

Color Code for Marking Underground Utilities

WHITE	Area of Proposed Excavation
PINK	Temporary Survey Markings
RED	Electric
YELLOW	Gas, Oil, Steam, Propane
ORANGE	Communication, CATV, Fiber
BLUE	Water
PURPLE	Reclaimed Water, Irrigation
GREEN	Sewer



Visit our website at
Nebraska811.com



Access the Excavator
Manual online



**SAFETY IS IN YOUR HANDS.
EVERY DIG. EVERY TIME.**



EXCAVATOR SAFE DIGGING GUIDE

For the most current version of this manual and the One Call
Notification Act, please visit [Nebraska811.com](https://www.Nebraska811.com)
Revised 06/2024

The One-Call Notification System Act was established in 1994 to aid the public by helping to prevent injury to persons, damage to property and the interruption of utility services resulting from accidents caused by damage to underground facilities.

The Nebraska One-Call Law applies to any person planning to excavate in the state of Nebraska. This includes professional contractors, homeowners and personal property owners. Excavators must contact Nebraska 811 at least two full business days before any digging project.

The Nebraska 811 call center is a means by which excavators may notify operators of planned digging so that operators have the opportunity to identify and locate the underground facilities prior to excavation and so that the excavators may then observe proper precautions to safeguard the underground facilities from damage.

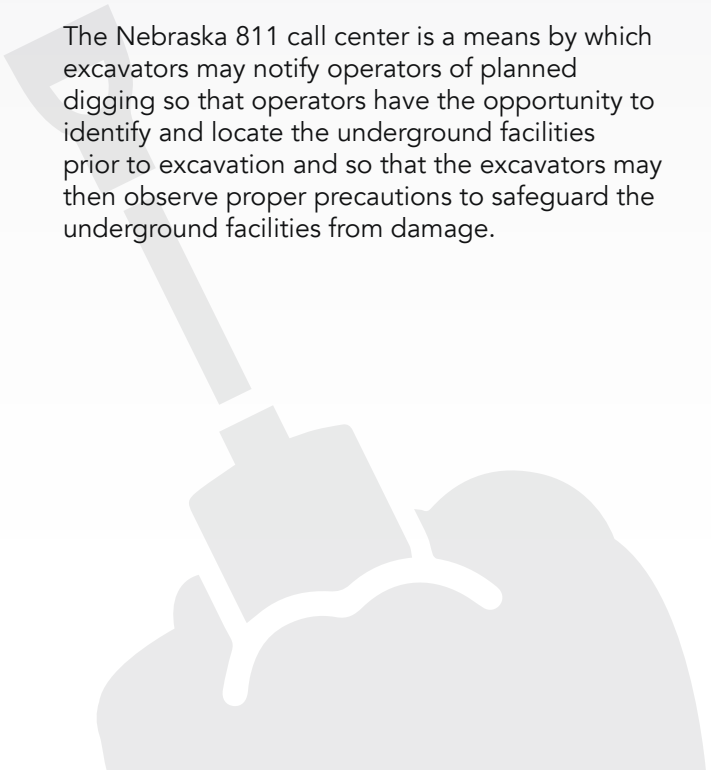


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This manual contains information the One Call Board of Directors believes helpful to understanding the Nebraska One Call Law. This material may be used as a guide but does not have the force of law.

Hours of Operation

To place a locate request:

By Phone _____ 811 or 800-331-5666
24/7/365

Online _____ Nebraska811.com
24/7/365

Business Office _____ 866-711-7281
(8:00am – 5:00pm)

Observed Holidays

New Year's Day _____ January 1

Martin Luther King, Jr. Day _____ Third Monday in January

Presidents Day _____ Third Monday in February

Arbor Day _____ Last Friday in April

Memorial Day _____ Last Monday in May

Juneteenth _____ June 19

Independence Day _____ July 4

Labor Day _____ First Monday in September

Columbus Day _____ Second Monday in October

Veterans Day _____ November 11

Thanksgiving _____ Fourth Thursday in November

Day After Thanksgiving _____ Fourth Friday in November

Christmas _____ December 25

Please note: if a holiday falls on a Sunday, the following Monday is observed. If a holiday falls on a Saturday, the preceding Friday is observed.

About Nebraska 811

In 1994, the Nebraska Legislature passed the One-Call Notification System Act into law. The Revised Statutes of Nebraska, Sections 76-2301 to 76-2332, state that a person planning to excavate in Nebraska must first contact Nebraska 811 **at least two business days (but no more than 10 business days)** before they dig—excluding weekends and holidays. Nebraska 811, the statewide One-Call notification center established by Nebraska State law, can receive regular locate requests 24/7 via phone or online.

After an excavator places a **free** locate request, Nebraska 811 will provide a list of member utility companies, referred to in this manual and in the statutes as facility operators, that have underground facilities in the area of the proposed excavation. The notice is then transmitted to the facility operator as a ticket and the facility operator responds by marking the facility or indicating that they are clear.

Nebraska 811 is funded by its members, the underground facility operators. To become a member or to report any utility that is not a member, contact 866-711-7281.

Visit our website at www.nebraska811.com for:

Placing a locate request

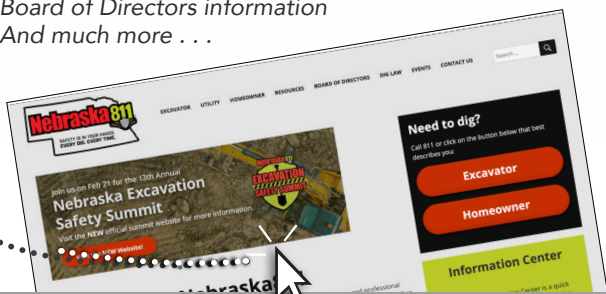
The Nebraska One-Call Law

Training and technical resources

Upcoming events and promotional materials

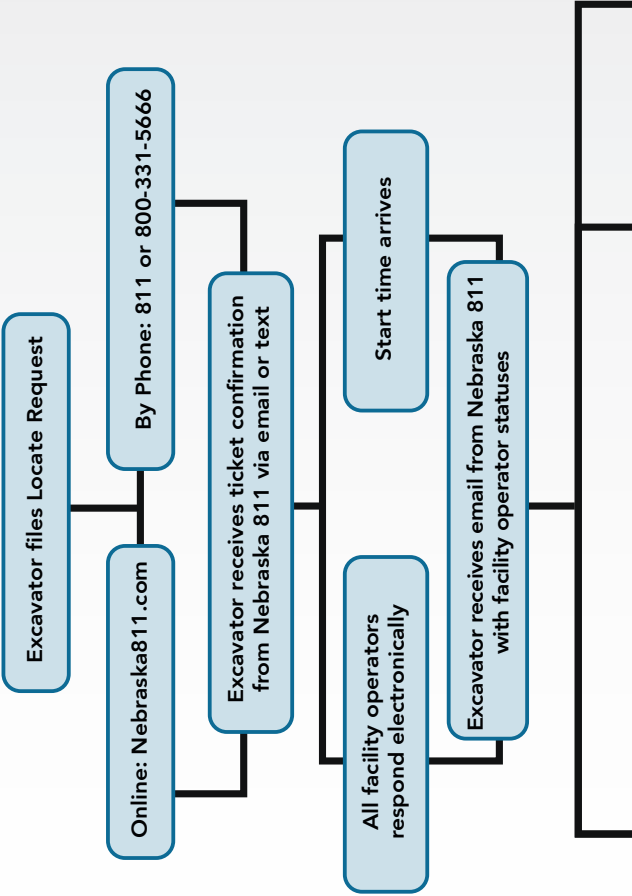
Board of Directors information

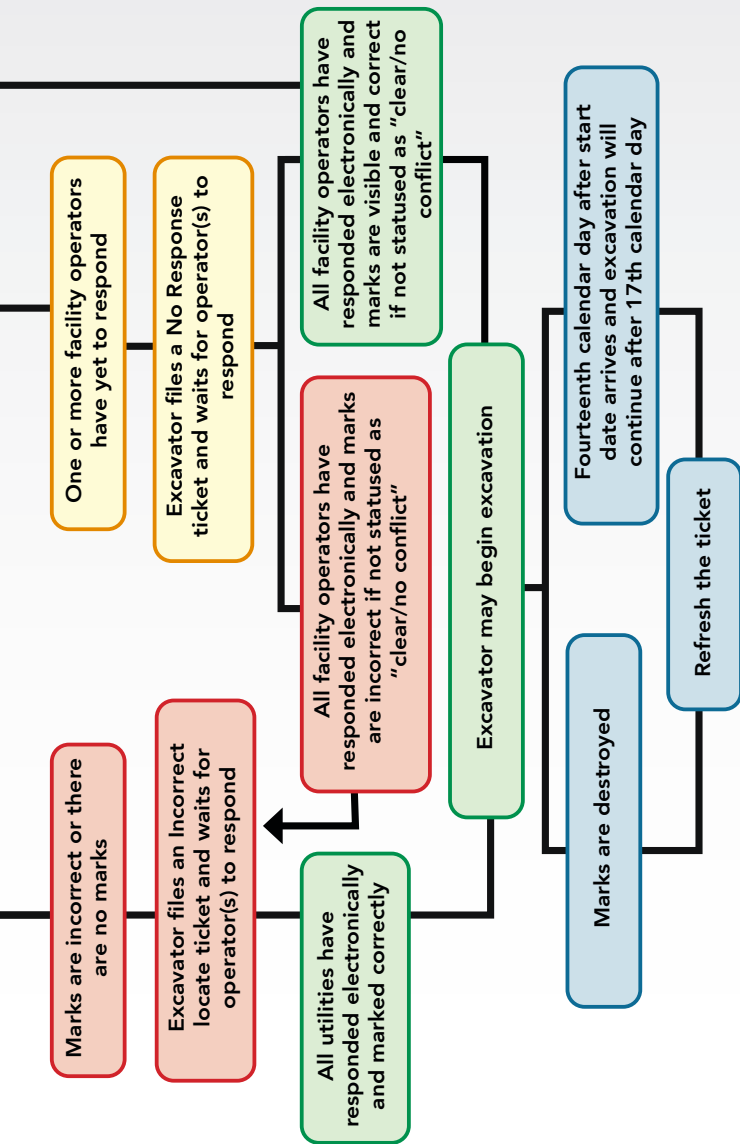
And much more . . .



Nebraska 811 Underground Facility Locate Request Process

Click or Call Before You Dig





Responsibilities of Excavators



- Contact Nebraska 811 within two full business days but no later than 10 business days before digging, except for emergencies.
- Ensure all information on the locate request is accurate and contact Nebraska 811 if a correction is needed.
- Ensure that all utilities have responded electronically and located in accordance with their electronic status before beginning excavation. If a utility has not responded electronically, file a no response ticket. If a utility has responded electronically but the markings in the field do not match the electronic response, an incorrect locate ticket should be filed.
- Contact any other utilities in the area that are not notified by Nebraska 811 and report non-members to Nebraska 811.
- Dig with reasonable care.
- Contact Nebraska 811 in the event of a damaged, dislocated, or disturbed underground facility.

- Call 911 in the event of a release of gas or hazardous material.
- Contact Nebraska 811 if locate markings are incorrect or need to be refreshed.

Responsibilities of Facility Operators



- Must be members of Nebraska 811.
- Mark facilities or notify excavators of no conflict before the start time indicated on the locate request.
- Mark facilities in a manner that will last a minimum of five business days on a non-permanent surface and 10 business days on a permanent surface.
- Provide pertinent information and field locating assistance to excavator in the event that the location of the facility cannot be determined or marked as required.
- Electronically notify the call center of response status on the required ticket types prior to the work to begin time and date listed.
- Maintain updated records with Nebraska 811.

Excavation Damage Prevention Checklist

Prior to excavating:

- ☐ Design/Plan work avoiding conflicts with existing underground facilities.
- ☐ Place locate request two business days, but not more than 10 business days, prior to excavation
- ☐ White line/pre-mark the proposed dig site
- ☐ Confirm that the ticket covers the entire scope of work
- ☐ Confirm that each utility responded electronically through the call center and located if not clear
- ☐ Notify the center of any utility that failed to respond electronically by filing a no response ticket

On the job site:

- ☐ Check for all facility marks throughout the entire job site
- ☐ Photograph the entire work area including all locate marks
- ☐ Check for any visible signs of utilities that may have been missed

- ☐ Check for any privately owned utilities and have them located
- ☐ Check for incorrect locates and report them to the call center
- ☐ Conduct safety meeting with crew prior to excavating

Excavating:

- ☐ Hand dig within the approximate location of any marked facility
- ☐ Pothole to confirm the horizontal and vertical location of any utility that is paralleled or crossed
- ☐ Support all lines exposed during excavation to avoid damage
- ☐ Take care to preserve the marks
- ☐ Dig with care to avoid damage to underground facilities
- ☐ Backfill carefully to avoid damage from the weight of the dirt or debris within the dirt
- ☐ Report any facility damage to the call center
- ☐ Call 911 if there is a damage with a release of gas or hazardous material
- ☐ Refresh the ticket if active excavation will continue beyond the ticket life

Placing a Locate Request – Whom, When and How?

The person who will be doing the excavation is required to place the locate request. This includes professional contractors, subcontractors, homeowners and personal property owners. Each subcontractor shall have their own ticket. A locate request placed by a general contractor will not apply to a subcontractor. Homeowners who hire someone to excavate on their property should ensure that the contractor has a valid locate request.

Locate requests must be placed at least two full business days, but not more than 10 business days, prior to the planned excavation. An excavator may commence work before the elapse of two full business days when notice to the center has been given and all the affected operators have responded electronically and located accordingly.

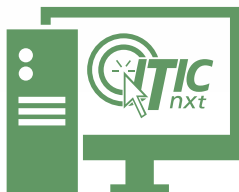
Contact Nebraska 811 24/7/365 via phone at 811 or 800-331-5666 or online at www.nebraska811.com to place a locate request.

Online Locate Requests Using ITICnxt

ITICnxt is a free online ticket processing tool that allows excavators to create, manage and track locate requests 24/7 quickly and accurately.

ITICnxt:

- **Locate instructions are auto-filled** based on the area mapped.
- **Satellite maps and search features** assist in identifying and mapping excavation areas.
- **Directions to the dig area are system generated.**
- **New drawing tools** are specific to the size and shape of your dig area (circle, route, parcel, etc.)
- **Draw the entire dig project on the map and ITICnxt generates the correct number of tickets.**
- **Multiple tickets created in one session** can be processed or saved for later release.
- **Ticket Management** features are integrated for tracking and documentation.



Required Locate Request Information

Whether filing a locate request online or on the phone, the following information will be required:

- the name and telephone number of the person making the notification,
- the name, address, and telephone number of the excavator,
- the location of the area of the proposed excavation, including the range, township,
- section, and quarter section, unless the area is within the corporate limits of a city or village, in which case the location may be by street address,
- the date and time excavation is scheduled to commence,
- the depth of excavation,
- the type and extent of excavation being planned, including whether the excavation involves tunneling or horizontal boring, and
- whether the use of explosives is anticipated

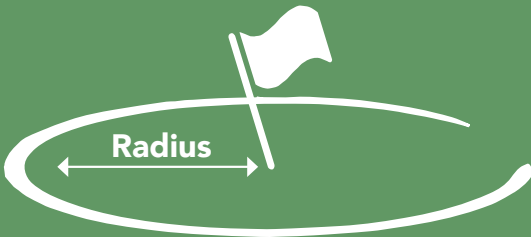
Size of Area on a Ticket

Nebraska 811 has rules and policies that govern whether tickets need to be split at county and

municipal borders. There are also rules for how many excavation entities are allowed on one ticket and how large these entities can be before splitting them into multiple tickets. The ITIC software calculates the number of tickets needed for the excavation area mapped, splits each job into separate tickets and clearly labels which portion of the job is indicated on each ticket.

White Lining

White lining is the practice of outlining the proposed area of excavation with either white paint or white flags. It saves the facility locators time on-site and helps ensure that the entire area of excavation is located properly. Nebraska 811 strongly encourages the process whenever possible. When placing a locate request, excavators are asked whether the excavation area is white lined. Free white flags may be requested on the Nebraska 811 website.



Ticket Types

Normal

This is a standard locate request. Underground facility operators must respond within two business days or at a time mutually agreed to by all parties by either marking underground facilities or notifying the excavator that the facility is clear.

Emergency

A locate request that meets the legal definition of an emergency. An Emergency is defined as a clear and present danger to life, health or property, or which demands immediate action to prevent or repair a major service outage.

Damage

A notification of the damage or disturbance of an underground utility, requiring immediate notification to Nebraska 811. If an excavator causes a release of natural gas or any other hazardous material, they must call 911 first, then 811.

Refresh

A notification requesting a refresh of marks from an existing locate request. The excavator may request that utilities remark or reidentify the location of the facility anytime the marks become unusable.

No Response

A second notification reporting that a utility, or utilities, did not respond electronically to an existing locate request. Any utility receiving a no response notification should respond as soon as possible but no later than two hours.

Incorrect Locate

A second notification reporting that a utility, or utilities, did not mark the original request correctly. Any utility receiving an Incorrect Locate notification should respond no later than two hours. If in the course of excavation, the excavator discovers that the operator has incorrectly located the underground facility, they must notify the center as soon as possible but no later than 72 hours after discovery.

Meet Request

A meet ticket may be used to request a meeting with facility operators. This ticket is useful when the planned digging involves a large project where an in person explanation is beneficial. The meeting must take place after the start date and time on the ticket and within prescribed business hours.

Design

A notification to request names and contact information for facilities in the area indicated on the ticket. Underground facility operators are not required to perform locates on a design request, and excavation is not allowed on a design request.

What Happens After I Submit a Locate Request?

After the locate request is submitted, the excavator will receive an email confirmation. The excavator must ensure that both the ticket information and mapping location are correct, and that no work will take place outside the area indicated on the map, by clicking on the TicketLINK. Excavators should immediately call 800-331-5666, or 811, if they find any incorrect information.

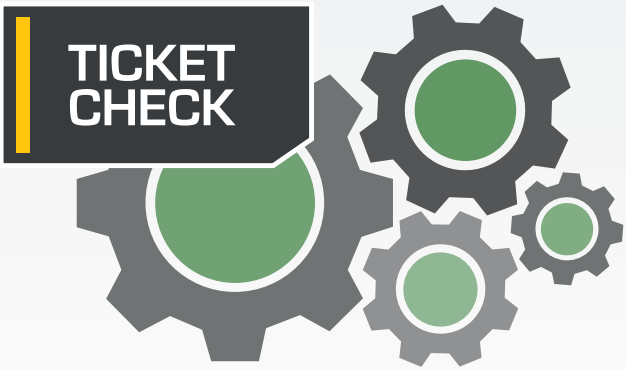
The TicketLINK may also be used to view utility status, request a 'Refresh', report a 'No Response', 'Cancel' a request, keep notes, view and add attachments, and provide access to all the excavators other locate requests.

Nebraska 811 will immediately notify the member utilities of the planned excavation. The facility operators are required to respond before the start date and time on the ticket, marking the approximate location of their underground facility or by indicating they have no facilities within the area of excavation.

Excavators should always ensure that all the facility operators responded electronically and located accordingly before commencing excavation.

Facility operators are also required to electronically notify the center of their response status on the required ticket types by the start date and time on the ticket. The status of all facility operators is communicated to the excavator electronically when all the facility operators have responded

electronically or at the start date/time indicated on the ticket, whichever is earlier. The status of each facility operator is accessible anytime via the TicketLINK tool which can be accessed after logging in.



Ticket Check® is a positive response system where locators provide their response by selecting a status for each ticket which can then be viewed online.

1. Excavator notifies Nebraska 811 and describes their dig area.



2. Ticket logged into computer and sent to Member Utilities and Ticket Check system.

- Each member utility responds electronically by selecting a status via the Ticket Check system. Responses are stored online and can be viewed with the ticket at any time.



Utility A
"Clear/No Conflict"



Utility B
"Maps Provided"



Utility C
"Not Yet Responded"



- TicketLINK closes the loop by sending a notice to the excavator with the electronic response that has been supplied by each facility operator. The excavator has status information without having to visit the dig site.

- Excavator's work begins.



Status Codes

- Not Yet Responded** – The utility has not yet responded to the request.

- **Clear/No Conflict** – The utility is indicating they have no buried utilities in the described area of excavation. The utility is not required to visit the job site and may 'clear' a ticket remotely by setting this status.
- **Marked** – The utility has marked the approximate location of buried utilities in the described area of excavation.
- **Area of excavation could not be determined** – locator has questions or is unsure what the area of excavation is. More communication between the excavator and locator needs to take place. The utility is requesting maps, an on-site meet, or the area to be white lined.
- **Not complete/In progress** – The utility has not yet completed the request.
- **Maps or other documentation provided** – The utility has provided maps, or locate assistance, for the described area of excavation. Usually no electronic locate has been performed.
- **Locator could not gain access to the property** – Locator cannot gain access to a property in order to perform the locate. More communication between the excavator and the locator is necessary in order for the locator to gain access and complete their obligation under the statute.
- **Standby requested** – The utility has requested to be on site during excavation. The facility owner might want to ensure no damage occurs to a line that impacts many customers.




No excavation should begin unless all utilities have responded by:

- Marking the approximate location of their buried facility in the appropriate color using best practice marking standards (Marked)
- Indicating they have no facilities within the area of excavation (Clear/No conflict)
- Providing maps, or locate assistance, in order to avoid damage within the area of excavation (Maps or other documentation provided)

If any facility operator(s) have failed to provide a status that allows you to begin work, the excavator should immediately contact 811 to avoid being delayed.

Once all the facility operators have responded electronically and located accordingly, excavation may begin even if this is before the start date indicated on the ticket.

Call Timeline Examples

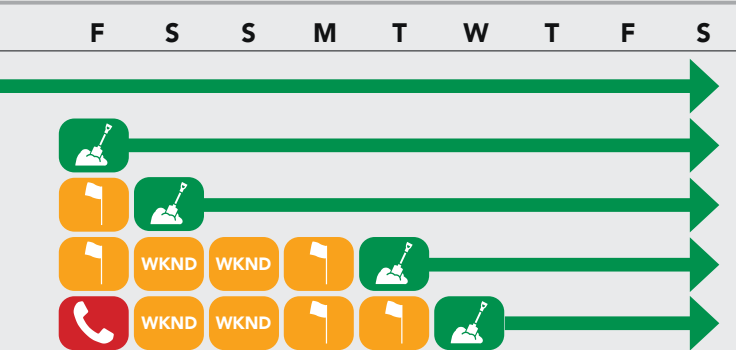
-  Date locate request is placed
-  Waiting period for locates is two business days
-  Date when digging may begin



How Long Does a Facility Operator Have to Respond to a Ticket?

The facility operator must respond no later than the start time on the ticket or at a mutually agreed upon time. An excavator can request a start time that is at least two full business days but not more than ten business days after the request is placed.

A rule change went into effect in 2019 which changed the way start times are calculated to allow two full business days. Previously, the start times were calculated on a 'rolling' two working day notice. For example, a request made Monday at noon could have a start date as early as Wednesday at noon. As of August 2019, the new calculation will not include the day the request is made to provide for a full two working day notice. For example, a request made **Monday** at noon would require a start date of 12:00am on **Thursday** at the earliest (**Monday** doesn't count, **Tuesday** and **Wednesday** would be two full working days. See chart below.)



Depth of Facilities

Facility operators are not required to mark/indicate the depth of their facilities under the Nebraska One-Call law. Factors such as erosion or landscaping can change the depth of an installed facility. The excavator should not assume that any facility is at a given depth or that a positively verified depth is the same throughout the dig site.

Color Codes

Facility operators are required to use the APWA color code to mark their facilities. Markings shall include the use of paint, flags, stakes, whiskers, signs, posts, or any combination of these.

WHITE	Area of Proposed Excavation
PINK	Temporary Survey Markings
RED	Electric
YELLOW	Gas, Oil, Steam, Propane
ORANGE	Communication, CATV, Fiber
BLUE	Water
PURPLE	Reclaimed Water, Irrigation
GREEN	Sewer

Incorrect Locate

If in the course of excavation, the excavator discovers that the operator has incorrectly located the underground facility, he or she shall notify the center as soon as practical but no later than seventy-two hours after discovery.

Marking Standards

Operators shall mark lines using the APWA color code. Markings shall include the use of paint, flags, stakes, whiskers, signs, posts, or any combination of these. Painted spots or dots can be used to identify utilities; the direction of the facility must be identifiable. Offsets can be used when there is a strong likelihood that the marks may be destroyed. Offsets are placed parallel to the running line of the facility. The offset shall indicate the distance and direction from the offset to the facility. When known, the markings shall include: the size of the facility, if over 2 inches in width; the material make-up of the facility, and the facility (owner) name.



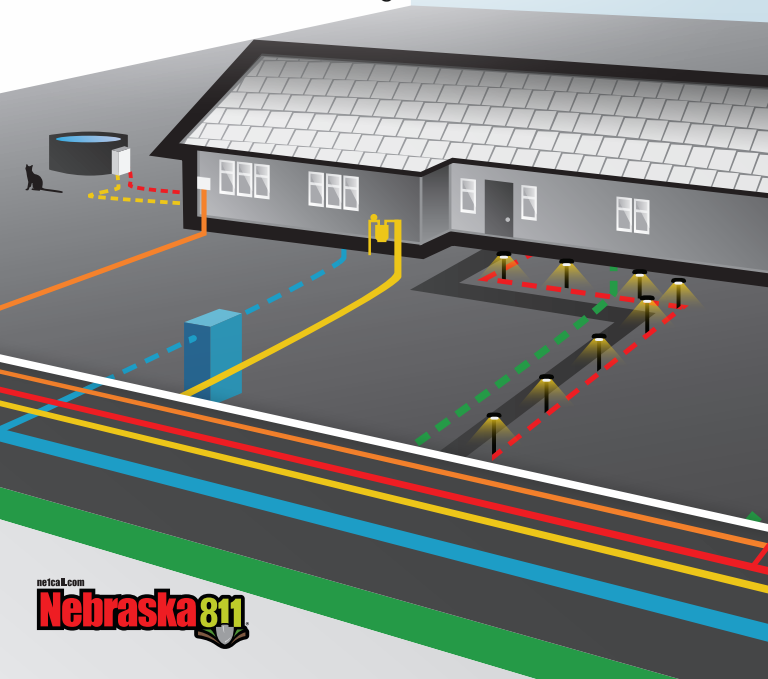
Privately Owned Facilities

Prior to excavating, the excavator should be aware that buried facilities may exist within the dig site that are privately owned or for various reasons, the operator is not notified by Nebraska 811 and thus not listed on the ticket. It is very important that excavators inspect the work area for signs of such facilities and contact the owner to verify the location or obtain more information.

In the graphic below, the dashed lines show examples of what may be privately owned lines. This could include for example, lines from the house to the main, lines between the utility meter and the house/building or any line installed, maintained, and/or used solely on a person's property.

In addition, a facility operator as defined in the One-Call law, is not required to mark beyond the demarcation point of their facility. The demarcation point can vary depending on the type of facility and the facility operator's policies.

For clarification of the terms used, please refer to the definitions in the statutes (Pages 35-36).

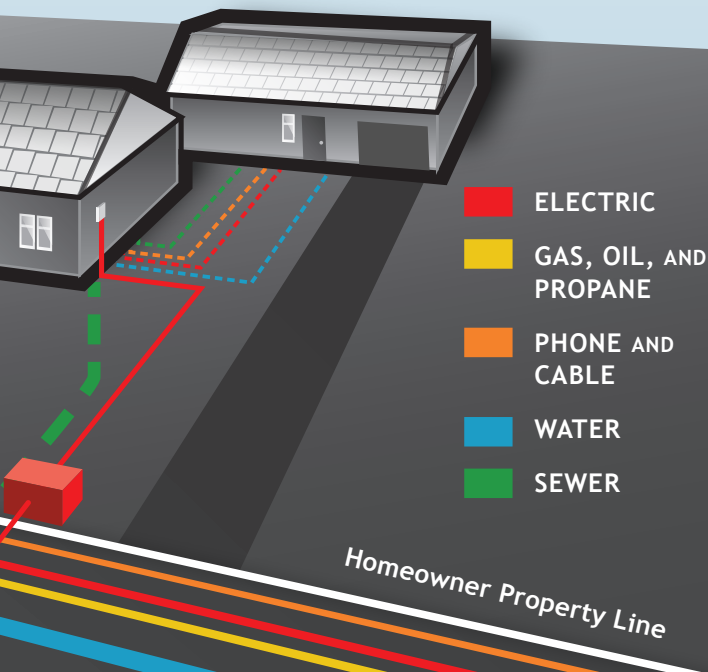


Examples include but are not limited to:

- Natural gas or propane lines running to fire pits, barbecue grills, pool heaters, hot tubs, etc.
- Landscape lighting, invisible pet fencing.
- Water lines for water features, underground sprinklers.
- Electric lines for out buildings, garages, gazebos, sheds, RV hookups, etc.
- Electric lines for parking lot lights.
- Electric lines for commercial signage.
- Private sewer and water lines including septic laterals and water service.
- Electric lines to center pivots.
- Farm tap service lines.
- State owned underground facilities such as intersection lights.

For a private facility locator directory, visit:

www.nebraska811.com/resources/private-line-locator-directory

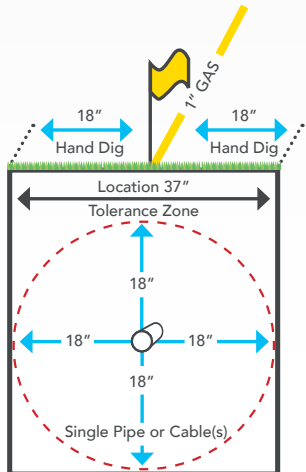
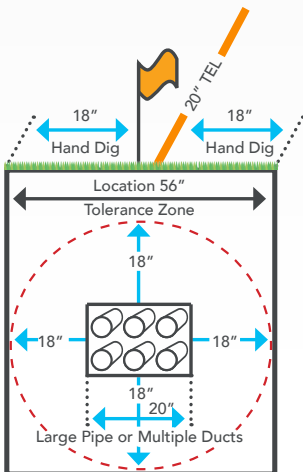


Hand Digging Rule

Hand digging is required within the tolerance zone which is 18 inches plus half the width of the marked underground facility. A person shall expose the underground facility to its outermost surfaces by hand or other nondestructive techniques.

Hand digging is defined as any excavation involving non-mechanized tools or equipment. It shall include but not be limited to, digging with shovels, picks, manual post-hole diggers, vacuum excavation or soft digging.

Tolerance Zone



How Long is a Ticket Valid?

The ticket life on a standard excavation ticket shall be 17 calendar days after the start date and time on the ticket. Refresh tickets should be requested anytime marks are destroyed or become unusable, but a refresh will be required if work will continue beyond the expiration date.

The proposed excavation area on a ticket should be limited to that which can reasonably be completed within the 17 days. If the excavation is not completed by day 14, a refresh ticket should be placed with the center.

The ticket life shall not supersede the requirement that markings shall be done in a manner that will last for a minimum of five business days on any nonpermanent surface and a minimum of ten business days on any permanent surface.

When to Refresh a Ticket

If markings become unclear or unusable at any time due to weather, construction or other causes, a refresh ticket should be submitted to the center using the original ticket number as a reference. A refresh request requires a waiting period of two business days.

Also, a refresh will be required if work will continue beyond the expiration date. If the excavation is not completed by day 14, a refresh ticket should be placed with the center.

Preserving the Marks

The excavator is responsible for reasonably protecting and preserving location markings until no longer required for proper and safe excavation. If the excavator has reason to believe the locate markings have become unclear or unusable, the excavator must notify the center and request a refresh ticket.

Damaging/Disturbing an Underground Facility

Excavators are required to immediately notify Nebraska 811 if any underground facility is damaged, dislocated or disturbed before or during excavation (see 76-2326). Nebraska 811 will notify the underground facility operators in the area, who will respond appropriately. If the damage results in a potentially dangerous emergency, the excavator must take reasonable actions to alleviate the emergency including, but not limited to, the evacuation of the affected area. If an excavator causes a release of natural gas or any other hazardous material, they must call 911 first, then 811. Nebraska 811 will then notify the facility owner. For everyone's safety in any incident involving blowing gas, make calls from a safe distance. Refer to 49 CFR 196 for the federal regulation.

It is important to document information surrounding a damage. The following items are helpful when doing so:

- Ticket number

- Pictures of the damage facility with date and time stamp
- Pictures of the locate markings with date and time stamp
- Pictures of the job site with landmark and measurement references
- What damage was caused and how it happened
- Narrated video of the damage scene

Board of Directors

The board of directors are appointed by the State Fire Marshal's office. Their duties include overseeing the operations of the one-call center; setting business rules, policies and fee structures; determining how public outreach is performed through marketing and stakeholder meetings; working with stakeholders to determine new best practices, rules and regulations; and reviewing new or pending legislation affecting the One-Call Law. The Board consists of 18 members:

- Three representing municipally owned utilities.
- Two representing public power districts with >\$40 million gross revenue.
- Two representing public power districts with <\$40 million gross revenue.
- Three representing telecommunications companies.
- Two representing natural gas companies.
- Two representing transmission pipeline companies.
- Four representing excavators (one specializing in trenchless excavation activities; one representing county governments).

State Fire Marshal's Role



The mission of the State Fire Marshal Agency is to strengthen Nebraska by preserving the life and property of the state and her citizens through fire prevention, education, and enforcement.

The Fuels Division Pipeline Safety Section operates the Pipeline Safety Program. Deputies in the Pipeline Safety Program inspect all intrastate gas pipeline operators for compliance with federal DOT regulations and are also involved in promoting safe digging practices and the use of the Nebraska One-Call Notification System.

The State Fire Marshal Agency, in collaboration with the Nebraska Attorney General's Office, conducts investigations of One-Call complaints and of damages on natural gas pipelines to determine root cause and compliance with one call statutes and regulations. In addition, the pipeline deputies deliver training to all stakeholders across Nebraska by scheduling quarterly damage prevention classes at locations across the state and as requested by individuals or companies.



Enforcement

The Attorney General's office receives complaints alleging violations of Nebraska's One-Call Notification Act, which outlines legal requirements for excavators and underground facility operators in order to protect the public from injury and protect underground facilities from damage. Violations may be subject to civil penalties of up to \$10,000 per violation, per day.

Some of the assessed civil penalties may be waived if a party maintains compliance with the One-Call Act for a period of time and attends a damage prevention safety education course approved by the State Fire Marshal.

Civil penalties are allocated to the local school fund in the county where the violation occurred. Once a complaint is received, the Attorney General's office reviews the complaint and conducts additional investigation, if necessary. A notice of potential violation will be sent to the party, with an opportunity to respond to the complaint. To file a One-Call notification act complaint, visit <https://ago.nebraska.gov/contact-us>

Mailed complaint forms may be sent to:

Nebraska Attorney General's Office
Attn: One-Call Notification Division
2115 State Capitol Building
Lincoln, NE 68509

The Attorney General's office will review the complaint and may contact you for additional information. The allegations in the complaint will be shared with the party against whom it is filed. For questions, contact the One-Call Notification Division at 402-471-2682.

Disputes

Nebraska 811 will not, and is not authorized to, settle disputes between excavators, facility operators and contract locators. In the event that you may be involved in a dispute, Nebraska 811 may provide copies of records.

If an excavator or facility owner has repeated incidents of non-compliance or failure to adhere to the statutes, you may file a complaint with the Attorney General's office. Complaint forms can be found on the Nebraska 811 website or by contacting the Attorney General's office.

Nebraska's Dig Law: The One-Call Notification Act

76-2301. Act, how cited.

Sections 76-2301 to 76-2334 shall be known and may be cited as the One-Call Notification System Act.

76-2302. Legislative intent.

(1) It is the intent of the Legislature to establish a means by which excavators may notify operators of underground facilities in an excavation area so that operators have the opportunity to identify and locate the underground facilities prior to excavation and so that the excavators may then observe proper precautions to safeguard the underground facilities from damage.

(2) It is the purpose of the One-Call Notification System Act to aid the public by preventing injury to persons and damage to property and the interruption of utility services resulting from accidents caused by damage to underground facilities.

76-2303. Definitions, where found.

For purposes of the One-Call Notification System Act, the definitions found in sections 76-2303.01 to 76-2317 shall be used.

76-2303.01. Bar test survey, defined.

Bar test survey means a leakage survey completed with a nonconductive piece of equipment made by manually driving small holes in the ground at regular intervals along the route of an underground gas pipe for the purpose of extracting a sample of the ground atmosphere and testing the atmosphere in the holes with a combustible gas detector or other suitable device.

76-2304. Business day, defined.

Business day shall mean any day other than a Saturday, Sunday, or state or nationally observed legal holiday.

76-2305. Center, defined.

Center means a call center which shall have as its principal purpose the statewide receipt and dissemination to participating operators of information on a fair and uniform basis concerning intended excavations by excavators in areas where operators have underground facilities.

76-2305.01. Committee, defined.

Committee means the Underground Excavation Safety Committee.

76-2306. Damage, defined.

Damage shall mean any impact with, partial or complete severance, destruction, impairment, or penetration of, or removal or weakening of support from an underground facility, including its protective coating, housing, or other protective device.

76-2307. Emergency condition, defined.

Emergency condition shall mean any condition which constitutes a clear and present danger to life,

health, or property or which demands immediate action to prevent or repair a major service outage.

76-2308. Excavation, defined.

Excavation shall mean any activity in which earth, rock, or other material in or on the ground is moved or otherwise displaced by means of tools, equipment, or explosives and shall include grading, trenching, digging, ditching, drilling, auguring, tunneling, scraping, and cable or pipe plowing or driving but shall not include.

(1) normal maintenance of roads if the maintenance does not change the original road grade and does not involve the road ditch,

(2) tilling of soil and gardening for seeding and other agricultural purposes,

(3) digging of graves or in landfills in planned locations,

(4) maintenance or rebuilding of railroad track or facilities located on a railroad right-of-way by the railroad company or its contractors when such maintenance or rebuilding does not change the track grade, or

(5) hand digging around the base of a pole for pole inspection as part of routine maintenance or replacement of a pole when the replacement pole is similarly sized and is installed in the existing hole.

76-2309. Excavator, defined.

Excavator shall mean a person who engages in excavation in this state.

76-2310. Gas or hazardous liquid underground pipeline facility, defined.

Gas or hazardous liquid underground pipeline facility shall mean any underground facility used or intended for use in the transportation of gas or the treatment of gas or used or intended for use in the transportation of hazardous liquids including petroleum or petroleum products.

76-2310.01. Locator, defined.

Locator means a person who identifies and marks underground facilities for an operator, including a contractor who performs such location services for an operator.

76-2311. Nonpermanent surface, defined.

Nonpermanent surface shall mean any ground consisting of uncovered dirt or rock or ground that is covered by grass or other plant life, crushed rock, gravel, or other similar natural substance.

76-2312. Normal working hours, defined.

Normal working hours shall mean the hours of 7am to 5pm on a business day in each time zone in the state.

76-2313. Operator, defined.

Operator shall mean a person who manages or controls the functions of an underground facility but shall not include a person who is an owner or tenant of real property where underground facilities are located if the underground facilities are used exclusively to furnish services or commodities on the real property.

76-2314. Permanent surface, defined.

Permanent surface shall mean any ground that is covered by a hard, artificial, weatherproof material such as concrete, asphalt, or other similar artificial substance.

76-2315. Person, defined.

Person means an individual, partnership, limited liability company, association, municipality, state, county, political subdivision, utility, joint venture, or corporation and shall include the employer, employee, or contractor of an individual.

76-2316. Repealed.**76-2316.01. Ticket, defined.**

Ticket means the compilation of data received by the center in the notice of excavation and the facility locations provided to the center and which is assigned a unique identifying number.

76-2317. Underground facility, defined.

Underground facility shall mean any item of personal property buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic communications, telephonic communications, telegraphic communications, cable television, electric energy, oil, gas, hazardous liquids, or other substances, including pipes, trunk lines, fiber optic cables, sewers, conduits, cables, valves, lines, wires, manholes, and attachments to such personal property.

76-2318. Center; membership required.

Operators of underground facilities shall become members of and participate in the center.

76-2319. Board of directors; rules and regulations; selection of vendor.

(1) The center shall be governed by a board of directors who shall oversee operation of the center pursuant to rules and regulations adopted and promulgated by the State Fire Marshal to carry out the One-Call Notification System Act. The board of directors shall have the authority to propose rules and regulations which may be adopted and promulgated pursuant to this section and have such other authority as provided by rules and regulations adopted and promulgated by the State Fire Marshal that are not inconsistent with the One-Call Notification System Act.

(2) The board of directors shall also establish a competitive bidding procedure to select a vendor to provide the notification service, establish a procedure by which members of the center share the costs of the center on a fair, reasonable, and nondiscriminatory basis, and do all other things necessary to implement the purpose of the center. Any agreement between the center and a vendor for the notification service may be modified from time to time by the board of directors, and any agreement shall be reviewed by the board of directors at least once every three years, with an opportunity to receive new bids if desired by the board of directors.

(3) The rules and regulations adopted and promulgated by the State Fire Marshal to carry out subsection (2) of this section may provide for:

(a) Any requirements necessary to comply with United States Department of Transportation

programs;

(b) The qualifications, appointment, retention, and composition of the board of directors; and

(c) Best practices for the marking, location, and notification of proposed excavations which shall govern the center, excavators, and operators of underground facilities.

(4) Any rule or regulation adopted and promulgated by the State Fire Marshal pursuant to subdivision (3) (c) of this section shall originate with the board of directors.

76-2319.01. Board of directors; duties; report.

The board of directors shall assess the effectiveness of enforcement programs, enforcement actions, and its damage prevention and public awareness programs and make a report to the Governor and the Legislature no later than December 1, 2021, and by December 1 every odd-numbered year thereafter. The report to the Legislature shall be made electronically.

76-2320. Operator; duty to furnish information; center operational, when.

Every operator shall furnish the vendor selected by the board of directors with information concerning the location of its underground facilities. Every operator having underground facilities in existence in this state on February 16, 1994, shall furnish such information to the vendor by April 3, 1995. The vendor shall have the center operational on October 2, 1995.

76-2320.01. Locator; training required.

Any locator acting as a contractor for an operator

to perform location services shall be trained in locator standards and practices applicable to the industry. The board of directors may review locator training materials provided by operators, locators, and excavators and may make recommendations regarding best practices for locators, if deemed appropriate.

76-2320.02. Use of plastic or nonmetallic underground facilities; installation requirements.

Notwithstanding any other provision of the One-Call Notification System Act, any plastic or nonmetallic underground facilities installed underground on or after January 1, 2021, shall be installed in such a manner as to be locatable, either by mapping or by use of tracer wire, by the operator for purposes of the act.

76-2321. Excavation; notice; contents; commencement.

(1) A person shall not commence any excavation without first giving notice to every operator. An excavator's notice to the center shall be deemed notice to all operators. An excavator's notice to operators shall be ineffective for purposes of this subsection unless given to the center. Notice to the center shall be given at least two full business days, but no more than ten business days, before commencing the excavation, except notice may be given more than ten business days in advance when the excavation is a road construction, widening, repair, or grading project provided for in sections 70-311 to 70-313 and 86-708 to 86-710. An excavator may commence work before the elapse of two full business days when

(a) notice to the center has been given as provided

by this subsection and

(b) all the affected operators have notified the excavator that the location of all the affected operator's underground facilities have been marked or that the operators have no underground facilities in the location of the proposed excavation.

(2) The notice required pursuant to subsection (1) of this section shall include

(a) the name and telephone number of the person making the notification,

(b) the name, address, and telephone number of the excavator,

(c) the location of the area of the proposed excavation, including the range, township, section, and quarter section, unless the area is within the corporate limits of a city or village, in which case the location may be by street address,

(d) the date and time excavation is scheduled to commence,

(e) the depth of excavation,

(f) the type and extent of excavation being planned, including whether the excavation involves tunneling or horizontal boring, and

(g) whether the use of explosives is anticipated.

76-2322. Excavator; notice to center.

An excavator shall serve notice of intent to excavate upon the center by submitting a locate request using a method provided by the center. The center shall inform the excavator of all operators to whom such notice will be transmitted and shall promptly transmit such notice to every operator having an underground facility in the area of intended excavation. The notice shall be transmitted to operators and excavators as a ticket. The center

shall assign an identification number to each notice received, which number shall be evidenced on the ticket.

76-2323. Underground facilities; mark or identify; excavator; violations.

(1) Upon receipt of the information contained in the notice pursuant to section 76-2321, an operator shall advise the excavator of the approximate location of underground facilities in the area of the proposed excavation by marking or identifying the location of the underground facilities with stakes, flags, paint, or any other clearly identifiable marking or reference point and shall indicate if the underground facilities are subject to section 76-2331. The location of the underground facility given by the operator shall be within a strip of land eighteen inches on either side of the marking or identification plus one-half of the width of the underground facility. If in the opinion of the operator the precise location of a facility cannot be determined and marked as required, the operator shall provide all pertinent information and field locating assistance to the excavator at a mutually agreed to time. The location shall be marked or identified using color standards prescribed by the center. The operator shall respond no later than two business days after receipt of the information in the notice or at a time mutually agreed to by the parties.

(2) The marking or identification shall be done in a manner that will last for a minimum of five business days on any nonpermanent surface and a minimum of ten business days on any permanent surface. If the excavation will continue for longer than five business days, the operator shall remark

or reidentify the location of the underground facility upon the request of the excavator. The request for remarking or reidentification shall be made through the center.

(3)(a) Beginning September 1, 2024, it shall be a violation of the One-Call Notification System Act for an excavator to (i) serve notice of intent to excavate upon the center for an area in which the excavation cannot be reasonably commenced within seventeen calendar days after the excavation start date indicated pursuant to section 76-2321 or (ii) request remarking or reidentification for any area in which the excavation cannot be reasonably commenced or continued within fourteen calendar days after the date remarking or reidentification is completed.

(b) After receiving notice of any alleged violation of this subsection pursuant to subsection (2) of section 76-2325, the excavator shall in its answer describe the circumstances which prevented the commencement or continuation of excavation within the timeframes set forth in this subsection.

(4) An operator who determines that such operator does not have any underground facility located in the area of the proposed excavation shall notify the center of the determination prior to the date of commencement of the excavation, or prior to two full business days after transmittal of the ticket, whichever occurs sooner. All ticket responses made under this subsection shall be transmitted to the operator and excavator by the center.

76-2324. Excavator; liability for damage; when.

An excavator who fails to give notice of an excavation pursuant to section 76-2321 or who fails to comply with section 76-2331 and who damages an underground facility by such excavation shall be

strictly liable to the operator of the underground facility for the cost of all repairs to the underground facility. An excavator who gives the notice and who damages an underground facility shall be liable to the operator for the cost of all repairs to the underground facility unless the damage to the underground facility was due to the operator's failure to comply with section 76-2323. An excavator who fails to give notice of an excavation pursuant to section 76-2321 and who damages an underground facility that is operated by the excavator shall not be in violation of the One-Call Notification System Act.

In addition to any liability provided in this section an operator of a damaged underground facility shall be entitled to any other remedies available at law or in equity provided by statute or otherwise.

76-2325. Violations; civil penalty; investigation; State Fire Marshal; committee; duties; hearing; civil penalty; costs.

(1) Until September 1, 2024:

(a) Any person who violates section 76-2320, 76-2320.01, 76-2320.02, 76-2321, 76-2322, 76-2323, 76-2326, 76-2330, or 76-2331 shall be subject to a civil penalty as follows:

(i) For a violation by an excavator or an operator related to a gas or hazardous liquid underground pipeline facility or a fiber optic telecommunications facility, an amount not to exceed ten thousand dollars for each violation for each day the violation persists, up to a maximum of five hundred thousand dollars; and

(ii) For a violation by an excavator or an operator related to any other underground facility, an amount not to exceed five thousand dollars for each day the

violation persists, up to a maximum of fifty thousand dollars; and

(b) An action to recover a civil penalty shall be brought by the Attorney General or a prosecuting attorney on behalf of the State of Nebraska in any court of competent jurisdiction of this state. The trial shall be before the court, which 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, the absence or existence of prior violations, whether the violation was a willful act, any good faith attempt to achieve compliance, and such other matters as justice may require in determining the amount of penalty imposed. All penalties shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(2) Beginning September 1, 2024:

(a)(i) When the State Fire Marshal has reason to believe that any person has committed any violation described in subdivision (b) of this subsection, the State Fire Marshal may conduct an investigation to determine the facts and circumstances of such alleged violation and, if conducted, shall give prior notice of such investigation by first-class mail or electronic mail to such person.

(ii) When any person other than the State Fire Marshal has reason to believe that any violation described in subdivision (b) of this subsection has occurred, such person may submit information to the State Fire Marshal regarding such violation on a form prescribed by the State Fire Marshal. Upon receipt of such information, the State Fire Marshal may conduct an investigation to determine the facts and circumstances of such alleged violation

and, if conducted, shall give prior notice of such investigation by first-class mail or electronic mail to both the person being investigated and the person who submitted the information to the State Fire Marshal.

(iii) The State Fire Marshal shall refer the findings of the investigation to the committee for its determination. Except as otherwise provided in subdivision (2)(a)(iv) of this section, the committee shall issue a written determination stating findings of fact, conclusions of law, and the civil penalty, if any, to be assessed for such violation and serve a copy of the written determination by personal service or by certified mail, return receipt requested, upon such person. If the State Fire Marshal's investigation was commenced based on information provided pursuant to subdivision (2)(a)(ii) of this section, a copy of the written determination shall also be delivered by first-class mail to the person providing such information.

(iv) If the committee determines that the civil penalty to be assessed for any violation exceeds the amount described in subdivision (2)(b)(iv) of this section, the committee shall refer the matter, together with the State Fire Marshal's findings and the committee's written determination, to the Attorney General for prosecution pursuant to subdivision (2)(b)(v) of this section.

(v) Not later than thirty days after receipt of the committee's written determination, any party may submit a written request to the State Fire Marshal for a hearing on the matter. The committee shall then appoint a hearing officer to conduct such hearing and set a hearing date and provide written notice of hearing to the parties at least thirty days prior to the date of the hearing. Such notice

shall contain the name, address, and telephone number of the hearing officer, a copy of the written determination upon which the hearing shall be held, and the date, time, and place of hearing. The notice of hearing may be served by personal service or by certified mail. If no hearing is requested in answer to the written determination by the person found to have committed any violation as described in subdivision (b) of this subsection, or if a request for a hearing is withdrawn, such person shall pay any civil penalty assessed within thirty days after receipt of the written determination or within thirty days after cancellation of the hearing, whichever is applicable.

(vi) In the preparation and conduct of the hearing, the hearing officer shall have the power, on the hearing officer's own motion or upon the request of any party, to compel the attendance of any witness and the production of any documents by subpoena to ensure a fair hearing. The hearing officer may administer oaths and examine witnesses and receive any evidence pertinent to the determination of the matter. Any witnesses so subpoenaed shall be entitled to the same fees as prescribed by law in judicial proceedings in the district court of this state in a civil action and mileage at the same rate provided in section 81-1176 for state employees.

(vii) A party may appear at the hearing with or without the assistance of counsel to present testimony, examine witnesses, and offer evidence. A stenographic record of all testimony and other evidence received at the hearing shall be made and preserved pending final disposition of the matter.

(viii) Unless all requests for hearing are withdrawn prior to the hearing, following the hearing the hearing officer shall prepare written findings of fact

and conclusions of law, and based on such findings of fact and conclusions of law, the committee shall affirm, modify, or reverse the written determination issued under subdivision (2)(a)(iii) of this section and issue a final order. The committee's final order may include an assessment of costs incurred in conducting the hearing, including the costs of the hearing officer and compelling the attendance of witnesses, and assess such costs against the parties. Any party aggrieved by the final order of the committee may appeal the decision, and such appeal shall be in accordance with the Administrative Procedure Act; and

(b)(i) Except as provided in subdivision (2)(b)(ii) of this section, any person who violates section 76-2320, 76-2320.01, 76-2320.02, 76-2321, 76-2322, 76-2323, 76-2326, 76-2330, or 76-2331 or any rule or regulation adopted and promulgated by the State Fire Marshal pursuant to section 76-2319 shall be subject to a civil penalty as follows:

(A) For a violation by an excavator or an operator related to a gas or hazardous liquid underground pipeline facility or a fiber optic telecommunications facility, an amount not to exceed ten thousand dollars for each violation for each day the violation persists, up to a maximum of five hundred thousand dollars; and

(B) For a violation by an excavator or an operator related to any other underground facility, an amount not to exceed five thousand dollars for each day the violation persists, up to a maximum of fifty thousand dollars.

(ii) In addition to or in lieu of assessing a civil penalty as provided in subdivision (i) of this subsection, the committee may order that a violator take and complete continuing education regarding

compliance with the One-Call Notification System Act. Such continuing education shall be approved by the State Fire Marshal.

(iii) When imposing a civil penalty, the committee 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, the absence or existence of prior violations, whether the violation was a willful act, any good faith attempt to achieve compliance, and such other matters as justice may require.

(iv) The committee shall not assess a civil penalty that is more than ten thousand dollars per violation. The violator shall pay the costs of the investigation as billed by the State Fire Marshal. The State Fire Marshal shall remit such paid costs to the State Treasurer for credit to the fund from which the costs were expended.

(v) As provided in subdivision (2)(a)(iv) of this section, for any investigation in which a civil penalty in excess of the amount described in subdivision (2)(b)(iv) of this section is deemed justified by the committee, the committee shall refer such matter to the Attorney General or a prosecuting attorney who shall bring an action on behalf of the State of Nebraska to recover such penalty in any court of competent jurisdiction of this state. The trial shall be before the court, which 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, the absence or existence of prior violations, whether the violation was a willful act, any good faith attempt to achieve compliance, and such other matters as justice may require in determining the amount of penalty imposed.

(vi) Costs incurred by the investigation conducted pursuant to subdivision (2)(a) of this section may be sought as part of any judgment against a violator. The State Fire Marshal shall remit any such recovered costs to the State Treasurer for credit to the fund from which the costs were expended.

(vii) All civil penalties collected pursuant to this subsection shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

76-2325.01. Unlawful interference; penalty.

Any person who willfully and maliciously breaks, injures, destroys, or otherwise interferes with the poles, wires, or other facilities of any telecommunications or railroad company or electric light and power company in this state or who willfully and purposely interrupts or interferes with the transmission of telecommunications messages or the transmission of light, heat, and power in this state shall be subject to the action and penalty prescribed in section 28-519.

76-2325.02. Attorney General; annual report; contents.

The Attorney General shall make an annual report to the Legislature, the State Fire Marshal, and the board of directors by each March 15 on the number of complaints filed and the number of such complaints prosecuted under section 76-2325 during the previous calendar year. The report to the Legislature shall be made electronically.

76-2326. Damage; duty of excavator.

If any underground facility is damaged, dislocated, or disturbed before or during excavation, the

excavator shall immediately notify the center. An excavator shall not conceal or attempt to conceal damage, dislocation, or disturbance of an underground facility and shall not repair or attempt to repair the underground facility unless authorized by the operator of the underground facility.

76-2327. Incorrect location; duty of excavator.

If in the course of excavation, the excavator discovers that the operator has incorrectly located the underground facility, he or she shall notify the center as soon as practical but no later than seventy-two hours after discovery.

76-2328. Local Permits; treatment; claims against political subdivisions.

The One-Call Notification System Act shall not affect or impair any local ordinances or other provisions of law requiring permits to be obtained before an excavation. A permit issued by a governing body shall not relieve an excavator from complying with the requirements of the act. No claim shall be maintained under the One-Call Notification System Act against a political subdivision or its officers, agents, or employees except to the extent, and only to the extent, provided by the Political Subdivisions Tort Claims Act.

76-2329. Emergency conditions; bar test survey; notification requirements; liability.

(1) Sections 76-2321 and 76-2323 shall not apply to an excavation made under an emergency condition if all reasonable precautions are taken to protect the underground facilities. If an emergency condition exists, the excavator shall give notification in substantial compliance with section 76-2321 as soon

as practical. Upon being notified that an emergency condition exists, each operator shall provide all reasonably available location information to the excavator as soon as possible. If the emergency condition has arisen through no fault of the excavator, sections 76-2324 and 76-2325 shall not apply and the excavator shall be liable for damage to any underground facility located in the area if the damage occurs because of the negligent acts or omissions of the excavator.

(2) Sections 76-2321 and 76-2323 shall not apply to a bar test survey deemed necessary to address an emergency condition performed by the operator of the gas or hazardous liquid underground pipeline facility or a qualified excavator who has been engaged to work on behalf of the operator in response to a reported or suspected leak of natural gas, propane, or other combustible liquid or gas. If the emergency condition has arisen through no fault of the excavating operator, section 76-2325 shall not apply.

(3) Sections 76-2321 and 76-2323 shall not apply to an excavation deemed necessary to address an emergency condition performed by the operator of the gas or hazardous liquid underground pipeline facility or a qualified excavator who has been engaged to work on behalf of the operator to address a leak of natural gas, propane, or other combustible liquid or gas. In such event, the operator shall give notification in substantial compliance with section 76-2321 prior to the excavation undertaken by the operator to address the emergency condition. Upon being notified that an emergency condition exists, each operator shall provide all reasonably available location information

to the excavating operator as soon as possible, but the excavating operator need not wait for such location information prior to excavation or continuing excavation. If the emergency condition has arisen through no fault of the excavating operator, section 76-2325 shall not apply.

76-2330. Center; duties.

The center shall:

- (1) Maintain adequate records documenting compliance with the requirements of the One-Call Notification System Act, including records of all telephone calls and records of all location requests for the preceding five years which will be made available and printed upon request of an operator or excavator;
- (2) Provide the notification service during normal working hours at a minimum; and
- (3) Provide procedures for emergency notification for calls received at other than normal working hours.

76-2331. Underground natural gas transmission line; representative present; excavation; duties.

Unless otherwise agreed by the operator and excavator in writing, no excavation shall be performed within twenty-five feet of an underground natural gas transmission line as defined in 49 C.F.R. 192.3 unless a representative of the operator of the underground natural gas transmission line is present at the planned excavation area. If the representative of the operator fails to appear at the proposed excavation area at the time work is scheduled to commence, the excavator shall notify

the operator that the representative failed to appear and excavation operations can begin if reasonable precautions are taken to protect the underground facility. This section does not prohibit an operator from either voluntarily having its representative present during excavation or from entering into an agreement voluntarily with an excavator that allows an operator representative to be present during excavation.

76-2332. State Fire Marshal; powers.

The State Fire Marshal may, by rule and regulation, define occurrences relating to damage of an underground facility that creates an emergency condition that requires an excavator to immediately notify an operator or a locator, if applicable, and the center regarding the location and extent of damage to an underground facility.

76-2333. Underground Excavation Safety Committee; created; members; appointment; expenses; duties.

(1) Beginning September 1, 2024, the Underground Excavation Safety Committee is created. The committee shall consist of the following members: (a) The State Fire Marshal or the State Fire Marshal's designee, (b) three representatives of operators, (c) three representatives of excavators, and (d) one alternate representative of operators and one alternate representative of excavators. An alternate representative described in subdivision (d) of this subsection shall only participate in a committee meeting if a corresponding representative described in subdivision (b) or (c) of this subsection has declared a conflict of interest and recused himself or herself from participation in a matter before the committee or is otherwise unavailable

for a committee meeting. In such instance, the chairperson shall notify the alternate representative to serve in the place of the recused or absent representative for any meeting related to such particular conflict or for the duration of such absence.

(2) The representative members shall be appointed by the Governor. The Governor shall appoint one of the three initial representatives of operators described in subdivision (1)(b) of this section, one of the three initial representatives of excavators described in subdivision (1)(c) of this section, and both alternate representatives described in subdivision (1)(d) of this section for two-year terms. The other initial representatives shall be appointed for four-year terms. All succeeding terms shall be for four years. A representative member may be reappointed at the end of such member's term. If there is a vacancy on the committee, the Governor shall appoint a member to serve the remainder of the unexpired term of the vacating member. All representative members shall be subject to approval by the Legislature.

(3) The committee shall select from among its members a chairperson. The committee shall not select an alternate representative to serve as chairperson. The committee shall govern its procedures pursuant to rules and regulations adopted and promulgated by the State Fire Marshal. No representative member shall receive any compensation for services rendered as a member of the committee but may be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(4) The committee shall meet not less than monthly and also at such other times and at such places as may be established by the chairperson. The committee may meet by videoconference with approval of a majority of the committee members. Any action taken by the committee shall require a majority vote of the members.

(5)(a) The committee shall (i) review investigations completed pursuant to subdivision (2)(a) of section 76-2325, (ii) determine based on such review whether any person has committed any violation described in subdivision (2)(b) of section 76-2325, and (iii) determine the appropriate civil penalty, if any, to be assessed for such violation consistent with subdivision (2)(b)(ii) of section 76-2325.

(b) No member of the committee who participated in an investigation conducted under subdivision (2)(a) of section 76-2325 shall participate in a hearing upon any question in which such member or any business with which such member is associated is a party.

76-2334. Rules and regulations.

The State Fire Marshal shall adopt and promulgate rules and regulations to carry out section 76-2333 and subsection (2) of section 76-2325, including general rules of practice and procedure relating to the committee, training requirements for investigators, and rules governing the investigation process.

Criminal Penalties

28-519. Criminal Penalties.

(1) A person commits criminal mischief if he or she:
 (a) Damages property of another intentionally or recklessly; or (b) Intentionally tampers with property of another so as to endanger person or property; or (c) Intentionally or maliciously causes another to suffer pecuniary loss by deception or threat. (2) Criminal mischief is a Class IV felony if the actor intentionally or maliciously causes pecuniary loss of one thousand five hundred dollars or more, or a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public service. (3) Criminal mischief is a Class I misdemeanor if the actor intentionally or maliciously causes pecuniary loss of five hundred dollars or more but less than one thousand five hundred dollars. (4) Criminal mischief is a Class II misdemeanor if the actor intentionally or maliciously causes pecuniary loss of two hundred dollars or more but less than five hundred dollars. (5) Criminal mischief is a Class III misdemeanor if the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than two hundred dollars, or if his or her action results in no pecuniary loss.

Penalties Under the Law

There are fines for failure to do what the One Call Notification Act requires. For a violation related to a gas or hazardous liquid underground pipeline facility or a fiber optic telecommunications facility, fines in an amount not to exceed ten thousand dollars for each violation for each day the violation persists, up to a maximum of five hundred thousand

dollars may be assessed. For violations related to any other underground facility, an amount not to exceed \$5000 for each day the violation persists, up to a maximum of \$50,000 may be assessed.

There are also criminal penalties for any person who willfully and maliciously interferes with underground facilities or interrupts the transmission of a public utility as provided in Section 28-519 (see above).

Rule and Regulation Changes

Changes to Title 155 NAC Chapter 2, signed by the Governor, were effective as of August 2019. Those changes include the following:

CHAPTER 2 – REQUIREMENTS FOR STATEWIDE ONE-CALL NOTIFICATION CENTER

01. These regulations shall apply to the operating procedures of the state-wide one-call center and the qualifications, appointment, retention, and composition of the board of directors.

002. DEFINITIONS.

002.01. Board of directors shall mean the governing board of the association charged with the responsibility for overseeing the operation of the statewide one-call notification center.

002.02. Business day shall mean any day other than a Saturday, Sunday, or state or nationally observed legal holiday.

002.03. Center shall mean the statewide one-call

notification center.

002.04. Damage shall mean any impact with, partial or complete severance, destruction, impairment, or penetration of, or removal or weakening of support from an underground facility, including its protective coating, housing, or other protective device.

002.05. Emergency condition shall mean any condition which constitutes a clear and present danger to life, health, or property or which demands immediate action to prevent or repair a major service outage.

002.06. Excavation shall mean any activity in which earth, rock, or other material in or on the ground is moved or otherwise displaced by means of tools, equipment, or explosives and shall include grading, trenching, digging, ditching, drilling, auguring, tunneling, scraping, and cable or pipe plowing or driving but shall not include (1) normal maintenance of roads if the maintenance does not change the original road grade and does not involve the road ditch, (2) tilling of soil and gardening for seeding and other agricultural purposes, (3) digging of graves or in landfills in planned locations, (4) maintenance or rebuilding of railroad track or facilities located on a railroad right-of-way by the railroad company or its contractors when such maintenance or rebuilding does not change the track grade, or (5) hand digging around the base of a pole for pole inspection as part of routine maintenance or replacement of a pole when the replacement pole is similarly sized and installed in the existing hole.

002.07. Excavator shall mean a person who engages in excavation in this state.

002.08. Gas or hazardous liquid underground pipeline facility shall mean any underground facility used or intended for use in the transportation of gas or the treatment of gas or used or intended for use in the transportation of hazardous liquids including petroleum or petroleum products.

002.09. Hand Digging shall mean any excavation involving non-mechanized tools or equipment. It shall include but not be limited to, digging with shovels, picks, and manual post-hole diggers, vacuum excavation or soft digging.

002.10. Mandatory Electronic Positive Response shall mean an electronic response transmitted to the center indicating the facility's response status to a ticket.

002.11. Marking Standards shall mean the methods by which a facility owner/operator indicates its line or facility.

002.12. Nonpermanent surface shall mean any ground consisting of uncovered dirt or rock or ground that is covered by grass or other plant life, crushed rock, gravel, or other similar natural substance.

002.13. Normal working hours shall mean the hours of 7 a.m. to 5 p.m. on a business day in each time zone in the state.

002.14 Offsets shall mean the amount of distance identified by which the facility/utility is out of line.

002.15. Operator shall mean a person who manages or controls the functions of an

underground facility but shall not include a person who is an owner or tenant of real property where underground facilities are located if the underground facilities are used exclusively to furnish services or commodities on the real property.

002.16. Permanent surface shall mean any ground that is covered by a hard, artificial, weatherproof material such as concrete, asphalt, or other similar substance.

002.17. Person shall mean an individual, partnership, limited liability company, association, municipality, state, county, political subdivision, utility, joint venture, or corporation and shall include the employer of an individual.

002.18. Statewide one-call notification center shall mean the operating on a nonprofit basis, supported by its members, and having as its principal purpose the statewide receipt and dissemination to participating operators of information on a fair and uniform basis concerning intended excavation in an area where the operators have underground facilities.

002.19. Ticket shall mean the compilation of data received by the center in the notice of excavation and the facility locations provided to the center which is assigned a unique identifying number.

002.20. Ticket life shall mean the set time number of days during which excavation activities may be conducted on a specific type of ticket.

002.21. Trenchless excavation shall mean a type of subsurface construction work that requires few trenches or no continuous trenches.

002.22. Underground facility shall mean any item of personal property buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic communications, telephonic communications, telegraphic communications, cable television, electric energy, oil, gas, hazardous liquids, or other substances, including pipes, trunk lines, fiber optic cables, sewers, conduits, cables, valves, lines, wires, manholes, and attachments to such personal property.

002.23. Vendor shall mean the company or person selected by the board of directors to operate the one-call center.

003. Every operator having underground facilities in the state shall furnish the vendor with information concerning the location of their facilities.

004. The center shall be established and equipped to process excavation notifications required by the One-Call Notification System Act.

004.01. The center shall establish a toll-free telephone number for purpose of receiving excavation notifications.

004.02. Upon receipt of an excavation notification, the center shall require the following information from the person making the notification:

004.02A. The name and telephone number of the person making the notification;

004.02B. The name, address, and telephone number of the excavator;

004.02C. The location of the area of the proposed excavation, including the range, township, section, and quarter section, unless the area is within the corporate limits of a city or village, in which case the location may be by street address;

004.02D. The date and time excavation is scheduled to commence;

004.02E. The depth of excavation;

004.02F. The type and extent of excavation being planned, including whether the excavation involves tunneling or horizontal boring; and

004.02G. Whether the use of explosives is anticipated.

005. The center shall inform the excavator of all operators to whom the excavation notification will be transmitted and shall promptly transmit such notice to every operator having an underground facility in the area of intended excavation.

005.01. The center shall assign an identification number to each excavation notice it receives and shall maintain a record of each notice of intent to excavate and all location requests for a minimum of five years. Such records will be made available and printed upon request from an operator or excavator.

005.02. The excavation notice shall be transmitted to operators and excavators as a ticket. The standard start time for excavation activities shall be 12:00 a.m. (Midnight) two business days after the date on which the ticket was transmitted to

the operator.

005.02A. If an excavator provides a start time on the submitted information to the center that is beyond the two business day requirement this shall be deemed to automatically constitute a mutually agreed upon start time for that ticket.

005.03. The ticket life on a standard excavation ticket shall be 17 calendar days after the excavation ticket start date and shall only describe an area in which the proposed excavation can reasonably be completed within the 17 days.

005.03A. If the excavation is not completed by calendar day 14 a refresh ticket should be placed with the center.

005.03B. The ticket life shall not supersede the requirement that markings shall be done in a manner that will last for a minimum of five business days on any nonpermanent surface and a minimum of ten business days on any permanent surface. If the markings become unclear or unusable a Refresh request should be submitted to the center.

005.04. Hand digging shall be required within eighteen inches plus half the width of the marked underground facility, A person shall expose the underground facility to its outermost surfaces by hand or other nondestructive techniques.

005.05. Operators shall mark their facilities in accordance with adopted marking standards as listed.

005.05A. Operators shall mark lines using the American Public Works Association (APWA)

color codes.

005.05B. Markings shall include the use of paint, flags, stakes, whiskers, signs, or posts any combination of these.

005.05C. Painted spots or dots can be used to identify utilities; the direction of the facility must be identifiable.

005.05D. Offsets can be used when there is a strong likelihood that marks may be destroyed. Offsets are placed parallel to the running line of the facility. The offset shall indicate the distance and direction from the offset to the facility.

005.05E. When known, the markings shall include: the size of the facility, if over 2 inches in width; the material make-up of the facility, and the facility name.

006. The center shall provide notification service during normal working hours at a minimum and shall provide procedures for emergency notification for calls received at other than normal working hours.

006.01. Every operator shall be required to participate in the Mandatory Electronic Positive Response process.

006.01A. Every operator shall electronically notify the center of their response status on the required ticket types. This notification shall be received by the center prior to the excavation ticket start date or the work to begin start time and date as listed on the ticket.

007. The center shall identify, on a current basis, persons who normally engage in excavation

activities and shall publicize on a regular basis:

007.01. The existence and purpose of the center;
and

007.02. How to learn the location of underground
facilities before excavation activities begin.

008. Board of Directors

008.01. Appointment

008.01A. A board of directors, appointed by the
State Fire Marshal, shall oversee operation of the
center.

008.01B. The State Fire Marshal shall develop and
publish an application form for appointment to
the One Call Board of Directors. This form shall be
published on the State Fire Marshal website.

008.02. Qualifications

008.02A. To be appointed as a board member
an applicant must have at least three (3) years'
experience in one of the following: a) using
the One Call System in the area of excavating
or facility operations or b) work in the area of
damage prevention to underground utilities.

008.02B. An applicant must be currently
employed in the category for which he/she
applies.

008.03. Composition

008.03A. The board shall be composed of 18
voting members representing the following:

008.03A1. Three members representing municipally-owned utilities;

008.03A2. Two members representing public power districts with more than forty million dollars in gross revenue.

008.03A3 Two members representing public power districts with less than forty million dollars in gross revenue.

008.03A4. Three members representing telecommunications companies;

008.03A5. Two members representing natural gas distribution companies;

008.03A6. Two members representing transmission pipeline companies;

008.03A7. Four members representing excavators, with one member specializing in trenchless excavation activities and one member representing county governments.

008.03B. The State Fire Marshal or his/her designee shall be a non-voting, technical advisor to the Board.

008.04. Retention

008.04A. Board member terms shall be four years and shall be staggered so that one-half of the board positions become vacant every two years. One-half of the initial board appointments shall be for two years. Any vacancy on the board, including those created by expiration of any term, shall be filled by the State Fire Marshal.

008.04B. Board members must be active and attend board meetings and educational/outreach activities. Each member shall be required to attend at least two educational/outreach activities during his/her appointed term. Each member shall be allowed no more than three (3) excused absences and no more than two (2) unexcused absences from Board meetings per term. An absence shall be considered unexcused if no contact is made with the Board President prior to the meeting. This contact should explain the reason(s) for missing the board meeting.

008.04C. Any more than (two) 2 unexcused absences per term shall result in removal from the board. If any board member receives more than two (2) unexcused absences the Board President shall notify the State Fire Marshal. The notification shall include the name of the board member and the dates of the unexcused absences.

008.04D. The State Fire Marshal shall remove any board member who has more absences than those allowed in 008.04B.

008.04E. The State Fire Marshal shall remove any board member when just cause for such removal is demonstrated in writing to the board member.

008.04F. Any person removed from the board shall have the right to appeal such removal at an administrative hearing. Any person receiving a notice of removal may send a written request for a hearing to State Fire Marshal

Agency main office. Any administrative hearing must be conducted in accordance with the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq