## TENNESSEE PUBLIC UTILITY COMMISSION

502 Deaderick Street, 4th Floor

Nashville, TN 37243-0001



# Final Report

2020 State Damage Prevention Program Grant CFDA Number: 20.720

**Award Number**: 963JK32040014PSDP

**Project Title:** State Damage Prevention (SDP) Program Grants—2020

#### Date Submitted: November 19, 2021

**Submitted By**: Stacy Balthrop and Chris Eaton

#### Specific Objective(s) of the Agreement

Pay for salary and benefits for a full-time damage prevention investigator. (Element 7, Priority 1)

#### Work Scope

Element 7 (Fair and Consistent Enforcement of the Law): Enforcement of state damage prevention laws and regulations for all aspects of the damage prevention process, including public education, and the use of civil penalties for violations assessable by the appropriate state authority.

#### Accomplishments for the grant period (Item 1 under Article IX, Section 9.02 Final Report: “A comparison of actual accomplishments to the objectives established for the period.”)

Grant funding was requested for salary and benefits of Tennessee Public Utility Commission (TPUC) full-time staff member to investigate alleged violations of the Tennessee Underground Utility Damage Prevention Act (The Act).

During the grant period of September 28, 2020 through September 27, 2021, the Tennessee Underground Utility Damage Prevention Board (The Board) received two-hundred eighty-six (286) complaints of alleged violations of The Act involving multiple utilities. The Executive Committee met nine (9) times during this period and determined one-hundred fifty-eight (158) complaints were violations of The Act. Enforcement actions included compliance training and civil penalties. Additionally, TPUC's Gas Pipeline Safety Division has provided Tennessee811 with identified areas with high excavation damage issues for targeted damage prevention education.

Increased civil penalties went into effect July 1, 2021. The maximum civil penalties increased from $2,500 to $10,000 for second or subsequent violations; and from $5,000 to $15,000 for willful violations of The Act (Attachment 2). Furthermore, The Board adopted Rules and Regulations that became effective September 6, 2021 (Attachment 3).

**Quantifiable Metrics/Measures of Effectiveness (Item 2 under Article IX, Section 9.01 Progress Report: “Where the output of the project can be quantified, a computation of the cost per unit of output.”)**

During the period of September 28, 2019 through September 27, 2020, prior to receiving the State Damage Prevention grant, the Board received two-hundred eleven (211) complaints of alleged violations involving multiple utilities.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Complaints Received | Violations | Individuals Ordered to Training | Civil Penalties Assessed |
| 9/28/2020-9/27/2021 | 286 | 158 | 178 | $20,625 |
| 9/28/2019-9/27/2020 | 211 | 119 | 114 | $17,500 |

Quarterly and annual reports are attached to provide statistical enforcement data such as, violations, individuals ordered to compliance training, civil penalty amounts, root cause, and information on complainants/violators.

**Issues, Problems or Challenges (Item 3 under Article IX, Section 9.01 Progress Report: “The reasons for slippage if established objectives were not met. “)**

There are no issues, problems, or challenges to report.

#### Requests of the AOR and/or PHMSA

No actions requested at this time.

Attachment 1: Quarterly/Annual Reports

# Underground Utility Damage Prevention Program

# October—December 2020 Quarterly Report

## October 21, 2020 Executive Committee Meeting

|  |  |
| --- | --- |
| **Enforcement Results** | |
| Violations | 18 |
| No Violations | 5 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Civil Penalty** |  |  |  | **Ordered to Training** |
| No. of Civil Penalties | Amount | Total |  | 18 |
| 0 |  |  |  |  |
|  | Total | 0.00 |  |  |

|  |  |
| --- | --- |
| **Root Cause of Violations** | |
| No notification to 811 | 10 |
| Failure to use reasonable care | 4 |
| Excavating/Demolishing before locate request valid | 2 |
| Excavating/Demolishing beyond 15 day expiration | 2 |
| Total | 18 |

|  |  |
| --- | --- |
| **Violators by Region** | **No. of Violators** |
| East | 6 |
| Middle | 12 |
| West | 0 |
| Total | 18 |

|  |  |
| --- | --- |
| **Work by Violator** | |
| Construction Services | 11 |
| Landscape Services | 3 |
| Other | 3 |
| Fencing | 1 |
| Total | 18 |

|  |  |
| --- | --- |
| **Complainants of Violations** | |
| Gas | 16 |
| Water | 1 |
| Sewer | 1 |
| Total | 18 |

**December 16, 2020 Executive Committee Meeting**

|  |  |
| --- | --- |
| **Enforcement Results** | |
| Violations | 20 |
| No Violations | 0 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Civil Penalty** |  |  |  | **Ordered to Training** |
| No. of Civil Penalties | Amount | Total |  | 20 |
| 4 | $625 | $2,500 |  |  |
|  | Total | $2,500 |  |  |

|  |  |
| --- | --- |
| **Root Cause of Violations** | |
| No notification to 811 | 11 |
| Failure to use reasonable care | 4 |
| Excavating/Demolishing before locate request valid | 2 |
| Excavating/Demolishing beyond 15 day expiration | 1 |
| Excavating/Demolishing outside requested locate area | 1 |
| Not reporting damage to the utility/facility | 1 |
| Total | 20 |

|  |  |
| --- | --- |
| **Violators by Region** | **No. of Violators** |
| East | 9 |
| Middle | 10 |
| West | 1 |
| Total | 20 |

|  |  |
| --- | --- |
| **Work by Violator** | |
| Construction Services | 17 |
| Other | 3 |
| Total | 20 |

|  |  |
| --- | --- |
| **Complainants of Violations** | |
| Gas | 19 |
| Water | 1 |
| Total | 20 |

## Complaints Received

|  |  |
| --- | --- |
| **Complainants** | **Complaints of Alleged Violation** |
| Gas Facility Owner | 42 |
| Telecom/Cable Facility Owner | 5 |
| Water Facility Owner | 2 |
| Property Owner | 4 |
| **Total** | **53** |

Of the 53 complaints received, 44 reported damage to an underground facility.

### TENNESSEE PUBLIC UTILITY COMMISSION

Tennessee Public Utility Commission

502 Deaderick Street, 4th Floor Nashville, Tennessee

37243

# January-March 2021 Underground Utility Damage Prevention Program Quarterly Report

## January 12, 2021 Executive Committee Meeting

|  |  |
| --- | --- |
| **Enforcement Results** | |
| Violations | 10 |
| No Violations | 3 |

**Civil Penalty Ordered to Training**

|  |  |  |
| --- | --- | --- |
| No. of Civil Penalties | Amount | Total |
| 2 | $ 625 | $ 1,250 |
| 1 | $ 1,250 | $ 1,250 |

9

Total $ 2,500

|  |  |
| --- | --- |
| **Root Cause of Violations** | |
| No notification to 811 | 8 |
| Failure to use reasonable care | 1 |
| Facility was not located or marked | 1 |
| Total | 10 |

|  |  |
| --- | --- |
| **Violators by Region** | **No. of Violators** |
| East | 4 |
| Middle | 5 |
| West | 1 |
| Total | 10 |

|  |  |
| --- | --- |
| **Work by Violator** | |
| Construction Services | 7 |
| Landscape Services | 2 |
| Utility Services | 1 |
| Total | 10 |

|  |  |
| --- | --- |
| **Complainants of Violations** | |
| Gas | 7 |
| Cable | 1 |
| Telecom | 1 |
| Water | 1 |
| Total | 10 |

## February 9, 2021 Executive Committee Meeting

|  |  |
| --- | --- |
| **Enforcement Results** | |
| Violations | 14 |
| No Violations | 1 |
| Administrative Closure | 1 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Civil Penalty** |  |  |  | **Ordered to Training** |
| No. of Civil Penalties | Amount | Total |  | 12 |
| 1 | $2500 | $2500 |  |  |
|  | Total | $4375 |  |  |

|  |  |
| --- | --- |
| **Root Cause of Violations** | |
| No notification to 811 | 10 |
| Failure to use reasonable care | 3 |
| Excavating/Demolishing beyond 15 day expiration | 1 |
| Total | 14 |

|  |  |
| --- | --- |
| **Violators by Region** | **No. of Violators** |
| East | 10 |
| Middle | 3 |
| West | 1 |
| Total | 14 |

|  |  |
| --- | --- |
| **Work by Violator** | |
| Construction Services | 8 |
| Landscape Services | 3 |
| Other | 3 |
| Total | 14 |

|  |  |
| --- | --- |
| **Complainants of Violations** | |
| Gas | 11 |
| Telecom | 2 |
| Water | 1 |
| Total | 14 |

## March 10, 2021 Executive Committee Meeting

|  |  |
| --- | --- |
| **Enforcement Results** | |
| Violations | 11 |
| No Violations | 1 |
| Consolidation | 1 |

**Civil Penalty Ordered to Training**

|  |  |  |
| --- | --- | --- |
| No. of Civil Penalties | Amount | Total |
| 0 | 0 | 0 |

11

Total

|  |  |
| --- | --- |
| **Root Cause of Violations** | |
| No notification to 811 | 3 |
| Failure to use reasonable care | 5 |
| Excavating/Demolished beyond 15 day expiration | 2 |
| Excavating/Demolishing before locate request is valid | 1 |
| Total | 11 |

|  |  |
| --- | --- |
| **Violators by Region** | **No. of Violators** |
| East | 7 |
| West | 1 |
| Middle | 3 |
| Total | 11 |

|  |  |
| --- | --- |
| **Work by Violator** | |
| Construction Services | 5 |
| Landscape Services | 2 |
| Utility Services | 1 |
| Other | 3 |
| Total | 11 |

|  |  |
| --- | --- |
| **Complainants of Violations** | |
| Gas | 11 |
| Total | 11 |

## Complaints Received January-March 2021

|  |  |
| --- | --- |
| **Complainants** | **Complaints of Alleged Violation** |
| Gas Facility Owner | 32 |
| Telecom/Cable Facility Owner | 4 |
| Water Facility Owner | 5 |
| Sewer | 1 |
| Property Owner | 2 |
| Other | 1 |
| **Total** | **45** |

Of the 45 complaints received, 37 reported damage to an underground facility.

### TENNESSEE PUBLIC UTILITY COMMISSION

Underground Utility Damage Enforcement Board

Andrew Jackson Building 502 Deaderick Street, 4th Floor Nashville, Tennessee 37243

Underground Utility Damage Prevention Program

Calendar Year 2020

|  |  |
| --- | --- |
| **Enforcement Results** | |
| Violations | 133 |
| No Violations | 48 |
| Administrative Closures | 19 |
| Consolidations | 11 |
| Total | 211 |

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| --- | --- |
| **Sanctions** | |
| Ordered to Training | 142 |
| Ordered to Pay Civil Penalty | $21,875 |

|  |  |
| --- | --- |
| **Root Cause of Violations** | |
| No notification made to Tennessee One-Call/811 | 83 |
| Failure to use reasonable care | 33 |
| Excavating beyond 15 day expiration | 5 |
| Excavating/demolishing before locate request is valid | 7 |
| Reporting a false emergency | 3 |
| Excavating/Demolishing outside requested locate area | 1 |
| Not reporting damage to underground utility/facility | 1 |
| Total | 133 |

**Complaints Received**

226

|  |  |
| --- | --- |
| **Violator Type** | |
| Construction Services | 104 |
| Landscaping Services | 17 |
| Government Services | 1 |
| Fencing Services | 1 |
| Other | 10 |
| Total | 133 |

|  |  |
| --- | --- |
| **Complainants of Violations** | |
| Gas | 116 |
| Water | 8 |
| Locator | 3 |
| Cable/Telecom | 4 |
| Electric | 1 |
| Sewer | 1 |
| Total | 133 |

# TENNESSEE PUBLIC UTILITY COMMISSION

Underground Utility Damage Prevention Program Tennessee Public Utility Commission  
 502 Deaderick Street, 4th Floor Nashville, Tennessee 37243

Underground Utility Damage Prevention Program

April—June 2021 Quarterly Report

**April 6, 2021 Executive Committee Meeting**

|  |  |
| --- | --- |
| **Enforcement Results** | |
| Violations | 7 |
| No Violations | 3 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Civil Penalty** | |  |  | **Ordered to Training** |
| No. of Civil Penalties | Amount | Total |  | 7 |
| 0 | $0 | $0 |  |  |
|  | Total | $0 |  |  |

|  |  |
| --- | --- |
| **Root Cause of Violations** | |
| No notification to 811 | 5 |
| Excavating/Demolishing beyond 15 day expiration | 1 |
| Facility was not located or marked | 1 |
| Total | 7 |

|  |  |
| --- | --- |
| **Violators by Region** | **No. of Violators** |
| East | 5 |
| Middle | 2 |
| Total | 7 |

|  |  |
| --- | --- |
| **Work by Violator** | |
| Construction Services | 5 |
| Landscaping Services | 1 |
| Utility Services | 1 |
| Total | 7 |

|  |  |
| --- | --- |
| **Complainants of Violations** | |
| Gas | 6 |
| Telecom | 1 |
| Total | 7 |

**June 29, 2021 Executive Committee Meeting**

|  |  |
| --- | --- |
| **Enforcement Results** | |
| Violations | 25 |
| No Violations | 6 |

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| --- | --- | --- | --- | --- |
| **Civil Penalty** | |  |  | **Ordered to Training** |
| No. of Civil Penalties | Amount | Total |  | 23 |
| 2 | $625 | $1,250 |  |  |
| 2 | $1,250 | $2,500 |  |  |
|  | Total | $3,750.00 |  |  |

|  |  |
| --- | --- |
| **Root Cause of Violations** | |
| No notification to 811 | 14 |
| Failure to use reasonable care | 5 |
| Reporting a false emergency for locate ticket | 4 |
| Facility was not located or marked | 1 |
| Excavating/Demolishing beyond 15 day expiration | 1 |
| Total | 25 |
|  |  |

|  |  |
| --- | --- |
| **Violators by Region** | **No. of Violators** |
| East | 12 |
| Middle | 11 |
| West | 2 |
| Total | 25 |

|  |  |
| --- | --- |
| **Work by Violator** | |
| Construction Services | 19 |
| Landscape Services | 3 |
| Property Owners | 2 |
| Government Services | 1 |
| Total | 25 |

|  |  |
| --- | --- |
| **Complainants of Violations** | |
| Gas | 19 |
| Water | 4 |
| Locator | 1 |
| Cable | 1 |
|  | Total 25 |

# Complaints Received

|  |  |
| --- | --- |
| **Complainants** | **Complaints of Alleged Violation** |
| Gas Facility Owner | 77 |
| Water Facility Owner | 23 |
| Telecom Facility Owner | 4 |
| Cable Facility Owner | 2 |
| Electric | 1 |
| Locator | 6 |
| Sewer | 1 |
| **Total** | **114** |

Of the 114 complaints received, 82 reported damage to an underground facility.

# TENNESSEE PUBLIC UTILITY COMMISSION

Underground Utility Damage Prevention Program Tennessee Public Utility Commission  
 502 Deaderick Street, 4th Floor Nashville, Tennessee 37243

July-September 2021 Underground Utility Damage Prevention Program

Quarterly Report

**July 20, 2021 Executive Committee Meeting**

|  |  |
| --- | --- |
| **Enforcement Results** | |
| Violations | 28 |
| No Violations | 6 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Civil Penalty** | |  |  | **Ordered to Training** |
| No. of Civil Penalties | Amount | Total |  | 27 |
| 1 | $ 625 | $ 625 |  |  |
|  | Total | $ 625 |  |  |

|  |  |
| --- | --- |
| **Root Cause of Violations** | |
| No notification to 811 | 17 |
| Failure to use reasonable care | 5 |
| Excavating/Demolishing before locate request is valid | 3 |
| Excavating/Demolishing beyond 15-day expiration | 2 |
| Reporting a false emergency for locate ticket | 1 |
| Total | 28 |

|  |  |
| --- | --- |
| **Violators by Region** | **No. of Violators** |
| East | 20 |
| Middle | 7 |
| West | 1 |
| Total | 28 |

|  |  |
| --- | --- |
| **Work by Violator** | |
| Construction Services | 24 |
| Landscape Services | 2 |
| Other | 2 |
| Total | 28 |

|  |  |
| --- | --- |
| **Complainants of Violations** | |
| Gas | 26 |
| Water | 1 |
| Locator | 1 |
| Total | 28 |

**August 11, 2021 Executive Committee Meeting**

|  |  |
| --- | --- |
| **Enforcement Results** | |
| Violations | 24 |
| No Violations | 4 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Civil Penalty** | |  |  | **Ordered to Training** |
| No. of Civil Penalties | Amount | Total |  | 23 |
| 1 | $1,000 | $1,000 |  |  |
|  | **Total** | **$1,000** |  |  |

|  |  |
| --- | --- |
| **Root Cause of Violations** | |
| No notification to 811 | 20 |
| Excavating/Demolishing beyond 15-day expiration | 2 |
| Reporting a false emergency for locate ticket | 1 |
| Failure to use reasonable care | 1 |
| Total | 24 |

|  |  |
| --- | --- |
| **Violators by Region** | **No. of Violators** |
| East | 16 |
| Middle | 8 |
| Total | 24 |

|  |  |
| --- | --- |
| **Work by Violator** | |
| Construction Services | 20 |
| Landscape Services | 3 |
| Other | 1 |
| Total | 24 |

|  |  |
| --- | --- |
| **Complainants of Violations** | |
| Gas | 20 |
| Water | 4 |
| Total | 24 |

**September 28, 2021 Executive Committee Meeting**

|  |  |
| --- | --- |
| **Enforcement Results** | |
| Violations | 29 |
| No Violations | 15 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Civil Penalty** | |  |  | **Ordered to Training** |
| No. of Civil Penalties | Amount | Total |  | 25 |
| 2 | $625 | $1,250 |  |  |
| 2 | $1250 | $2,500 |  |  |
| 1 | $5000 | $5,000 |  |  |
|  | **Total** | **$8,750** |  |  |

|  |  |
| --- | --- |
| **Root Cause of Violations** | |
| No notification to 811 | 17 |
| Failure to use reasonable care | 9 |
| Reporting a false emergency for locate ticket | 2 |
| Excavating/Demolishing beyond 15-day expiration | 1 |
| Total | 29 |

|  |  |
| --- | --- |
| **Violators by Region** | **No. of Violators** |
| East | 12 |
| Middle | 16 |
| West | 1 |
| Total | 29 |

|  |  |
| --- | --- |
| **Work by Violator** | |
| Construction Services | 24 |
| Fencing Services | 3 |
| Other | 2 |
| Total | 29 |

|  |  |
| --- | --- |
| **Complainants of Violations** | |
| Gas | 25 |
| Water | 3 |
| Locator | 1 |
| Total | 29 |

# Complaints Received July-September 2021

|  |  |
| --- | --- |
| **Complainants** | **Complaints of Alleged Violation** |
| Gas Facility Owner | 63 |
| Water Facility Owner | 14 |
| Telecom/Cable Facility Owner | 3 |
| Sewer | 2 |
| Locator | 2 |
| Other | 1 |
| **Total** | **85** |

Of the 85 complaints received, 70 reported damage to an underground facility.

Attachment 2: Legislation Effective July 2021

**Tenn. Code Ann. Title 65, Chapter 31 Underground Utility Damage Prevention Act** *Current through 2021 Legislative Session* Effective July 1, 2021

**§ 65-31-101. Short title**

This chapter may be cited as the “Underground Utility Damage Prevention Act.”

**§ 65-31-102. Definitions**

As used in this chapter, unless the context otherwise requires:

1. “Agricultural purposes,” for purposes of this chapter only, includes surface activities, such as plowing, planting, and combining, but does not include blasting, setting drainage tiles, subsoiling, or other subsurface activities;
2. “Blasting” means the use of an explosive device for the excavation of earth, rock, or other material or the demolition of a structure;
3. “Board” means the underground utility damage enforcement board, created by § 65-31-114;
4. “Calendar day” means a twenty-four (24) hour period beginning with the date and time that a notification to excavate or demolish is to begin, including Monday through Sunday and all holidays;
5. “Contract locator” means any person contracted with an operator, or operating on behalf of an operator, specifically to determine and mark the approximate location of the operator’s utility lines that exist within the area specified by a notice served on the one-call service;
6. “Damage” includes the substantial weakening of structural or lateral support of an underground utility, penetration or destruction of any protective coating, housing or other protective device of an underground utility, the partial or complete severance of an underground utility and rendering any underground utility inaccessible;
7. “Damage notice” means a notification made to the one-call service by a person who has caused damage to an underground facility;
8. “Demolish” or “demolition” means any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment, or discharge of explosives;
9. “Design locate request” means a communication to the one-call service in which a request for locating existing utility facilities for predesign or advance planning purposes is made;
10. “Excavate” or “excavation”:
    1. Means an operation for the purpose of the movement, placement, or removal of earth, rock, or other materials in or on the ground by use of mechanized equipment or by discharge of

explosives, and includes augering, backfilling, blasting, boring, digging, ditching, drilling, grading, pile-driving, plowing-in, pulling-in, ripping, scraping, sub-soiling, trenching, and tunneling; and

* 1. Does not include:
     1. Pavement milling or pavement repair that does not exceed the depth of the existing base stone and pavement;
     2. Routine railroad maintenance activities, including removal and replacement of base material up to twenty-four inches (24″) below the flow line of the ditch or ground surface of the railroad right-of-way adjacent to the existing track structure if the work is conducted by railroad employees or railroad contractors and is carried out with reasonable care so as to protect any installed underground facilities placed in the railroad right-of-way by agreement with the railroad;
     3. Routine road maintenance activities; and
     4. The tilling of soil for agricultural purposes or the digging of holes for fence posts on private property in any area that is not located within a recorded easement of an operator or that is not located within one hundred feet (100′) of the edge of the pavement of a street or highway;

1. “Excavator” means any person who engages in activities described in subdivisions (A) and (B) in the definition of “excavate” contained in this section;
2. “Executive committee” means the executive committee created by § 65-31-114(f);
3. “Impending emergency” means circumstances potentially dangerous to life, health, property, the environment or the repair or restoration of service, which would likely develop into an emergency, as defined in § 65-31-109, if excavation is not initiated within seventy-two (72) hours;
4. “Location” means the proposed area for which digging or excavating is scheduled within three

(3) to ten (10) working days, such area not to exceed two thousand feet (2,000′) in length unless an excavator and an operator or an operator’s designated representative, such as a one-call service, agree to a larger area;

1. “Mechanized equipment” means equipment operated by means of mechanical power including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows and other equipment used for plowing-in or pulling-in cable or pipe;
2. “One-Call Service” means a telephone notification service described in § 65-31-107 that provides services to its members for the purposes of receiving and distributing notification regarding planned excavations or demolitions that are required under this chapter;
3. “Operator” means any person who owns or operates a utility;
4. “Person” means any individual; any corporation, partnership, association, or any other entity organized under the laws of any state; any state; any subdivision or instrumentality of a state; and any employee, agent, or legal representative thereof;
5. “Proposed area of excavation” means a general surface location which excavators are to furnish to operators of underground utilities or to a one-call service as defined in § 65-31-106. The proposed

area of excavation does not constitute a specified depth for the purpose of complying with this chapter;

1. “Routine road maintenance activities”:
   1. Means activities carried out by or for those responsible for publicly-maintained roadways if the activities:
      1. Occur entirely within the right-of-way of a public road, street, or highway;
      2. Are carried out with reasonable care so as to protect any utility-owned facilities and laterals placed in the right-of-way;
      3. Are carried out within the limits of any original excavation on the traveled way, shoulders, or drainage ditches of a public road, street, or highway, and do not exceed eighteen inches (18″) in depth below the flow line of the ditch or the grade existing prior to the activities; and
      4. If involving the replacement of existing structures at a depth greater than eighteen inches (18″), replace those existing structures in their previous locations and at their previous depths; and
   2. Does not include work on a roadway done pursuant to a contract awarded by a state or local government through a bid process for which plan drawings have been developed in advance;
2. “Utility”:
   1. Means any line, system, or facility used for producing, storing, conveying, transmitting, or distributing communications, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam, sewerage, and other underground facilities; and
   2. Does not include any railroad, the Tennessee department of transportation, or any natural flowing runoff systems;
3. “Willful noncompliance” means the intentional refusal or failure to perform, or comply with, a duty created or imposed by this chapter or by rules promulgated pursuant to this chapter; and
4. “Working day” means every day, except Saturday, Sunday, and national and legal state holidays. For purposes of measuring any period of time that requires notice under this chapter, a working day shall commence at the time the written notice or telephone call is received and shall expire at the same time on the next working day.

**§ 65-31-103. Licenses and permits; liability**

A permit issued pursuant to law authorizing excavation or demolition operations shall not be deemed to relieve a person from the responsibility for complying with this chapter.

**§ 65-31-104. Excavations; DIG certificate**

1. Except as provided in § 65-31-109, no person may excavate in a street, highway, public space, a private easement of an operator or within one hundred feet (100′) of the edge of the pavement of a street or highway, or demolish a building, without giving the notice required by § 65-31-106 in the manner prescribed by such section.
2. A general DIG certificate shall be issued for agricultural land as defined in § 67-5-1004 that lies

outside a street, highway, public space or a private easement of an operator but within one hundred feet (100′) of the edge of the pavement of a street or highway when no utilities are located within that area. The general certificate shall be valid until title to the land is transferred or until a utility line is located within the area.

**§ 65-31-105. Filing requirements**

1. Each operator, except operators participating in a one-call service, having underground facilities in a county, including those facilities that have been abandoned in place by the operator but not yet physically removed, shall file a notice with the register of deeds of the county that states that the operator has underground utilities located in that county, the name of the operator and the name, title, address, telephone number and electronic mail (e-mail address), if the representative has an e-mail address, of its representative designated to receive the written, telephonic or e-mail notice of intent required by § 65-31-106. It is only necessary that such notice shall consist of the fact that the operator possesses underground facilities in the listed counties. It is not necessary that the operator list the exact physical location of each and every item of its underground facilities in such counties.
2. Changes in any of the information contained in the list filed under subsection (a) shall be filed by the operator with the register of deeds of the county, or the register of deeds of each county in which these utilities are located, within thirty (30) working days of the change.
3. A filing fee as determined by the register of deeds may accompany the filing. These filings shall be filed and an index shall be maintained and kept up to date by the register’s office.
4. The register of deeds shall, within one (1) working day, furnish to the party requesting such information, in writing when requested, a list of all operators having filed notices pursuant to subsection

(a) and all other information regarding each such operator that has been filed with the register of deeds in accordance with subsection (a). When submitted in writing by the register of deeds, the information shall also include the name of the requesting party, and the date and time the register of deeds received the request from the requesting party.

1. After March 27, 1978, operators shall maintain records and drawings of all changes and additions to its underground facilities.
2. All underground utilities owned by an operator that are installed on or after January 1, 2017, shall be installed in a manner that will make those underground utilities locatable using a generally accepted electronic locating method.

**§ 65-31-106. Notice**

1. Except as provided in § 65-31-109, before beginning any excavation or demolition operation described in § 65-31-104, other than an impending emergency as defined in § 65-31-102, each person responsible for such excavation or demolition shall serve written, telephonic or e-mail notice of intent to excavate or demolish at least three (3) working days prior to the actual date of excavation or demolition, but not more than ten (10) full working days prior to such time, unless a different period has been agreed to in writing by the person responsible for the excavation or demolition and the operator or designated representative. Should a period of time of fifteen (15) calendar days from the actual date specified to

start excavation or demolition expire without the excavation or demolition being completed, then the person responsible for such excavation or demolition shall serve an additional written, telephonic or e- mail notice of intent to excavate or demolish at least three (3) working days prior to the expiration of time on the fifteenth calendar day.

* 1. If the proposed area of excavation or demolition is not served by the one-call service as provided in § 65-31-107, then the notice required by subsection (a) shall be served on each operator which has filed a list required by § 65-31-105 indicating that it has underground utilities located in the county where the excavation or demolition is to occur; or
  2. If the proposed area of excavation or demolition is served by the one-call service, as provided for in § 65-31-107, the notice required by subsection (a) shall be served on such one- call service; provided, that where demolition of a building is proposed, each affected operator shall be given reasonable time to remove or protect its utilities before demolition of the building begins.

1. The written, telephonic or e-mail notice required by subsection (a) shall contain the name, address, telephone number and e-mail address of the person filing the notice of intent and, if different, the person responsible for the excavation or demolition, the starting date, the anticipated duration of the excavation or demolition, the type of excavation or demolition operation to be conducted, the specific location of the proposed excavation or demolition, and whether or not explosives are anticipated to be used. The person responsible for excavation or demolition shall designate the location of the proposed area of excavation by marking the area, consistent with the marking standards established by the rules adopted pursuant to § 65-31-108(a), with “safety white” color-coded stakes or white paint, unless:
   1. The operator or its agent can determine the precise location of the proposed area of excavation based solely on the street address from a one-call service locate ticket because of the size of the property;
   2. The operator or its agent can determine the precise location of the proposed area of excavation from a one-call service locate ticket that references a driveway or other easily identifiable point on the property and that identifies the property by street address or block and lot number;
   3. The operator or its agent can determine the precise location of the proposed area of excavation from a one-call service locate ticket that identifies the property as being located on a street or road between two designed intersections of the street or road and two cross streets or roads when a street address or block and lot number is unavailable or does not apply; or
   4. The person responsible for the excavation or demolition and all operators with underground facilities in the proposed area of excavation have had a meeting prior to the beginning of the excavation or demolition for the exchange of information on the location of the proposed excavation or demolition.
2. If the notification required by this section is made by telephone or e-mail, an adequate record of such notification shall be maintained by each notified operator or one-call service to document compliance with the requirements of this chapter, and a copy of this record shall be furnished by any operator or one-call service to the person giving notice of intent to excavate or demolish, when so requested by that person.
3. Except as provided in § 65-31-109, before beginning any excavation or demolition within one hundred feet (100′) of the edge of the pavement of a street or highway when that area lies outside a street, highway, public space or a private easement of an operator, an excavator shall serve notice of the excavation or demolition at least three (3) working days before the actual date of excavation or

demolition as set forth in this section. If after receiving proper notification as required in this section, an operator fails to locate its facilities within three (3) working days in the manner required by § 65-31-108, the excavator shall be authorized to proceed with the excavation. If an operator fails to locate its facilities within three (3) working days in the manner required by § 65-31-108 after receiving proper notification as required by this section and an underground facility of the operator is damaged by an excavator as a result of the operator’s failure to discharge such duty, then the excavator shall not be liable for the damage; provided, that, if the excavator observes clear evidence of the presence of an unmarked utility in the area of the proposed excavation, the excavator shall exercise reasonable care to avoid damage to the utility that may be caused by the excavation, and the excavator shall be liable for damages arising from its failure to use reasonable care in such circumstances.

**§ 65-31-107. Operator associations; one-call service**

1. Subject to the requirements of subsection (b), operators may form and operate a one-call service providing for mutual receipt of notifications of excavation or demolition operations, pursuant to § 65- 31-106, in a defined geographical area. Any operator that suffers damage as a result of not participating in a one-call service providing for receipt of the notification of excavation or demolition operations in a defined geographic area, pursuant to § 65-31-106, waives the right to recover damages to the operator’s underground utilities from the excavator; provided, that the provisions of this chapter were met by the excavator.
2. (1) All operators are required to join the one-call service and utilize the services of the notification center as follows:
   1. Operators that are members of the existing one-call service on May 20, 2015, shall remain members;
   2. Operators with more than fifty thousand (50,000) customers served underground or one thousand (1,000) miles of facilities underground, who are not members, shall join the one-call service no later than January 1, 2016;
   3. Operators with more than twenty-five thousand (25,000) customers served underground or five hundred (500) miles of facilities underground, who are not members, shall join the one-call service no later than January 1, 2017;
   4. All operators that do not meet the thresholds described in subdivision (b)(1)(A), (b)(1)(B), or (b)(1)(C) shall join the one-call service no later than January 1, 2018; and
   5. Failure of an operator as described in this subdivision (b)(1) to join the one-call service and utilize the services of the notification center in accordance with this section is a violation of this chapter and subjects the operator to the penalties described in § 65-31- 112.

(2) This subsection (b) shall not apply to operators whose total amount of underground facilities constitutes less than twenty percent (20%) of their total utility plant in service.

1. There shall be only one (1) one-call service for this state.
2. The one-call service shall provide for a proportional method of apportioning the cost of operating the notification center among its members.
3. The one-call service shall provide training for those who have violated this chapter, unless otherwise determined by the board.

**§ 65-31-108. Marking excavation and demolition site**

(a)(1) (A) Each operator notified in accordance with § 65-31-106 shall stake or otherwise mark, prior to the noticed time of the proposed excavation or demolition, the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition. The operator shall not charge the person giving notice to the one-call service, the excavator, or property owner for the marking of its facilities. However, an operator may recover the costs of the marking of its facilities from customers in an appropriate ratemaking procedure. The operator shall not be required to indicate the depth of any such utility, but only the approximate ground location under which the utility is located. Such staking or other marking shall utilize the following color code:

1. SAFETY RED shall be used to mark electric power distribution and transmission facilities;
2. HIGH VISIBILITY SAFETY YELLOW shall be used to mark gas and oil distribution and transmission facilities;
3. SAFETY ALERT ORANGE shall be used to mark telephone, telegraph, cable television, video, and other telecommunications facilities;
4. SAFETY PRECAUTION BLUE shall be used to mark water systems facilities;
5. SAFETY GREEN shall be used to mark sewer systems facilities; and
6. SAFETY PURPLE shall be used to mark reclaimed water.

(B) In the event more than one (1) operator uses the same color code under subdivision (a)(1)(A), each operator using the same color shall include a distinctive marking, such as the initials of the operator’s name or other marking, that appropriately identifies each operator and sufficiently distinguishes each operator’s marking from any other operator authorized to use the same color under subdivision (a)(1)(A).

1. Notwithstanding subdivision (a)(1), the underground utility damage enforcement board may establish, by rule, best practices for uniform color code and marking consistent with this part. The rules may include stakes, flags, non-permanent paint, or other low impact marking practices. Rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.
2. Notwithstanding any law to the contrary, marking methods established by subdivisions (a)(1) and (2) shall be the methods of marking underground facilities in this state.
3. Each operator participating in a one-call service that has been notified in accordance with § 65- 31-106 shall notify the one-call service that the operator has marked the approximate location of all of its underground utilities as required by this section or that the operator has no underground utilities in the proposed area of excavation. The operator shall provide this notice to the one-call service in accordance with procedures adopted by the one-call service for this notification. This notice shall fulfill the operator’s obligation set forth in subsection (e). When each operator notified in accordance with § 65-31-106 has notified the one-call service that its underground utilities in the proposed area of excavation have been marked or that the operator has no underground utilities in the proposed area of excavation, the person responsible for the excavation or demolition may immediately proceed with the

excavation or demolition, notwithstanding the minimum three-working-day notice requirement before excavation or demolition can begin set forth in § 65-31-106(a).

1. An excavator shall exercise reasonable care to avoid damage caused by an excavation or demolition within the safety zone around the marked location of the underground utilities by hand digging when practical, utilizing pneumatic hand tools, or utilizing mechanical or technical methods approved by the facility owner or operator. Hand digging and non-invasive methods are not required for removal of pavement or concrete. For the purpose of this section, “safety zone” means a strip of land at least four feet (4′) wide, but not wider than the width of the utility plus two feet (2′) on either side of the utility.
2. If, upon arrival at the site of a proposed excavation, the excavator observes clear evidence of the presence of an unmarked utility in the area of the proposed excavation, the excavator shall not begin excavating until an additional notice is made to the one-call. The excavator may then proceed, exercising reasonable care to avoid damage to the utility which may be caused by such excavation or demolition.
3. If no facilities exist in the tract or parcel of land, the operators shall make a reasonable effort to so advise the individual who initiated the request, provided the request is received in accordance with § 65-31-106.
4. The approximate location of underground utilities does not include a designation of location as to depth below the surface of the ground. Excavators must use reasonable care to ascertain for themselves the exact depth of the underground utilities below the surface of the ground. If, after so ascertaining, the excavator learns that its excavation or demolition is likely to interfere with the operation of the underground utility facilities, it must again notify the affected operator of such underground utility facilities and reasonably cooperate with the operator of the underground utility facilities to conduct its excavation or demolition in such a way that the operations of the underground utility facilities are not disturbed or the affected underground utility facilities are placed out of the way of the proposed excavation or demolition.
5. Each operator notified in accordance with § 65-31-109, shall within two (2) hours stake or otherwise mark, utilizing the color code set forth in subsection (a), the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition.
6. Each operator notified of an impending emergency, as defined in § 65-31-102, shall stake or otherwise mark, prior to the noticed time of the proposed excavation or demolition, utilizing the color code set forth in subsection (a), the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition.
7. Any contract locator acting on behalf of an operator is subject to this section.

**§ 65-31-109. Notice waiver; emergencies**

1. Compliance with the notice requirements of § 65-31-106 is not required of any person responsible for emergency excavation or demolition, for repair or restoration of service or to ameliorate

an imminent danger to life, health, or property; provided, that such person gives, as soon as practicable, oral notice of the emergency excavation or demolition to each operator having underground utilities located in the area or to a one-call service provided for in § 65-31-107, that serves an operator, where such excavation or demolition is to be performed and requests emergency assistance from each operator so identified in locating and providing immediate protection to the operator’s underground utilities. “Emergency” means an imminent danger to life, health, or property, whenever there is a substantial likelihood that loss of life, health or property will result before the procedures under §§ 65-31-106 and 65-31-108 can be fully complied with.

1. Any excavator providing a misrepresentation of an emergency excavation as stated in subsection (a), or an “impending emergency,” as defined in § 65-31-102, shall be subject to the penalties stated in § 65-31-112.
2. For the purposes of this section, repair or replacement of an existing traffic control device at its existing location and existing depth shall be considered an emergency, and compliance with the notice requirements of this section and § 65-31-106 shall not be required of any local or state government responding to the emergency repair or replacement of a traffic control device.

**§ 65-31-110. Damage avoidance; precautions**

In addition to the notification requirements of § 65-31-106, each person responsible for any excavation or demolition operation designated in § 65-31-104 shall:

* 1. Plan the excavation or demolition to avoid damage to and minimize interference with underground utilities in and near the construction area;
  2. Maintain a clearance between an underground utility and the cutting edge or point of any mechanized equipment in accordance with § 65-31-108(b) and (d), taking into account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such utility;
  3. Provide such support and protection for underground utilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such utilities; and
  4. Each utility, regardless of the use or material, shall be installed with sufficient clearance to permit the maintenance of existing utilities, and to protect against damage to existing utilities.

**§ 65-31-111. Damage; notice**

1. Except as provided by subsection (b), each person responsible for any excavation or demolition operation described in § 65-31-104 that results in any damage to an underground utility shall, immediately upon discovery of such damage, submit a damage notice to the one-call service, notify the operator of such utility of the location and nature of the damage, and allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility.
2. If an excavation or demolition results in damage to an underground utility that permits the escape of any flammable, toxic, or corrosive gas or liquid, then the person damaging the underground utility shall, immediately upon discovery of such damage, notify the operator, notify police and fire departments through the 911 service of other emergency communications system, submit a damage

notice to the one-call service, and take any other action as may be reasonably necessary to protect persons and property and to minimize the hazards until arrival of the operator’s personnel or police and fire departments.

1. The reporting requirements established in subsections (a) and (b) apply equally to all types of excavation or demolition activities. However, persons engaged in activities described in § 65-31- 102(10)(B)(i)-(iv) are not required to submit a damage notice to the one-call service.
2. During initial excavation, if an underground utility is found to be unsound due to deterioration, the person responsible for excavation shall immediately notify the utility company involved and shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility.
3. The financial impact of all damages to underground utilities shall be calculated using generally accepted accounting principles (GAAP).
4. Each operator whose utility facilities have been damaged shall report the incident using the Damage Information Reporting Tool (DIRT) utilized by the Common Ground Alliance or by filing a damage notice with the one-call service, then the one-call service may submit a report of the incident to DIRT.

**§ 65-31-112. Civil and criminal violations and penalties**

1. Any person who violates this chapter, or the rules promulgated under this chapter, shall be subject to a civil penalty as follows:
   1. For a first violation, the violator shall complete a course of training concerning compliance with this chapter as determined by the executive committee;
   2. For a second or subsequent violation, the violator shall complete a course of training concerning compliance with this chapter as determined by the executive committee or pay a civil penalty in an amount set by the executive committee, not to exceed ten thousand dollars ($10,000) per incident, or both; and
   3. Notwithstanding subdivisions (e)(1) and (2), if any violation was the result of gross negligence or willful or wanton misconduct as determined by the executive committee, the executive committee shall require the violator to complete a course of training concerning compliance with this chapter as determined by the executive committee and pay a civil penalty in an amount set by the executive committee, not to exceed fifteen thousand dollars ($15,000) per incident.
   4. Operators who fail to join the one-call service and utilize the services of the notification center as required by § 65-31-107 are only subject to the civil penalties described in (a)(2) and (3).
2. (1) For the purposes of this chapter, monetary civil penalties shall not be levied against any department of this state. In the event that a state department is found by the executive committee to be noncompliant, the executive committee may submit a notice of noncompliance to the department head along with a request for an action plan for future compliance.

(2) For the purposes of this chapter, monetary civil penalties shall not be levied against a county, city, town, utility district, or other political subdivision of this state unless the executive committee finds that the county, city, town, utility district, or other political subdivision of this

state has engaged in a pattern of willful noncompliance with the requirements of this chapter.

1. Except as provided in subsection (e), this section shall not limit any person’s right to pursue any additional civil remedy otherwise allowed by law.
2. Any person who is required to complete a course of training under subsection (a) shall be responsible for paying for the cost of the training.
3. (1) Any excavator who violates this chapter may be issued a notice of violation by the inspector, and the inspector may require any excavator to cease work on any excavation, or not start a proposed excavation, until the excavator complies with this chapter.
4. An excavator who complies with this chapter shall not be liable for damage that the excavator causes to an operator’s underground facility, if:
   1. The operator received the notification required by § 65-31-106;
   2. The operator fails to locate its underground facilities as required by § 65-31-108; and
   3. The damage is a proximate result of the operator’s failure to locate its underground facilities as required by § 65-31-108.
5. (A) Any person who violates § 65-31-106 and whose subsequent excavation or blasting damages utility facilities or sewer laterals shall also indemnify the affected facility owner or operator and the one-call service against all claims or costs incurred, if any, for personal injury, property damage, or service interruptions resulting from damaging the utility facilities or sewer laterals.

(B) The requirements of subdivision (e)(3)(A) shall not apply to any state agency, county, city, town, utility district, or other political subdivision of this state.

1. Any person who knowingly and willfully removes or otherwise destroys the stakes or other physical markings used to mark the horizontal route of an underground facility commits the offense of vandalism under § 39-14-408, and shall be subject to the punishment for vandalism under § 39-14-105.

**§ 65-31-113. Severability**

If any provisions of this chapter or the applicability thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

**§ 65-31-114. Underground utility damage enforcement board; creation; members**

1. There is created within the Tennessee public utility commission, created by § 65-1-101, an underground utility damage enforcement board for the purpose of enforcing this chapter.
2. The Tennessee public utility commission will provide administrative and investigative support for the board, both subject to concurrence by the board. Pursuant to § 65-2-122, the Tennessee public utility commission shall charge the expenses associated with the administration and investigative duties of the board back to the board, subject to concurrence by the board.
3. The board shall be composed of seventeen (17) members. Except for initial appointments,

members who are not ex officio members shall be appointed to four-year terms. Appointments to the board shall be made as follows:

* 1. The president of Tennessee One-Call, Inc., or the president’s designee, who shall be a voting, ex officio member;
  2. One (1) member shall be a person representing the interests of Tennessee natural gas distribution systems, to be appointed by the governor, whose initial term shall be four (4) years. In considering appointees, the governor shall review a list of qualified persons submitted by the Tennessee Gas Association;
  3. One (1) member shall be a person representing the interests of Tennessee utility districts, to be appointed by the speaker of the senate, whose initial term shall be four (4) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Association of Utility Districts;
  4. One (1) member shall be a person representing the interests of the Tennessee cable industry, to be appointed by the speaker of the house of representatives, whose initial term shall be four (4) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Cable and Telecommunications Association;
  5. One (1) member shall be a person representing the interests of large Tennessee incumbent local exchange carriers with more than one hundred thousand (100,000) customers, to be appointed by the speaker of the house of representatives, whose initial term shall be four (4) years;
  6. One (1) member shall be a person who represents the interests of public utilities, as defined in § 65-4-101, and who provides water or wastewater services, to be appointed by the speaker of the senate, whose initial term shall be four (4) years;
  7. One (1) member shall be a person representing the interests of Tennessee towns and cities, to be appointed by the governor whose initial term shall be three (3) years. In considering appointees, the governor shall review a list of qualified persons submitted by the Tennessee Municipal League;
  8. One (1) member shall be a person representing the interests of small Tennessee incumbent local exchange carriers, to be appointed by the speaker of the senate, whose initial term shall be three (3) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Telecommunications Association;
  9. One (1) member shall be a person representing the interests of Tennessee counties, to be appointed by the speaker of the house of representatives, whose initial term shall be three (3) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee County Services Association;
  10. One (1) member shall be a person representing the interests of Tennessee road builders, to be appointed by the governor, whose initial term shall be three (3) years. In considering appointees, the governor shall review a list of qualified persons submitted by the Tennessee Road Builders Association;
  11. One (1) member shall be a person representing the interests of the excavation industry, to be appointed by the speaker of the senate, whose initial term shall be two (2) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Associated Builders and Contractors of Tennessee;
  12. One (1) member shall be a person representing the interests of interstate pipelines, to be appointed by the speaker of the house of representatives, whose initial term shall be two (2) years;
  13. One (1) member shall be a private property owner representing agricultural or homeowners’ interests, to be appointed by the governor, whose initial term shall be two (2)

years;

* 1. One (1) member shall be a person representing the interests of municipal electric utilities with underground facilities, to be appointed by the speaker of the senate, whose initial term shall be two (2) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Municipal Electric Power Association;
  2. One (1) member shall be a person representing the interests of cooperative electric systems with underground facilities, to be appointed by the speaker of the house of representatives, whose initial term shall be two (2) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Electric Cooperative Association;
  3. One (1) member shall be a person who represents the interests of public utilities, as defined in § 65-4-101, and who provides electric power services, to be appointed by the governor, whose initial term shall be four (4) years; and
  4. One (1) member shall be a person representing the interests of contract locators, to be appointed by the speaker of the senate, whose initial term shall be four (4) years.

1. Every two (2) years, the board shall elect a chair from among its members and other officers as the board deems necessary.
2. The members of the board shall serve without compensation.
3. (1) The board shall elect an executive committee, which shall be responsible for levying civil penalties and taking action as described in § 65-31-116.
4. The executive committee shall be composed of the following members of the board:
   1. One (1) member from subdivision (c)(10), (c)(11), or (c)(13);
   2. One (1) member from a local government; and
   3. One (1) member from a utility.
5. (A) Except as provided in subdivision (f)(3)(B), a member serving on the executive committee shall be limited to two (2) consecutive three-year terms.
6. In order to stagger the terms of the members serving on the executive committee, the members serving on the executive committee as of April 12, 2018, shall be appointed as follows:
   1. The person appointed under subdivision (f)(2)(A) shall serve a term of one
7. year, which shall expire on June 30, 2019;
   1. The person appointed under subdivision (f)(2)(B) shall serve a term of two
8. years, which shall expire on June 30, 2020; and
   1. The person appointed under subdivision (f)(2)(C) shall serve a term of three (3) years, which shall expire on June 30, 2021.
9. Following the expiration of members’ terms as prescribed in subdivision (f)(3)(B), a member serving on the executive committee shall be limited to two (2) consecutive three-year terms.
10. The board and the executive committee may hold meetings and vote by telephone, television, or other electronic means.

**§ 65-31-115. Board powers and duties**

1. The board has the power and authority to:
   1. Promulgate rules in accordance with the Uniform Administrative Procedures Act,

compiled in title 4, chapter 5, for the conduct of the affairs of the board;

* 1. Adopt a seal for the board, prescribe the style of the seal, and alter the seal at the board’s pleasure; and
  2. Make and enter into contracts.

1. The board shall:
   1. Through its executive committee, initiate investigations and conduct hearings as required by § 65-31-116;
   2. Meet a minimum of two (2) times per calendar year;
   3. Examine data regarding underground utility damage and make recommendations to the general assembly for further updates to this chapter;
   4. Manage the underground damage prevention fund created by § 65-31-117;
   5. Assess its annual operating cost to operators in an amount equal to the amount necessary to offset the cost of investigative and administrative services performed by the Tennessee public utility commission at the direction of the board. The annual operating costs shall be apportioned in a proportional manner and collected by the one-call service from the operators; and
   6. Subject to the availability of funding in the underground damage prevention fund created by § 65-31-117, contract with appropriate entities or agencies to conduct training and public awareness for damage prevention.
2. (1) Any member who misses more than fifty percent (50%) of the scheduled meetings in a calendar year shall be removed as a member of the board.

(2) The board’s chair shall promptly notify, or cause to be notified, the appointing authority of any member who fails to satisfy the attendance requirement as prescribed in subdivision (c)(1).

1. The executive committee shall review the reasonableness of fees and any subsequent changes to the fees charged to violators by the board’s designated provider of compliance training ordered pursuant to § 65-31-112.

**§ 65-31-116. Violation complaint; investigation; citations; hearing; appeal**

1. Upon receipt of a complaint of a violation of this chapter, the executive committee shall initiate an investigation of the complaint by requesting that the Tennessee public utility commission designate an employee of the commission who will investigate the complaint at the executive committee’s direction.
2. Any investigator acting at the direction of the executive committee may issue citations for violations of this chapter. Any citation may include a recommendation for the penalty to be assessed under § 65-31-112.
3. If the person to whom the citation is issued under subsection (b) does not pay the citation or submit to ordered training, or both, within thirty (30) days, then the executive committee shall appoint a hearing officer to conduct a hearing and issue an initial order pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The hearing shall be held in the Nashville, Davidson County, offices of the Tennessee public utility commission at the time set forth in the citation notice of hearing.
4. An appeal of the initial order pursuant to § 4-5-315 shall be heard by the executive committee.
5. A person aggrieved by the final order may, within sixty (60) days, file a petition for judicial review pursuant to § 4-5-322. In the case of a decision involving an excavation in proximity to underground facilities of a municipally-owned utility located in a county having a population of greater than three hundred thousand (300,000), according to the 2010 federal census or any subsequent federal census, the petition for review shall be filed in the chancery court located in that county. In all other cases, the petition for review shall be filed in the chancery court of Davidson County.
6. Nothing in this chapter shall grant the executive committee or the board jurisdiction over damage to utilities located above ground.

**§ 65-31-117. Underground damage prevention fund; deposits; expenditures**

1. There is created an underground damage prevention fund within the Tennessee public utility commission. All civil penalties collected pursuant to this chapter shall be deposited into the underground damage prevention fund. Any moneys remaining in the underground damage prevention fund at the end of the fiscal year shall not revert to the general fund, but shall remain in the underground damage prevention fund for the exclusive use of the board.
2. The expenditure of moneys in the underground damage prevention fund shall be at the discretion of the board for the following purposes:
   1. Providing grants to operators with fewer than five thousand (5,000) customers to assist the recipient in complying with the mandatory notification center requirements of this chapter.

However, grants shall not be used for operating expenses; and

* 1. Providing public awareness, educational programs or materials, and compliance training in a manner and by vendors determined and selected by the board.

**§ 65-31-118. Design locate request; submission; response**

1. Any person may submit a design locate request to the one-call service. The design locate request shall:
   1. Describe the tract or parcel of land for which the design locate request has been submitted with sufficient particularity, as defined by policies developed by the one-call service, to enable the facility owner or operator to ascertain the precise tract or parcel of land involved; and
   2. State the name, address, and telephone number of the person who has submitted the design locate request, as well as the name, address, and telephone number of any other person authorized to review any records subject to inspection under subdivision (b)(1)(C).
2. (1) Within fifteen (15) working days after a design locate request has been submitted to the one-call service for a proposed project, the facility owner or operator shall respond by one (1) of the following methods:
3. Designate or cause to be designated by a locator under § 65-31-108, the location of all utility facilities and sewer laterals within the area of the proposed excavation;
4. Provide to the person submitting the design locate request the best available description of all utility facilities and sewer laterals in the area of proposed excavation,

which might include drawings of utility facilities and sewer laterals already built in the area, or other facility records that are maintained by the facility owner or operator; or

1. Allow the person submitting the design locate request or any other authorized person to inspect or copy the drawings or other records for all utility facilities and sewer laterals within the proposed area of excavation.

(2) In the event that the one-call service charges a fee to a member operator for design location notification, the utility operator may recover that fee from the requestor.

1. Upon responding pursuant to subsection (b), the facility owner or operator shall provide the response to the one-call service in accordance with one-call service procedures.
2. An operator may reject a design locate request based upon homeland security considerations pending the operator obtaining additional information confirming the legitimacy of the request. The operator shall notify the person making the request of the denial and may request additional information through the positive response system provided by the one-call service.
3. Nothing in this section shall supersede any federal, state, or local laws governing the confidentiality of the location of utility facilities.
4. Any utility operator responding to a design locate request under this section shall not be liable for any damages associated with the response to the request.
5. Nothing in this chapter shall amend, alter, or affect title 54, chapter 5, part 8.
6. A design locate request shall not be used for excavation purposes.

**§ 65-31-119. Tennessee public utility commission; support; advisory**

The administrative and investigative support provided by the Tennessee public utility commission is provided to the board in an advisory capacity only, and nothing in this chapter shall expand the jurisdiction of the Tennessee public utility commission in any way.

**§ 65-31-120. Excavation; liability per se for damage to underground utilities; reporting requirements**

Engaging in the activities described in the definition of “excavate” or “excavation” in § 65-31- 102(10)(B) shall not remove or impose liability per se for damage to underground utilities.

Attachment 3:

Rules and Regulations Effective September 2021

RULES

OF

UNDERGROUND UTILITY DAMAGE ENFORCEMENT BOARD

CHAPTER 1230-01-01

DEFINITIONS

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1230-01-01-.01 Definitions

(1) Any term used in these rules that has been defined in T.C.A. § 65-31-102 shall have the meaning given to the term therein.

(2) In addition, for the purpose of these rules, the following terms shall have the following meanings:

(a) “Act” means the Underground Utility Damage Prevention Act, T.C.A. §§ 65-31-101 *et seq.*

(b) “Board” means the underground utility damage enforcement board created by T.C.A. § 65-31-114.

(c) “Bore” or “Boring” means the creation of a horizontal hole beneath the surface of earth, pavement, or other materials without disturbing said surface, using directional drills, horizontal augers, or other equipment designed for such purpose.

(d) “Commission” means the Tennessee Public Utility Commission created by T.C.A. § 65-1-101.

(e) “Complainant” means the person initiating a complaint against another party for investigation and consideration by the Executive Committee.

(f) “Cross bore” or “Cross boring” means an intersection of one underground utility by another underground utility resulting in a direct connection between the services of each utility that disrupts the integrity of at least one of the intersecting underground utilities.

(g) “Executive Committee” means the executive committee of the underground utility damage enforcement board created by. T.C.A. § 65-31-114(f).

(h) “Hand dig” or “hand digging” means any movement, placement, or removal of earth, rock, or other materials in or on the ground by use of non-mechanized tools or equipment, including, but not limited to, shovels, picks, post hole diggers, vacuum excavation or soft digging.

(i) “Hearing Officer” means the same as “Administrative Judge,” as defined in T.C.A. § 4-5-102(1), and “Hearing Officer,” as defined in T.C.A. § 4-5-102(4).

(j) “Investigative Staff” means the employee(s) of the Commission designated to investigate complaints pursuant to T.C.A. § 65-31-116(a).

(k) “Marking Standards” means the method by which an operator indicates the location of a facility in accordance with the guidelines adopted by the Board.

(l) “Person” means any individual; any corporation, partnership, association, or any other entity organized under the laws of any state; any state; any subdivision or instrumentality of a state; and any employee, agent or legal representative thereof.

(m) “Private Service Line” means an underground utility line or facility which is not owned by an operator and is not used by an operator to provide its utility services.

(n) “Proceeding” means any complaint submitted for adjudication by the Executive Committee, including any contested cases resulting from a respondent’s request for a hearing or the filing of a petition for enforcement by investigative staff, and any appeal of an order of a Hearing Officer.

(o) “Respondent” means a person against whom a complaint is filed or against whom any relief is sought.

(p) “Root Cause” means the primary reason for the occurrence of an event that constitutes an alleged violation of the Act.

(q) “Safety Zone” means a strip of land at least four feet (4’) wide, but not wider than the width of the utility plus two feet (2’) on either side of an underground utility line or facility.

Authority: T.C.A. § 65-31-115(a)(1).

CHAPTER 1230-01-02

RULES AND REGULATIONS OF PRACTICE AND PROCEDURE

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1230-01-02-.10 Conflicts of Interest

1230-01-02-.01 Complaint of Alleged Violations of the Act

(1) Any person may report an alleged violation of the Act by completing and submitting an electronic complaint, which can be found on the Commission’s website.

(2) Alleged violations must be reported to the Executive Committee within ninety (90) days of the person or entity becoming aware of the circumstances constituting the alleged violation.

(3) Reports of alleged violations should include as much relevant information concerning the circumstances as possible, including, but not limited to, damage and/or incident reports, photographs, statements and other informational documents.

Authority: T.C.A. §§ 65-31-114(f)(1), 65-31-115 and 65-31-116.

1230-01-02-.02 Investigations

(1) Upon receipt of a complaint alleging violation of the Act, Investigative Staff shall send notice of the complaint to the alleged violator requesting a written response within thirty (30) days. Written responses to complaints may be provided to Investigative Staff by U.S. Mail or other commercial shipping/delivery service, facsimile, or electronic mail (“email”).

(2) Investigative Staff shall conduct an investigation to gather and examine all relevant facts with regard to the reported alleged violation. The investigation may include, but is not limited to, records verification, teleconferences, photo documentation, informal meetings and other appropriate investigative methods.

(3) Upon completion of the investigation, Investigative Staff shall provide its findings and recommendations to the Executive Committee or issue a notice of violation or citation as permitted by T.C.A. §§ 65-31-112, 65-31-116(b) and these rules.

(4) Where a complaint was not timely submitted, or as otherwise authorized by the Executive Committee, Investigative Staff may administratively close the investigation without presentation to the Executive Committee for determination of whether a violation occurred.

(5) Investigative Staff shall notify the Complainant of administrative closure, dismissal, or issuance of a citation in matters filed by the Complainant.

(6) Investigative Staff shall notify the Respondent of administrative closure or dismissal of matters filed against such Respondent or shall send to the Respondent a citation in matters where the Respondent is found to have violated the Act.

Authority: T.C.A. §§ 65-31-114(f)(1), 65-31-115 and 65-31-116.

1230-01-02-.03 Executive Committee Proceedings

(1) The Executive Committee shall meet periodically to review complaints of alleged violations of the Act and the Investigative Staff’s findings and recommendations relative to such complaints.

(2) At any time prior to the consideration of a complaint by the Executive Committee, the person or entity that submitted the complaint may notify Investigative Staff of withdrawal of the complaint. Upon withdrawal of the complaint, Investigative Staff shall administratively close the matter.

Authority: T.C.A. §§ 65-31-114(f)(1), 65-31-115 and 65-31-116.

1230-01-02-.04 Authorized Actions by Investigative Staff

(1) If, during the course of an investigation, Investigative Staff identifies a person, in addition to, or in the alternative to the Respondent of a filed Complaint who may be responsible for the violation alleged in the Complaint. In such instance, Investigative Staff shall issue a Notice of Alleged Violation (“NAV”) to such person.

(2) The Investigative Staff may issue a citation, as directed by the Executive Committee.

(3) In matters where the root cause alleged is failure to give notice to the one-call service prior to excavation as required by T.C.A. § 65-31-106, the Executive Committee may authorize the Investigative Staff to issue a citation to the Respondent if the investigation finds uncontroverted evidence of such root cause, and further finds that the violation would be a first violation for the Respondent. In the alternative, Investigative Staff may present such matters to the Executive Committee for collective consideration. The Executive Committee may remove any individual matter presented for collective consideration to be considered on an individual basis.

Authority: . T.C.A. §§ 65-31-112, 65-31-114(f)(1), 65-31-115 and 65-31-116.

1230-01-02-.05 Guidelines for Application of Penalties

(1) The Executive Committee shall determine and assess penalties consistent with the provisions of. T.C.A. § 65-31-112. When considering and determining the penalty for a violation, the Executive Committee may consider the nature, circumstances and gravity of the violation, the degree of the respondent’s culpability, the respondent’s history of prior violations, and such other factors as may be appropriate.

(2) When considering the history of prior violations, the Executive Committee shall consider only the number of violations occurring in the eighteen (18) months immediately preceding the date of the alleged violation when considering the respondent’s history of violations, provided, however, that the Executive Committee may consider a violation occurring more than eighteen (18) months immediately preceding the date of the alleged violation if the citation for such violation has not been satisfied.

Authority: T.C.A. §§ 65-31-112, 65-31-114(f)(1) and 65-31-115(a)(1).

1230-01-02-.06 Representation by Counsel

(1) Any party to a contested case may be advised and represented, at the party’s own expense, by a licensed attorney or attorneys.

(2) Any party to a contested case may represent himself or herself, provided, however, that in the case of a corporation, limited liability company, or other entity recognized by law, the party may give testimony as an authorized representative of the entity, but shall have an attorney to provide legal representation for the filing of pleadings, examination and cross-examination of witnesses, and other actions that require a licensed attorney, as required by the statutes, rules, regulations and orders concerning the practice of law within the state.

(3) Any out-of-state counsel shall comply with T.C.A. § 23-3-103(a) and Tenn. S. Ct. R. 19. The affidavit referred to in the Supreme Court Rule shall be filed with the Chair of the Board.

Authority: T.C.A. §§ 23-3-103(a), 65-31-112, 65-31-115(a)(1), 65-31-116; and Tenn. S. Ct. R. 19.

1230-01-02-.07 Proceedings Before a Hearing Officer

(1) In any contested case brought under the Act and these rules, the Hearing Officer or Executive Committee may, on his or her own motion or on motion of any party, enter an order, pursuant to T.C.A. § 4-5-306, directing counsel for the parties and any unrepresented parties to appear for a conference or conferences prior to the hearing on the merits to consider:

(a) The simplification of issues for the hearing on the merits;

(b) The necessity or desirability of any amendments to filings;

(c) The possibility of obtaining stipulations, admissions of fact, and admissions of documents which may avoid unnecessary duplication of proof;

(d) The disposition of any pending motions;

(e) The steps which may be taken to expedite the disposition of the case or to facilitate settlement of the case, or any part of the case; and,

(f) Such other matters as may facilitate the just, efficient and economical disposition of the case including alternative resolution.

(2) At least one of the counsel or other representative for each party participating in the pre-hearing conference shall have authority to enter stipulations, make admissions, or enter agreements with respect to any matters which the parties may reasonably anticipate may be considered.

(3) The Hearing Officer shall enter an order which states the actions taken and all decisions made at the pre-hearing conference, and such order shall control the subsequent course of the case, unless modified by subsequent order.

(4) In the discretion of the Hearing Officer, all or part of the pre-hearing conference may be conducted by electronic means, provided that each participant in the conference shall have an opportunity to hear and to participate in the proceeding while it is taking place.

(5) In the absence of a pre-hearing conference, the Hearing Officer may issue a pre-hearing order based upon the filings to regulate the conduct of the proceedings.

Authority: . T.C.A. §§ 4-5-306, 65-31-115, and 65-31-116.

1230-01-02-.08 Notice of Hearing

(1) Except as may be otherwise provided by statute or by these rules, the Executive Committee and Hearing Officer shall give all parties reasonable notice of any hearing on the merits.

(2) Except as may be otherwise provided by statute, by these rules, or by agreement of the parties, reasonable notice shall be given for any pre-hearing conference that may be held.

Authority: T.C.A. §§ 4-5-307, 65-31-115, and 65-31-116.

1230-01-02-.09 Ex Parte Communications

(1) Unless otherwise authorized by statute, rule, regulation or order of the Board or Executive Committee, all members of the Executive Committee and any Hearing Officer assigned to adjudicate any matters concerning complaints submitted to the Executive Committee may not communicate, directly or indirectly, regarding any issue in the proceeding, while such proceeding is pending, with any person, including, but not limited to:

1. a party;
2. a party’s employee, attorney, or representative;
3. a person known to act on behalf of a party;
4. a person who has direct interest in the outcome of the proceeding;
5. a person representing a third party advocating a certain outcome of the proceeding; or,

(f) a member of the Board who is not a member of the Executive Committee;

without notice and opportunity for all parties to the proceeding to participate in the communication.

(2) Notwithstanding subsection (1) above, only to the extent not otherwise inconsistent with this rule, any person may make educational or informational communications that are not intended to persuade or advocate a position on an issue in a particular proceeding while the proceeding is pending, provided, however, that the Executive Committee members and Hearing Officer do not receive ex parte communications of a type that such person would be prohibited from receiving and do not furnish, augment, diminish, or modify the evidence in the record.

(3) A member of the Executive Committee or a Hearing Officer assigned to adjudicate any matters concerning complaints submitted to the Executive Committee, who receives an ex parte communication in violation of this rule shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom such person received an ex parte communication. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) days after notice of the communication.

Authority: T.C.A. §§ 4-5-304, 65-31-114(f)(1), 65-31-115, and 65-31-116.

1230-01-02-.10 Conflicts of Interest

The Board shall create a policy governing conflicts of interests that identifies procedures for identifying and disclosing conflicts of interest and establishes guidelines for participation in Board discussion and voting where conflicts of interest are identified and disclosed.

Authority: T.C.A. §§ 4-5-303, 65-31-115, and 65-31-116.

CHAPTER 1230-01-03

REGULATIONS FOR UTILITY LOCATION AND EXCAVATION

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1230-01-03-.01 White Lining Standards

(1) As required by. T.C.A. § 65-31-106(b), the location of a proposed excavation or demolition shall be designated by marking such area with “safety white” color-coded stakes or paint, unless:

(a) The precise location of the proposed area can be ascertained by the operator or its agent based solely upon the street address from a one-call service locate ticket;

(b) The precise location of the proposed area can be ascertained by the operator or its agent from a one-call service location ticket that references a driveway or other easily identifiable point on the identified property;

(c) The precise location of the proposed area can be ascertained by the operator or its agent from a one-call service location ticket that identifies the property as being located on a street or road between two designed intersections of the street or road and two cross streets or roads; or

(d) The person responsible for excavation or demolition and all operators with underground facilities in the proposed area of excavation have had a meeting prior to the commencement of excavation or demolition for the exchange of information on the location of the proposed area.

(2) Where the proposed area described in the one-call service location ticket is not consistent with, or is in contradiction to, the area designated by white line markings, the operator shall mark the area described in the one-call service location ticket, or if deemed necessary, contact the person responsible for the excavation or demolition to resolve such conflict or contradiction.

Authority: T.C.A. §§ 65-31-106(b) and 65-31-115(a)(1).

1230-01-03-.02 Marking Standards

(1) The Board hereby adopts the Uniform Color Code and Marking Guidelines as found in Common Ground Alliance, *Best Practices: The Definitive Guide for Underground Safety and Damage Prevention*, Ch. 4, Locating and Marking, and Appx. B (Ver. 17.0, March 2020), as may be amended from time to time, and incorporates such standards as if stated herein verbatim.

(2) No local, county, or municipal governing body shall adopt, by resolution or ordinance, any color code and/or marking guidelines that are contrary to T.C.A. § 65-31-108 or this rule.

(3) An operator is not required to mark a Private Service Line. The marking of a Private Service Line is the responsibility of the person who owns the Private Service Line, who shall bear any expense for marking the Private Service Line.

Authority: T.C.A. §§ 65-31-108(a) and 65-31-115(a)(1).

1230-01-03-.03 Exercise of Reasonable Care in Excavation Practices

(1) An excavator shall exercise reasonable care to avoid damage caused by an excavation or demolition within the safety zone.

(2) In the exercise of reasonable care, an excavator shall take actions, which shall include, but are not limited to:

(a) Planning excavation or demolition to avoid damage to and minimize interference with underground utilities in and near the excavation area;

(b) Maintaining a clearance between the underground utility and the cutting edge or point of any mechanized equipment, taking into account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such utility;

(c) Providing such support and protection for underground utilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such utilities; and

(d) Installing each utility, regardless of the use or material, with sufficient clearance to permit the maintenance of existing utilities and to protect against damage to existing utilities.

(3) In performing trenchless excavation or boring, reasonable care shall include, but is not limited to:

(a) Visually inspecting the planned excavation path for structures indicating the presence of underground utilities;

(b) When possible, contacting utility company directly and review maps or drawings to verify underground utility locations;

(c) Reviewing surface markings and compare to other information to identify any unmarked or mis-marked utility;

(d) Hand digging test holes or “pothole” and use other safety precautions to identify the location and depth of utilities in the drill path; and

(e) Drilling at a pace that is slow enough to permit tracking device(s) to detect drill line deflections or large obstructions.

(4) The Board further adopts the best practices for excavation as stated in Common Ground Alliance, *Best Practices: The Definitive Guide for Underground Safety and Damage Prevention*, Ch. 5, Excavation, and Appx. D (Ver. 17.0, March 2020), as may be amended from time to time, and incorporates such standards as if stated herein verbatim; provided, however, that the Common Ground Alliance Best Practices shall be read in conjunction with Tennessee law and United States law. Where the Common Ground Alliance Best Practices conflicts with state or federal law, the state or federal law shall serve as the controlling authority.

Authority: . T.C.A. §§ 65-31-108, 65-31-110, and 65-31-115(a)(1).

CHAPTER 1230-01-04

RULES AND REGULATIONS ON PUBLIC ACCESS TO MEETINGS AND RECORDS

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1230-01-04-.01 Public Records Requests

(1) Pursuant to T.C.A. § 10-7-503(g), the purpose of the following public records rule is to provide timely and efficient access to public records of the Board while at the same time preserving the confidentiality and protection of records or information as provided under state and federal law.

(2) The Tennessee Public Records Act provides that all state public records shall, at all times during regular business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.

(3) Through the Public Records Request Coordinator identified in this Rule, the Board shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records. No provisions of this Rule shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the Board, shall be protected as provided by current law. Questions about these Rules should be addressed to the Board’s Public Records Request Coordinator or to the Tennessee Office of Open Records Counsel (“OORC”).

(4) The Board, having been established within the Commission by T.C.A. § 65-31-114(a), hereby adopts the Commission’s Rules on Access to Public Records Held By the Commission, Tenn. R. & Regs. 1220-01-04-.01 *et seq.* and incorporates said rules as if restated verbatim herein.

Authority: T.C.A. §§ 10-7-503, 65-31-114 and 65-31-115(a)(1).

1230-01-04-.02 Public Access to Meetings

(1) The Board shall comply with the Tennessee Public Meetings law, T.C.A. Title 8, Chapter 44.

(2) The Board shall have a minimum of two (2) regular meetings each year as required by T.C.A. § 65-31-115(b)(2).

(3) Special meetings may be called by the Board Chair or by a quorum of the Board.

(4) Reasonable advance notice of a meeting shall be given to all Board members, unless all Board members agree to waive notice, or unless exigent circumstances require meeting with less notice.

(5) Members of the Board may request items to be addressed on the Meeting Agenda of the Board. Such requests to present information to the Board during a regularly scheduled Board meeting shall be submitted in writing to the Board Chair and the Board’s staff, at least fourteen (14) days prior to the meeting. Exceptions may be made in extraordinary circumstances at the direction of the Chair. All requests are subject to review and approval by the Chair.

(6) Board staff shall keep a record of all regular meetings. The minutes shall be transcribed and presented for approval or amendment at the next regular meeting. The minutes or a true copy thereof, approved by the Board, shall be open to public inspection and maintained on the website for the Commission.

(7) All regular meetings of the Board shall be open and public except for executive sessions as provided by the Tennessee Public Meetings law, T.C.A Title 8, Chapter 44.

Authority: T.C.A. §§ 8-44-102, 65-31-114 and 65-31-115(a)(1).

1230-01-04-.03 Public Comments

(1) Members of the public may submit written comment on any matter before the Board or its Executive Committee by sending such comments to: Underground Utility Damage Enforcement Board, ATTN: Board Counsel, 502 Deaderick Street, 4th Floor, Nashville, Tennessee 37243, or via email to Damage.Prevention@tn.gov.

(2) All meetings of the Board and its Executive Committee shall include a designated time for members of the public to comment. Public comment must relate to an item on the Board’s meeting agenda or the general business of the Board. The Board Chair may establish a time limit for comment.

Authority: T.C.A. §§ 8-44-102, 65-31-114 and 65-31-115(a)(1).