

DIVISION 1

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DIVISION 1

952-001-0001

Adoption of Model Rules

The Attorney General's Model Rules of Procedure under the Administrative Procedures Act, which became effective January 1, 2012, are by this reference adopted as rules of administrative procedure of the Board of Directors for the Oregon Utility Notification Center and are controlling except as otherwise required by statute or rule.

Stat. Auth.: ORS 757.552

Stat. Implemented: ORS 183.341, 757.552

Hist.: OUNC 2-2013, f. & cert. ef. 11-14-13

952-001-0003

Permanent Rulemaking Notice

(1) Before permanently adopting, repealing or amending any administrative rule, the Oregon Utility Notification Center (OUNC) will give notice of the proposed action by:

(a) Publishing notice of the rulemaking in the Secretary of State's Oregon Bulletin at least 21 days before the effective date of the rule;

(b) Mailing, electronically mailing, or personally delivering a copy of the notice to persons on the OUNC's applicable rulemaking notification list established per ORS 183.335(8) at least 28 days before the effective date of the rule;

(c) Mailing or electronically mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and

(d) By mailing, e-mailing, or furnishing a copy of the notice to:

(A) The Associated Press; and

(B) Capitol Press Room.

(2) OUNC may update the mailing list annually by requesting persons to confirm that they wish to remain on the mailing list. If a person does not respond to a request for confirmation within 28 days of the date that OUNC sends the request, OUNC will remove the person from the mailing list. Any person removed from the mailing list will be immediately returned to the mailing list upon request, provided that the person provides a mailing address or e-mailing address to which notice may be sent.

Stat. Auth.: ORS 183.341 & 757.552

Stat. Implemented: ORS 183.335 & 757.552

Hist.: OUNC 1-2013(Temp), f. & cert. ef. 11-14-13 thru 5-11-14; OUNC 1-2014, f. & cert. ef. 3-7-14

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.

(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 952-001-0050.

(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.

(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 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) “Reasonable accuracy” means location, within 24 inches, of the outside lateral dimensions of both sides of an underground facility.

(22) “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.

(23) “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.

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

(25) “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.

(26) “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.

Stat. Auth.: ORS 183 & 757

Stats. Implemented: ORS 757.542

Hist.: OUNC 1-1997, f. & cert. ef. 4-17-97; OUNC 1-2000, f. & cert. ef. 8-28-00; OUNC 1-2006, f. & cert. ef. 10-13-06; OUNC 1-2014, f. & cert. ef. 3-7-14

952-001-0020

Project Plans to Notify Excavator of Requirements of Law

All project plans must contain the following statement:

ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0001 through 952-001-0090. You may obtain copies of the rules by calling the center.

NOTE: The telephone number for the Oregon Utility Notification Center is (503) 232-1987.

Stat. Auth.: ORS 757.552

Stats. Implemented: ORS 757.552

Hist.: OUNC 1-1997, f. & cert. ef. 4-17-97; OUNC 1-2014, f. & cert. ef. 3-7-14

952-001-0030

Permits to Notify Excavator of Requirements of Law

Any entity authorized to issue permits for construction which requires excavation must include on such permits the language set out in OAR 952-001-0020.

Stat. Auth.: ORS 757.552

Stats. Implemented: ORS 757.552

Hist.: OUNC 1-1997, f. & cert. ef. 4-17-97; OUNC 1-2014, f. & cert. ef. 3-7-14

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 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) 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.

Stat. Auth.: ORS 757.552

Stats. Implemented: ORS 757.552

Hist.: OUNC 1-1997, f. & cert. ef. 4-17-97; OUNC 1-2014, f. & cert. ef. 3-7-14

952-001-0050

Excavator to Give Notice of Proposed Work; Exemption

(1) Except as provided in section (2) of this rule, at least 2 business days, but not more than 10 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, 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.

Stat. Auth.: ORS 757.552

Stats. Implemented: ORS 757.552

Hist.: OUNC 1-1997, f. & cert. ef. 4-17-97; OUNC 1-2006, f. & cert. ef. 10-13-06; OUNC 1-2014, f. & cert. ef. 3-7-14

952-001-0060

When Excavator May Give Less than Forty-Eight (48) Business Day Hour Notice

An excavator may provide less than 2 business days (48 hours) prior notice if:

(1) The excavator is responding to an emergency, and the excavator notifies the Oregon Utility Notification Center immediately, and the excavator takes reasonable care to protect underground facilities;

(2) The excavator has an agreement with each operator of underground facilities that marks will be provided on a regular basis as the excavator progresses through a project; or

(3) The excavator discovers an underground facility in an area where the operator of underground facilities had previously indicated there were no facilities.

Stat. Auth.: ORS 757.552

Stats. Implemented: ORS 757.552

Hist.: OUNC 1-1997, f. & cert. ef. 4-17-97; OUNC 1-2014, f. & cert. ef. 3-7-14

952-001-0070

Operators to Mark Underground Facilities or Notify Excavator that None Exist

(1) Except as provided in section (3) of this rule, within 2 business days (48 hours) after the excavator notifies the Oregon Utility Notification Center of a proposed excavation, the operator or its designated agent must:

(a) Mark with reasonable accuracy all of 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;

(b) Provide marks to the excavator of the unlocatable underground facilities in the area of proposed excavation, using the best information available including as-constructed drawings or other facility records that are maintained by the facility operator; or

(c) Notify the excavator that the operator does not have any underground facilities in the area of the proposed excavation. Acceptable notifications must include locate request call back information and if done with an AVR (Automated Voice Response) must have a repeat option and a call back number to hear the information again.

(2) Operators of abandoned facilities must mark said facilities to the standards of locatable facilities or unlocatable facilities.

(3) An operator must mark any known abandoned underground facility with a capital letter "A" inside of a circle, using the appropriate operator color and identification.

(4) An operator of any out-of-service underground facility must mark such facility in the same way it marks an underground facility that is in service.

(5) If an excavator uses offset marking, the excavator must correctly measure the amount of offset, so that the excavator can reestablish the location of underground facilities where originally marked.

(6) If the excavator notifies the operator of underground facilities discovered during an excavation in response to an emergency, the operator of underground facilities must comply with section (1) of this rule as soon as possible.

(7) Underground facilities must be marked using the following color code:

(a) RED — Electric power lines, cables or conduit, and lighting cables.

(b) YELLOW — Gas, oil, steam, petroleum, or other hazardous liquid or gaseous materials.

(c) ORANGE — Communications, cable TV, alarm or signal lines, cables or conduits.

(d) BLUE — Water, irrigation, and slurry lines.

(e) GREEN — Sewers, drainage facilities or other drain lines.

(f) WHITE — Pre-marking of the outer limits of the proposed excavation or marking the centerline and width of proposed lineal installations of buried facilities.

(g) PINK — Temporary Survey Markings.

(h) PURPLE — Slurry and reclaimed.

(8) In areas of ongoing excavation or construction, operators must mark newly installed underground facilities immediately upon placement.

(9) Except while making minor repairs to existing non-conductive, unlocatable facilities, an operator burying non-conductive, unlocatable facilities within the public rights-of-way or utility easements must place a tracer wire or other similar conductive marking tape or device with the facility to allow for later location and marking.

(10) An operator of underground drainage lines is not required to indicate the presence of those underground drainage lines if the existence and route of those drainage lines can be clearly determined from the presence of other visible facilities, such as manholes, catch basins, inlets, outlets, junction boxes, storm drains or permanent marking devices.

(11) An operator of underground drainage lines in the area of the proposed excavation must:

(a) Provide the excavator the best available description of the underground drainage lines, including as-constructed drawings or

other facility maps maintained by the underground drainage lines operator; or

(b) Contact the person requesting locates, meet with the person or their designee prior to the beginning of the proposed project, and convey the information required under paragraph (a) of this section.

Stat. Auth.: ORS 183 & 757

Stats. Implemented: ORS 757.552

Hist.: OUNC 1-1997, f. & cert. ef. 4-17-97; Administrative Reformatting 1-19-

98; OUNC 1-2000, f. & cert. ef. 8-28-00; OUNC 1-2006, f. & cert. ef. 10-13-06;

OUNC 1-2008, f. & cert. ef. 5-30-08; OUNC 1-2014, f. & cert. ef. 3-7-14

952-001-0080

Operators to Respond to Notifications Requesting Design Information

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

(1) Mark with reasonable accuracy all of 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;

(2) 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; or

(3) 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 section (1) or section (2) of this rule.

Stat. Auth.: ORS 757.552

Stats. Implemented: ORS 757.552

Hist.: OUNC 1-1997, f. & cert. ef. 4-17-97; OUNC 1-2014, f. & cert. ef. 3-7-14

952-001-0090

Delay of Excavation Until Response from Facility Operators; Duty of Excavator to Use Reasonable Care; Damage to Facilities

(1) An excavator may not begin an excavation which requires notice under these rules until the excavator has received a response from each operator of underground facilities in the area of the proposed excavation, or until at least 2 business days (48 hours) have elapsed from the time the excavator notified the Oregon Utility Notification Center.

(2) Once underground facilities have been marked, the excavator must:

(a) Maintain marks during the excavation period to ensure that the original marks remain effective for the life of the project and can be re-established;

(b) Stop excavating in the vicinity of the underground facility and notify the Oregon Utility Notification Center to have the route remarked as specified in these rules, if prior to or during the excavation process, the marking or route of any underground facility is removed or no longer visible; and

(c) Employ hand tools or other such non-invasive methods to determine the exact location of the underground facility when excavation is to be made within the reasonable accuracy zone.

(3) The excavator must provide such lateral and subjacent support for underground facilities as may be reasonably necessary for the protection of such facilities.

(4) If the excavator causes or observes damage to underground facilities, the excavator must notify the operator of the underground facilities immediately. If the damage causes an emergency, the excavator must also notify all appropriate local public safety agencies immediately by calling 911 and must take reasonable steps to insure the public safety. The excavator must not bury damaged underground facilities without the consent of the operator of the damaged underground facilities.

(5) If an excavator discovers underground facilities in an area where the operator of the underground facilities had previously stated there were no underground facilities, prior to continuing excavation the excavator must notify the Oregon Utility Notification

Center. After providing notification, the excavator must use extreme care in the affected area.

(6) If an excavator is informed that a critical facility, as determined by the operator, is in the area of their excavation and that an operator-provided monitor is required on site during the excavation, the excavator must not begin excavation without that monitor being present or without the facility operator's consent. The scheduling and fulfillment of this monitoring must in no way interfere with or delay the work.

Stat. Auth.: ORS 757.552

Stats. Implemented: ORS 757.552

Hist.: OUNC 1-1997, f. & cert. ef. 4-17-97; OUNC 1-2014, f. & cert. ef. 3-7-14

952-001-0100

Record Keeping Requirements

(1) Abandoned Facilities: Except as provided in section (3) of this rule, all operators must maintain records, by mapping or other means, of all underground facilities abandoned on or after April 1, 2002, that show:

(a) The location of such facility to the level of detail when abandoned;

(b) The date of abandonment of such facility; and

(c) Whether each such facility is a locatable underground facility or an unlocatable underground facility.

(2) Out-of-Service Facilities: Except as provided in section (3) of this rule, all operators must maintain records, by mapping or other means, of all underground facilities placed in out-of-service status on or after April 1, 2002, that show:

(a) The location of such facility to the level of detail when placed in out-of-service status;

(b) The date of abandonment of such facility; and

(c) Whether each such facility is a locatable underground facility or an unlocatable underground facility.

(3) These record keeping requirements do not apply to operators who provide telecommunications, CATV or electric service for the underground facilities located between the operator's system and the customer's point of service.

Stat. Auth.: ORS 183 & 757

Stat. Implemented: ORS 757.542 - 757.562 & 757.993

Hist.: OUNC 1-2000, f. & cert. ef. 8-28-00; OUNC 1-2014, f. & cert. ef. 3-7-14