

STATE OF VERMONT

30VSA CHAPTER 86

7001. DEFINITIONS

In this chapter:

1. "Board" means the public service board.
2. "Company" means any public utility company which supplies gas, electricity, or telecommunications service and which maintains underground utility facilities, and any cable television company operating a cable television system as defined in 30 V.S.A '501 and which maintains underground utility facilities.
3. "Damage" includes, but is not limited to, the substantial weakening of structural or lateral support of an underground utility facility, penetration or destruction of any underground utility facility's protective coating, housing or device, or the partial or complete severance of any underground utility facility.
4. "Excavation Activities" means activities involving the removal of earth, rock or other materials in the ground, disturbing the subsurface of the earth, or the demolition of any structure, by the discharge of explosives or the use of powered or mechanized equipment, including but not limited to digging, trenching, blasting, boring, drilling, hammering, post driving, wrecking, razing or tunneling, within 100 feet of an underground utility facility. Excavation activities shall not include the tilling of soil for agricultural purposes or activities relating to routine public highway maintenance.
5. "Person" means any individual, trust, firm, joint stock company, corporation including a government corporation, partnership, association, state, municipality, commission, political subdivision of the state, or any interstate body.
6. "Public Agency" means the state or any political subdivision thereof, including any governmental agency.
7. "Approximate location of underground utility facilities" means a strip of land extending not more than eighteen inches on either side of the underground utility facilities.
8. "System" means the public utility underground facility damage prevention system referred to in section 7002 of this title.
9. "Underground utility facility" or "facility" means any pipe, conduit, wire or cable located beneath the surface of the earth and maintained by a company, including the protective covering of the pipe, conduit, wire or cable, as well as any manhole, vault or pedestal maintained by a company.

10. "Premark" means to identify the general scope of excavation activities using white paint, stakes or other suitable white markings, in a manner that will enable the operators of the underground utility facilities to know the boundaries of the proposed excavation activities.

7002 PUBLIC UTILITY UNDERGROUND FACILITY DAMAGE PREVENTION SYSTEM

Each company shall be a member of and participate in a public utility underground facility damage prevention system as designated by the board unless granted an exception by the board after a hearing. The system shall operate during regular business hours throughout the year, except Saturdays, Sundays and legal holidays. The system shall receive notices of proposed excavation activities and transmit the notices to member companies whose facilities may be affected. The cost for operation of the system shall be apportioned equitably among member companies.

7003 RULEMAKING

The Board shall adopt rules, pursuant to 3 V.S.A. chapter 25 relative to:

1. minimum requirements for the operation of the system, including notification procedures and the reporting of underground utility facility locations;
2. procedures for the investigation of complaints;
3. emergency situations for which notice of excavation activities is not required;
4. uniform standards for the marking of the approximate location of underground utility facilities,
5. uniform standards for the future installation of underground utility facilities including but not limited to the following:
 - A) color coding of facilities;
 - B) depth requirements for the laying of facilities;
 - C) subsurface marking of facilities;
 - D) surface marking of facilities;
 - E) the filing of as-built plans for facilities with municipalities;
 - F) capability for location of facilities by sensors.
6. standards for the granting of exemptions under section 7002 of this title.

7004 NOTICE OF EXCAVATION ACTIVITIES

- (a) No person or company shall engage in excavation activities, except in an emergency situation as defined by the Board, without premarking the proposed area of excavation activities and giving notice as required by this section.
- (b) At least 48 hours, excluding Saturdays, Sundays and legal holidays, but not more than 30 days before commencing excavation activities, each person required to give notice of excavation activities shall notify the system referred to in section 7002 of this title. Such notice shall set forth a reasonably accurate and readily identifiable description of the geographical location of the proposed excavation activities.
- (c) Notice to the system may be in writing or by telephone. For purpose of this section, the system shall provide a toll-free telephone number.
- (d) Prior to notifying the system, the person must premark the area of proposed excavation activities in a manner that will enable operators of underground facilities to identify the boundaries of the proposed excavation activities. Premarking is not required
 - (1) if the actual excavation will be continuous and exceed 500 feet in length; or
 - (2) if the boundaries of the proposed excavation activities can be clearly described in such a way that the operators of underground facilities can precisely identify those boundaries from the notice required by this section.

7005 NOTIFICATION BY SYSTEM

Upon receiving notice of excavation activities, the system shall notify all member companies whose facilities may be affected. An adequate record shall be maintained by the system to document compliance with requirements of this chapter.

7006 MARKING OF UNDERGROUND UTILITY FACILITIES

A company notified in accordance with section 7005 of this title shall, within 48 hours, exclusive of Saturdays, Sundays and legal holidays, of receipt of the notice, mark the approximate location of its underground utility facilities in the area of the proposed excavation activities: provided, however, if the company advises the person that the proposed excavation area is of such length or size that the company cannot reasonably mark all of the underground utility facilities within 48 hours, the person shall notify the company of the specific locations in which the excavation activities will first occur and the company shall mark facilities in those locations within 48 hours and the remaining facilities within a reasonable time thereafter. The company and an excavator may by agreement fix a later time for the company's marking of the facilities, provided the marking

is made prior to excavation activities. For the purposes of this chapter, the approximate location of underground facilities shall be marked with stakes, paint or other physical means as designated by the board.

7006 MAINTENANCE OF UNDERGROUND UTILITY FACILITY MARKINGS

After a company has marked its underground facilities in accordance with section 7006, the excavator shall be responsible for maintenance of the designated markings. In the event said markings are obliterated, destroyed or removed the person engaged in excavation activities shall notify the system referred to in section 7002 of this title that re-marking is needed. The system shall then notify all member companies whose facilities may be affected. The company shall within 48 hours exclusive of Saturdays, Sundays and legal holidays, following receipt of the notice, re-mark the location of its underground facilities.

7006b Excavation Area Precautions

Any person engaged in excavating activities in the approximate location of underground utility facilities marked pursuant to section 7006 of this title shall take reasonable precautions to avoid damage to underground utility facilities, including but not limited to any substantial weakening of the structural or lateral support of such facilities or penetration, severance or destruction of such facilities. When excavation activities involve horizontal or directional boring, the person engaged in excavation activities shall expose underground facilities to verify their location and depth, in a safe manner, at each location where the work crosses a facility and at reasonable intervals when paralleling an underground facility.

7007 NOTICE OF DAMAGE

When any underground utility facility is damaged during excavation activities, the excavator shall immediately notify the affected company. Under no circumstances shall the excavator backfill or conceal the damaged area until the company inspects and repairs the damage, provided that the excavator shall take reasonable and prudent actions to protect the public from serious injury from the damaged facilities until the company or emergency response personnel arrive at the damaged area.

7008 PENALTIES

- (a) Any person who violates any provisions of sections 7004, 7006a, 7006b or 7007 of this title shall be subject to a civil penalty of up to \$1000.00, in addition to any other remedies or penalties provided by law or any liability for actual damages.

- (b) Any company which does not mark the location of its underground facilities as required by section 7006 or 7006a of this title shall be subject to a civil penalty of up to \$1,000.00.
- (c) If underground facilities are damaged because a company has not marked them as required by section 7006 or 7006a the company shall be subject to a civil penalty as provided in subsection (b) of this section and, in addition, shall be liable for any damages incurred by the excavator as a result of the company's failure to mark the facilities.
- (d) All penalties recovered in any such actions shall be paid into the general fund of the state. The board shall have jurisdiction over all actions brought pursuant to this chapter.
- (e) Any person who violates any provisions of sections 7004 through 7007 of this title as to an underground gas distribution or transmission facility shall also be subject to the civil penalties described in section 2816 of this title.

Sec. 4. SUNSET

30 V.S.A. 7004 (d) (2) is repealed effective July 1, 2003