remain visible. Marks are temporary and especially in Oregon winters, they can fade and degrade rapidly.

Previous to changes made in 2019, Oregon's tickets were good "for the life of the project" (no defined expiration). This shifted to the current 45-day standard, which compared to most other states is still an outlier. Common Ground Alliance best practices (5.23) also state tickets should not exceed 20 working days.

Committee members recommended 30 days as a reasonable compromise. The focus is on safety, and if needed contractors will simply need to request a refresh at the 30-day mark instead of 45 days. If a project is completed within

30 days, this change will have no impact.

This change does not lessen the responsibility of locators for timely and accurate locates. Inaccurate and delayed locates are covered in other parts of our rules and should be addressed through the PUC complaint process if communication does not yield results.

- Added to OAR log 2/8/2023
- Discussed in committee 4/4/2023
- Amended 28-day proposal to 30 days, recommended revision to Board 5/1/23
- Board approval of committee recommendation 5/10/23
- Approval at OUNC Board Meeting on 1/16/25

CHANGES TO RULE:

952-001-0010

Definitions ¶¶

As used in 952-001-0010 through 952-001-0100:¶¶

- (1) "Abandoned Facility" means an underground facility that is no longer in service and is physically disconnected from the operating facility that is in service.¶¶
- (2) "Business day" means any 24-hour day other than a Saturday, Sunday, or federal or state legal holiday as provided in ORS 757.542. A business day begins at 12:00 a.m. and ends at 11:59 p.m.¶¶
- (3) "Damage" means harm to, or destruction of underground facilities including, but not limited to, the weakening of structural, lateral, or subjacent support; the penetration, impairment or destruction of any coating, housing or other protective device; or the denting of, penetration into or severance of underground facilities.¶¶
- (4) "Designer" means any person who prepares a drawing for construction or other project which requires excavation or demolition.¶¶
- (5) "Designated Agent" means a person or entity specifically appointed to act for or serve as a representative for another person or entity.¶¶
- (6) "Easement" means a nonpossessory interest in the land of another which entitles the holders of an interest in the easement to a private right of way embodying the right to pass across another's land.¶¶
- (7) "Emergency" means an occurrence involving an immediate danger, demanding prompt action to prevent loss of life, or to mitigate damage to property, or to prevent interruption of essential public services (as determined by an emergency response agency or the facility operator) or to prevent a customer service outage (as determined by the facility operator).¶¶
- (8) "Excavation" means any operation in which earth, rock or other material on or below the ground is moved or otherwise displaced by any means, except sidewalk, road and ditch maintenance less than 12 inches in depth that does not lower the original grade or original ditch flow line. "Excavation" does not include the tilling of soil for agricultural purposes conducted on private property that is not within the boundaries of a recorded right-of-way or easement for underground facilities.¶¶
- (9) "Excavator" means any person who engages in excavation.¶¶
- (10) "Large area" means a ~~proposed excavation requiring more work or time to locate utility facilities than can reasonably be completed within the parameters of section (1) of OAR 952-001-0050~~ject that exceeds seven hundred fifty linear feet.¶¶
- (11) "Locatable underground facilities" means underground facilities which can be marked with reasonable accuracy.¶¶
- (12) "Mark" or "marking" means an indication, from the use of stakes, paint or other clearly identifiable material, to show the field location or absence of underground facilities at a proposed work site. A "mark" or "marking" also includes permanent marking devices, such as disks, posts or signs, placed to show the location of underground facilities.¶¶
- (13) "Non invasive methods" means using a practice to expose an underground facility that does not damage any part of the facility; including the use of hand digging, air cutting, vacuum excavation or hydro vacuum excavation.¶¶
- (14) "Notify" means to make known by any reasonable and legal means of communication.¶¶
- (15) "Operator" means any person, municipal corporation, political subdivision of the state with control over

underground facilities. Operator includes any person, as defined in ORS 756.010, having the right to bury underground facilities in any public right-of-way, or in any utility easement.¶¶

(16) "Operation" as used in ORS 757.542 (3) means the use of any tools, equipment or explosives. The term includes, but is not limited to, the use of powered and mechanized equipment, hand digging with tools, explosives, grading, trenching, digging, blasting, drilling, backfilling, dragging, augering, hammering, pile driving, plowing-in or pulling-in, test boring, tunneling, scraping, reclamation processes, and milling.¶¶

(17) "Oregon Utility Notification Center" (Center) means the state agency that administers a statewide system through which a person can notify operators of underground facilities of proposed excavations and can request that the underground facilities be marked.¶¶

(18) "Out-of-service facility" means an underground facility that has not been declared permanently abandoned and may still be connected to a portion of an operating facility that is in service.¶¶

(19) "Private property" as used in ORS 757.542(3) means the ownership of property by non-governmental legal entities and public land leased or rented and controlled by private entities for agricultural purposes.¶¶

(20) "Project plans" mean any drawings, specifications or any other documents prepared in anticipation of work involving excavation.¶¶

(21) "Response" means action taken by operators of underground facilities to:¶¶

(a) Mark or identify by other means the location of its locatable underground facilities in the area of the proposed excavation;¶¶

(b) Notify the excavator that there are unlocatable underground facilities in the area of the proposed excavation; or¶¶

(c) Notify the excavator that there are no underground facilities in the area of the proposed excavation.¶¶

(22) "Sidewalk, road and ditch maintenance" includes, but is not limited to, ditching, grinding, paving, shoulder maintenance, surveying, or grading. Unless otherwise classified on roadway plans, parallel or lateral ditches constructed as an integral part of the graded roadbed having a continuous slope from the outer limit of the shoulder to the bottom of the ditch to include ditch back slope within right of way will be considered to be within the roadway grading limits and will be part of the work covered by road and ditch maintenance that does not lower the original road grade or the original ditch flow line. For purposes of this definition, the phrase "original road grade" refers to the original elevation of the road before gravel, rock, asphalt, cement, or other materials were applied on the ground to construct or finish a road. For purposes of this definition, the phrase, "original ditch flow line" means the documented or calculated grade between the outlet elevation of a culvert, drainage structure, water source, or place of origin to the inlet elevation of a culvert, drainage structure, water source or place of destination. Also for purposes of this definition, "sidewalk maintenance" includes but is not limited to removal and replacement of a sidewalk that is performed less than 12 inches in depth and does not lower the original grade of the sidewalk.¶¶

(23) "Ticket life" means the ~~45~~30 calendar day period after an excavator provides notice to the Oregon Utility Notification Center under OAR 952-001-0050(1) and the Center opens a ticket for a locate request based on this notice.¶¶

(24) "Tilling" means preparing land for the raising of crops to a depth that does not exceed 18 inches.¶¶

(25) "Tolerance zone" means the area within 24 inches surrounding the outside dimensions of all sides of an underground facility. (See Tolerance Zone illustration below.)¶¶

(26) "Underground facilities" means items partially or entirely below the surface of the ground for use in connection with the storage or conveyance of electrical energy, water, sewage, petroleum products, gas, gaseous vapors or hazardous liquids, or the transmission of electronic, telephonic, telegraphic or cable communications. Such items include, but are not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments and those parts of poles or anchors that are underground.¶¶

(27) "Unlocatable underground facilities" mean underground facilities that cannot be marked with reasonable accuracy, including nonconductive sewers and nonmetallic underground facilities that have no trace wires.

Statutory/Other Authority: ~~ORS 483,757~~ORS 757.552(2)(c)

Statutes/Other Implemented: ORS 757.542

AMEND: 952-001-0040

RULE SUMMARY: This change allows for the use of electronic white lining using the ITICnxt system managed by One Call Concepts (or a future equivalent). Using white paint, providing a site plan and meeting on site are still recognized as viable alternatives.

- Added to OAR log 3/4/2021
- Concept tabled in committee 1/28/2022, 3/24/2022, 7/25/2022
- Concept discussed in committee 4/4/2023
- Recommended revision to the Board 5/1/23
- Board approval of committee recommendation 5/10/23
- Approval at OUNC Board Meeting on 1/16/25

CHANGES TO RULE:

952-001-0040

Pre-Marking Required by the Excavator; Exemption ¶

(1) Except as provided in section (2) of this rule, prior to notifying the Oregon Utility Notification Center, an excavator must ~~pre-mark with the color white~~ identify the immediate area of the proposed excavation within both the public rights-of-way and underground easements.¶

~~(2) An excavator need not pre-mark as required in section (1) of this rule if:¶~~

~~(a) The operator can determine precisely the direction, length and location of the proposed excavation by referring to a locate ticket; or¶~~

~~(b) B This may be accomplished by pre-marking with the color white as defined by OAR 952-001-0010 (12), electronic white marking or providing a site plan.¶~~

~~(2) An excavator need not pre-mark as required in section (1) of this rule if before the beginning of the proposed project, the excavator and the operator met at the construction site to exchange the information required under section (1) of this rule.~~

Statutory/Other Authority: ORS 757.552

Statutes/Other Implemented: ORS 757.552

AMEND: 952-001-0050

RULE SUMMARY: This change adds a very specific exemption that does not have widespread/broad implications. It addresses working inside of valve/meter boxes and vaults where it may not be possible, or practical/necessary to paint inside the enclosure. In section (2), it adds ", is made with non-invasive tools within a defined enclosure (i.e. valve and meter boxes and vault(s) that does not exceed the depth of the structure)."

- Added to OAR log 5/29/2019
- Recommended revision to Board 08/12/20
- Discussed in committee 4/4/2023, 5/1/2023
- Board approval of committee recommendation 5/10/23
- Approval at OUNC Board Meeting on 1/16/25

CHANGES TO RULE:

952-001-0050

Excavator to Give Notice of Proposed Work; Exemption ¶¶

(1) Except as provided in section (2) of this rule, at least two full business days, but not more than 10 full business days before beginning an excavation, the excavator must notify the Oregon Utility Notification Center of the date and location of the proposed excavation, and the type of work to be performed.¶¶

(2) The notice requirement of section (1) of this rule does not apply if the excavation is in response to an emergency, is made with non-invasive tools within a defined enclosure (i.e. valve and meter boxes and vault(s) that does not exceed the depth of the structure), or if all of the following apply:¶¶

(a) The excavator is a tenant or an owner of private property;¶¶

(b) The excavation is on private property of that owner or tenant;¶¶

(c) The excavation is less than 12 inches in depth; and¶¶

(d) The excavation is not within an established easement.¶¶

(3) An excavator, when giving notice in compliance with section (1) of this rule, must furnish information as to how the excavator can be contacted.¶¶

(4) If an excavator intends to perform work at multiple sites or over a large area, the excavator must take reasonable steps to work with the facility operators, including preconstruction meetings, so that the operators may locate their facilities at a time reasonably in advance of the actual start of excavation for each phase of the work.

Statutory/Other Authority: ORS 757.552

Statutes/Other Implemented: ORS 757.552

AMEND: 952-001-0080

RULE SUMMARY: Initially a proposal to adopt Washington's Design Information Request/Design Locate Request process, this change intends to help address a longstanding need to facilitate better design information review requests when paint is not yet needed. Encouraging/facilitating information sharing during the planning phase in some cases can avoid wasting time and resources on unnecessary locates. The change clarifies that sharing information, drawings and maps is an alternative to paint, and specifies acceptable delivery methods.

- Added to OAR log 7/10/2020
- Discussed concept in committee 1/28/2022, 3/24/2022, 7/25/2022, 12/14/2022
- Issue summary #22-05-0010 created 5/25/2022
- Recommended revision to Board 04/04/23
- Referred back to committee to vet language 4/12/23
- Recommended amended revisions to the Board 5/1/23
- Board approval of committee recommendation 5/10/23
- Approval at OUNC Board Meeting on 1/16/25

CHANGES TO RULE:

952-001-0080

Operators to Respond to Notifications Requesting Design Information ¶¶

(1) Within 10 business days after a designer notifies the Oregon Utility Notification Center of a proposed project, the operator of the underground facilities must:¶¶

(a) Mark within 24 inches of the outside lateral dimensions of both sides of all its ~~locatable~~ underground facilities within the area of proposed excavation. All marks must indicate the name, initials or logo of the operator of the underground facilities, and the width of the facility if it is greater than 2 inches; ~~or~~¶¶

(b) Provide the excavator the best description available to the operator of the ~~unlocatable~~ underground facilities in the area of the proposed excavation including as-constructed drawings, or other facility maps that are maintained by the facility operator by electronic message, mail, facsimile, or other delivery method; ~~or~~¶¶

(c) Contact the person requesting design information and agree on a time, prior to the beginning of the proposed project, for exchange of the information required under subsection (a) or subsection (b) of this section of this rule.¶¶

(2) If a designer intends to perform work at multiple sites or over a large area, the designer must take reasonable steps to work with the facility operators, including preconstruction meetings, so that the operators may locate their facilities at a time reasonably in advance of the actual start of survey or design for each phase of work.

Statutory/Other Authority: ORS 757.552

Statutes/Other Implemented: ORS 757.552