

The background of the page is a photograph of a yellow excavator bucket and arm. The bucket is positioned on the left side, and the arm extends towards the center. The excavator is on a concrete surface, which shows some cracks and a small hole. The overall scene is in a construction or demolition setting.

# Excavator Guide

[WWW.TEXAS811.ORG](http://WWW.TEXAS811.ORG)

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# What to Expect When You Contact Texas811



## How to Contact Texas811

There are two ways to contact Texas811 to request a notification to have your lines marked. *Both methods are free of charge to you.*

**Online** - By using our Online Ticket Entry System, The Portal, which is available at <http://www.texas811.org/portal>

or

**By phone at 811** - Listen carefully to the recorded message, many of your requests can be handled through the automated system before you reach a Damage Prevention Agent.



## Information Required for a Locate Request

You'll need to provide the following information to request underground line markings for your work location. If you cannot provide all of the information, you may have to re-contact the contact center later to complete your request and your work could be delayed.

- Who is the work being done for? The work is being done for your client or the owner of the property.
- How long will it take to complete the work?
- Will you be using explosives? Texas law requires that we ask this question.
- Will you be digging or disturbing the dirt deeper than 16”?
- Is the work area marked in white paint or flags? Indicating your planned work area with white marks is not required by law, but it is helpful to locators to know exactly where you plan to dig.
- What kind of work is being done?



## Information About the Work Location

It is very important that the work location/site be described as accurately as possible to ensure that all of the utilities near your worksite are notified of your plan to dig. We will ask very specific questions about where you plan to work and how to get to the worksite because our Damage Prevention Agents must be able to find your worksite on a map. Finding the location on the map is extremely important because that is how we know which utility companies to notify and which regional office.

- What county is the work taking place in?
- What town is the work taking place in? If the work is in a rural area, what is the closest town to your location?
- What is the address where the work is taking place? If there is no address, please provide driving directions from the nearest intersection. For example, from the intersection go W on Street A 1,250 feet (a quarter mile) to dirt road. Go S on dirt road 500 feet to intersection of two dirt roads, go E 250 feet to a gate on the S side of the road. Enter the gate and continue S approximately 75 feet to the clearing. There is an electric pole 20 ft W of the clearing. Please locate a 75 foot radius of the pole.
- What is the name of the street at the closest intersection to your work location/site?



## Information About the Work Location

- Specifically describe where on the property your work area is and how large your work area will be. For example, working in the backyard from the rear of the house to the alley. Or working from the northeast corner of the property, work will extend South by 250 feet and West by 500 feet. Include any additional information that might be helpful like GPS or Map book coordinates.



## Information About You and/or Your Company

- Your name, company name (if applicable), physical address, email, and phone number.
- Primary Contact information (if someone else will be the primary contact at the work location/site) – the same information as before and the best time of the day to contact them.



## Locate Request Ticket Types

•What kind of ticket/notification is this? Here are the options:

▫A **Normal** ticket requires a two working day notice, excluding weekends and holidays, before work can begin.

▫A **Digup** ticket is issued if you expose, cut or hit an underground utility while working. If you hit a gas pipeline, even if it is just a scratch, leave the area immediately. Once at a safe distance, please call 911, then Texas811. If you make contact with a utility line that is not a gas pipeline, please contact Texas811 immediately so we can notify the utility whose lines are affected. The utilities will come to the site to inspect the damage and make any repairs that may be necessary.

▫An **Emergency** ticket is used when the work being done is to repair a situation that is a danger to life, health or property. Penalties may result if non-emergency situations are reported as an emergency.

▫An **Update** ticket extends the life of an existing ticket and gets the lines remarked. Update tickets can be requested during the automated recording when calling or through The Portal online.



## What You Will Receive from Texas811

You will receive:

- Your **ticket number**. This number is your proof that you have contacted Texas811 and requested a locate for your work location. You should keep it until the project has been completed. You will need to provide it whenever you contact Texas811 about this project.
- An **email copy of your ticket** containing a list of all utilities that have facilities in your area if you have provided an email address.
- Within a few hours you'll receive an identical ticket from the other contact center in Texas listing which utility companies they have notified of your work.



## Excavator Responsibilities

An Excavator is responsible for:

- Requesting the one-call notification; it is not your client's responsibility.
- Immediately reporting the damage or exposure of any underground utility to the one-call center. If a gas line has been hit or damaged, you must also call 911.
- Knowing and following the tolerance zones for digging around the locators' markers. See page 15 & 16.
- Providing your client with the appropriate ticket or notification number prior to beginning work.
- Requesting a line locate at least two working days, excluding weekends and holidays, before beginning work.
- Providing accurate driving directions with distances and cardinal headings (North, South, East, West) when working in rural areas.
- Confirming the response of the notified utilities before proceeding with any excavation.
- Notifying the one-call center after determining that one or more utilities have not responded to a locate request.



## Excavator Responsibilities

- Looking for utility signage at your work site and obeying instructions on those signs.
- Following safe digging practices and maintaining equipment condition to ensure safety standards.



## Texas State Holidays

Texas811 provides around-the-clock availability online or by calling 811.

Texas811 observes all Texas State Holidays (which are not included in the two working day waiting period prior to digging).

If a holiday falls on a weekend, it will still be observed on that day.

### Texas State Holidays

New Year's Day	January 1
Martin Luther King, Jr. Day	3rd Monday of January
Confederate Heroes Day	January 19
Presidents' Day	3rd Monday of February
Texas Independence Day	March 2
San Jacinto Day	April 21
Memorial Day	Last Monday of May
Emancipation Day in Texas	June 19
Independence Day	July 4
Lyndon Baines Johnson Day	August 27
Labor Day	1st Monday of September
Veterans Day	November 11
Thanksgiving Day	4th Thursday of November
Day after Thanksgiving Day	4th Friday of November
Christmas Day	December 25



## What to Do if You Hit a Line

A hit to a line can be a complete rupture, a dent or even a scratch on the outer surface of the casing. In any of these cases, please do the following.

1. Stop work immediately. Do not resume work until a representative of the utility company gives you permission to resume work.
2. Call 811 to Report the Damage. It is helpful to have your ticket number, the exact location of the damage within your work area and if you know what kind of utility line is involved.
3. If you hit a gas line and gas is leaking or spewing, also call 911. But first walk a safe distance from the damage. Do not start a vehicle engine or use your cell phone until you can no longer smell gas.
4. Do not attempt to repair any utility line yourself.
5. Do not backfill the location of the damaged line.



## What to do if You Smell Gas in the Area

Since natural gas is colorless and odorless, a chemical that smells like rotten eggs is added so it is easier to detect a gas leak before it can create a hazardous situation.

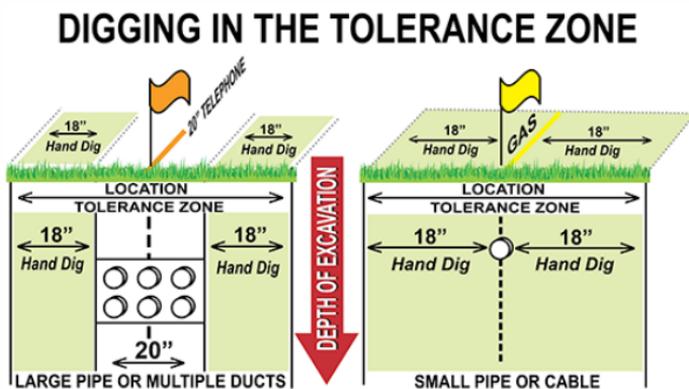
If you suspect a gas leak in your area, please follow these safety guidelines:

- Leave the area immediately.
- Do not turn any electrical switches on or off.
- Do not use your cell phone or a landline.
- If you are currently on a landline, do not hang up.
- Do not start your car engine.
- Once you are a safe distance from the gas smell, call your local gas company or call 911 to report the gas odor. Remain a safe distance from the suspected leak until someone from the gas company or an emergency responder says it is safe to return.
- Warn others to stay away from the area.

## Digging in the Tolerance Zone

A locator's marks provide the excavator with information about the location of underground lines. Due to natural shifting of the ground and other causes, the markings only show a general location. So a Tolerance Zone must be observed while excavating. The Tolerance Zone acts as added protection to buried utilities.

A **Tolerance Zone** refers to the amount of space parallel and directly next to the underground utility. In the state of Texas, the Tolerance Zone is half the nominal diameter of the underground pipeline plus a minimum of 18 inches on either side of the outside edge of the underground pipeline on a horizontal plane.





## Digging in the Tolerance Zone

If you must dig in the Tolerance Zone, for example to expose a line, use careful methods:

- Hand digging
- Pot holing
- Soft digging
- Vacuum excavation

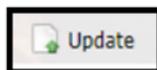
Remember that paint and flags are a guide, because the exact location of the line may differ underground. If digging must take place within the Tolerance Zone, the location of the buried utility should be proven by sight before using ANY power or mechanical equipment.



## The Texas811 Portal

In addition to dialing 811, excavators can process locate requests online through the Texas811 Portal. It's free and easy to use!

New requests can be created by selecting the **Enter Ticket** option. Existing requests can be searched for by confirmation number, under the **Find Tickets** option. As work continues over time at a particular work site, locate requests can be “refreshed” using the **Update** feature.



Each section on the locate request form is labeled to show what type of work site information needs to be provided. Unique or specific information about the work area can be entered in the ‘Remarks’ section. If no address is provided, or if the work area is hard to find, detailed information should be entered into the ‘Driving Directions’ section. Locators rely on detailed information to find and mark the correct area.

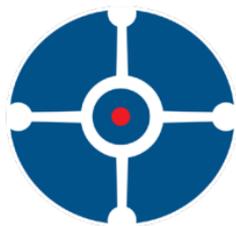
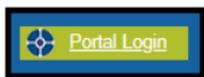


## The Texas811 Portal

The Portal also features an interactive map. The map can be used to search for an address, street, or GPS point.

Each person using the Portal must log in using their individual username, so that the correct information will be stored.

To create an account or to log into an existing account, please visit our website at [www.Texas811.org](http://www.Texas811.org) and look for the Portal Login button at the top right-hand side.



**The Portal**



# Underground Facility Damage Prevention and Safety Act

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# SUBCHAPTER A GENERAL PROVISIONS



**§251.001 Short Title**

This chapter may be cited as the Underground Facility  
Damage Prevention and Safety Act.



## §251.002 Definitions

(1) “Class A underground facility” means an underground facility that is used to produce, store, convey, transmit, or distribute:

- (A) electrical energy;
- (B) natural or synthetic gas;
- (C) petroleum or petroleum products;
- (D) steam;
- (E) any form of telecommunications service, including voice, data, video, or optical transmission, or cable television service; or
- (F) any other liquid, material, or product not defined as a Class B underground facility.

(2) “Class B underground facility” means an underground facility that is used to produce, store, convey, transmit, or distribute:

- (A) water;
- (B) slurry; or
- (C) sewage.

(3) “Corporation” means the Texas Underground Facility Notification Corporation.

(4) “Damage” means:

- (A) the defacing, scraping, displacement, penetration, destruction, or partial or complete severance of an underground facility or of any protective coating, housing, or other protective device of an underground facility;



## §251.002 Definitions

- (B) the weakening of structural or lateral support of an underground facility; or
  - (C) the failure to properly replace the backfill covering an underground facility.
- (5) “Excavate” means to use explosives or a motor, engine, hydraulic or pneumatically powered tool, or other mechanized equipment of any kind and includes auguring, backfilling, boring, compressing, digging, ditching, drilling, dragging, dredging, grading, mechanical probing, plowing-in, pulling-in, ripping, scraping, trenching, and tunneling to remove or otherwise disturb soil to a depth of 16 or more inches.
- (6) “Excavator” means a person that excavates or intends to excavate in this state.
- (7) “Exploration and production underground facility” means an underground facility used by a person producing gas or oil, or both, for the production of that gas or oil, including facilities used for field separation, treatment, gathering, or storage of gas or oil.
- (8) “High speed data transmission” means a method of data transmission that does not include facsimile or voice transmission.
- (9) “Legal holiday” means a holiday specified as a legal holiday by Subchapter B, Chapter 662, Government Code.



## §251.002 Definitions

(10) “Mechanized equipment” means equipment operated by mechanical power, including a trencher, bulldozer, power shovel, auger, backhoe, scraper, drill, cable or pipe plow, and other equipment used to plow in or pull in cable or pipe.

(11) “Operator” means a person that operates an underground facility.

(12) “Secured facility” means a parcel of land used for commercial or industrial purposes that is surrounded entirely by a fence or other means of preventing access, including a fence with one or more gates that are locked at all times or monitored by an individual who can prevent unauthorized access.

(13) “Underground facility” means a line, cable, pipeline system, conduit, or structure that is located partially or totally underground and that is used to produce, store, convey, transmit, or distribute telecommunications, electricity, gas, water, sewage, steam, or liquids such as petroleum, petroleum products, or hazardous liquids.

(14) “Saturday notification” means a notice of intent to excavate provided by an excavator to a notification center on a Saturday before 11:59 a.m.

(15) “Violation” means a violation of Section 251.151, 251.152, or 251.159.



## §251.003 Exemptions

The following are not subject to this chapter as underground facilities:

- (1) an aboveground or underground storage tank, sump, or impoundment or piping connected to an aboveground or underground storage tank, sump, or impoundment located in the same tract of land as the storage tank, sump, or impoundment;
- (2) an underground facility operated by the owner of a secured facility and located entirely within the secured facility;
- (3) an underground facility that serves only the owner of the underground facility or the owner's tenant and that is located solely on the owner's property;
- (4) piping within a well bore;
- (5) the portion of an exploration and production underground facility that is located within the boundaries of the oil or gas field from which the oil and gas is produced and that is not located in the boundaries of an established easement or right-of-way granted for the benefit of a governmental entity or a private entity if the easement or right-of-way is granted for a public purpose; or
- (6) an underground facility that serves a cemetery and is located solely on the cemetery's property.



**§251.004 Application to certain contractors and state employees**

(a) This chapter does not apply to a contractor working in the public right-of-way under a contract with the Texas Department of Transportation.

(b) Excavation by an employee of the Texas Department of Transportation on a segment of the state highway system is not subject to this chapter if the excavation is more than 10 feet from the right-of-way line.



## §251.005 Conversion of facility or operator

(a) An operator of an underground facility that is exempted under this subchapter may voluntarily convert that facility to a Class A underground facility by sending written communication from a competent authority of the operator to the corporation advising of the status change.

(b) An operator of a Class B underground facility may voluntarily convert to a Class A underground facility operator by sending written communication from a competent authority of the operator to the corporation advising of the status change.



## §251.006 Compliance by permit holders

- (a) The fact that a person has a legal permit, permission from the owner of the property or the owner's licensee, or an easement to conduct excavation operations does not affect the person's duty to comply with this chapter.
- (b) Compliance with this chapter does not affect a person's responsibility to obtain a permit required by law.



## **§251.007 Facility on county or municipal road**

This chapter does not affect a contractual or statutory right of a county or municipality to require an operator to relocate, replace, or repair its underground facility.



## §251.008 Effect on civil remedies

Except as otherwise specifically provided by this chapter, this chapter, including Section 251.201, does not affect any civil remedy for personal injury or for property damage, including any damage to an underground facility.



### §251.009 Provision of general information

At least once each calendar year, at intervals not exceeding 15 months, each Class A underground facility operator who conveys, transmits, or distributes by means of its underground facilities service directly to more than one million residential customers within this state shall provide all of its residential customers in this state general information about excavation activities covered by this chapter and the statewide toll-free telephone number established by the corporation.



### **§251.009 Provision of general information**

At least once each calendar year, at intervals not exceeding 15 months, each Class A underground facility operator who conveys, transmits, or distributes by means of its underground facilities service directly to more than one million residential customers within this state shall provide all of its residential customers in this state general information about excavation activities covered by this chapter and the statewide toll-free telephone number established by the corporation.



Subchapter D.  
Requirements Relating  
to Excavation



## §251.151 Duty of an Excavator

(a) Except as provided by Sections 251.155 and 251.156, a person who intends to excavate shall notify a notification center not earlier than the 14th day before the date the excavation is to begin or later than the 48th hour before the time the excavation is to begin, excluding Saturdays, Sundays, and legal holidays.

(b) Notwithstanding Subsection (a), if an excavator makes a Saturday notification, the excavator may begin the excavation the following Tuesday at 11:59 a.m. unless the intervening Monday is a holiday. If the intervening Monday is a holiday, the excavator may begin the excavation the following Wednesday at 11:59 a.m.

(c) To have a representative present during the excavation, the operator shall contact the excavator and advise the excavator of the operator's intent to be present during excavation and confirm the start time of the excavation. If the excavator wants to change the start time, the excavator shall notify the operator to set a mutually agreed-to time to begin the excavation.



## §251.152 Information Included in Notice

The excavator shall include in the notice required under Section 251.151:

- (1) the name of the person serving the notice;
- (2) the location of the proposed area of excavation, including:
  - (A) the street address, if available, and the location of the excavation at the street address; or
  - (B) if there is no street address, an accurate description of the excavation area using any available designations such as the closest street, road, or intersection;
- (3) the name, address, and telephone number of the excavator or the excavator's company;
- (4) the excavator's field telephone number, if one is available;
- (5) a telephone facsimile number, e-mail address, or another electronic number or address approved by the board to which an operator may send the notification required by Section 251.157(d);
- (6) the starting date and time and the anticipated completion date of excavation; and
- (7) a statement as to whether explosives will be used.



## §251.153 Duty of Notification Center

(a) At the time an excavator provides a notification center with the excavator's intent to excavate, the notification center shall advise the excavator that water, slurry, and sewage underground facilities in the area of the proposed excavation may not receive information concerning the excavator's proposed excavation.

(b) Not later than two hours after the time the notification center receives a notice of intent to excavate from an excavator, the notification center shall provide to every other affected notification center operating in this state the information required by Section 251.152 and received from the excavator. The notification center shall provide the information by the use of high speed data transmission.

(c) Not later than two hours after the time the notification center receives a notice of intent to excavate from an excavator or from a different notification center, the notification center shall notify each member operator that may have an underground facility in the vicinity of the proposed excavation operation.



## §251.154 Notification by an Excavator

- (a) A person required to provide notice under this chapter is considered to have provided the notice when the person delivers the required information and a notification center receives that information within the time limits prescribed by this chapter.
- (b) A person may deliver information required under this chapter by any appropriate method, including the use of any electronic means of data transfer.



## §251.155 Exception in Case of Emergency; Offense

- (a) Section 251.151 does not apply to an emergency excavation that is necessary to respond to a situation that endangers life, health, or property or a situation in which the public need for uninterrupted service and immediate reestablishment of service if service is interrupted compels immediate action.
- (b) The excavator may begin emergency excavation under Subsection (a) immediately and shall take reasonable care to protect underground facilities.
- (c) When an emergency exists, the excavator shall notify a notification center as promptly as practicably possible.
- (d) An excavator may not misrepresent a fact or circumstance used in the determination of an emergency excavation under Subsection (a). A person that violates this subsection is subject to a penalty under:
- (1) Section 251.201;
  - (2) Section 251.203; or
  - (3) both Section 251.201 and Section 251.203.



## §251.156 Other Excaptions of Duty of Excavators

- (a) Section 251.151 does not apply to:
- (1) interment operations of a cemetery;
  - (2) operations at a secured facility if:
    - (A) the excavator operates each underground facility at the secured facility, other than those within a third-party underground facility easement or right-of-way; and
    - (B) the excavation activity is not within a third-party underground facility or right-of-way;
  - (3) routine railroad maintenance within 15 feet of either side of the midline of the track if the maintenance will not disturb the ground at a depth of more than 18 inches;
  - (4) activities performed on private property in connection with agricultural operations;
  - (5) operations associated with the exploration or production of oil or gas if the operations are not conducted within an underground facility easement or right-of-way;



## §251.156 Other Excaptions of Duty of Excavators

(6) excavations by or for a person that:

(A) owns, leases, or owns a mineral leasehold interest in the real property on which the excavation occurs; and

(B) operates all underground facilities located at the excavation site; or

(7) routine maintenance by a county employee on a county road right-of-way to a depth of not more than 24 inches.

(b) If a person excepted under Subsection (a)

(4) elects to comply with this chapter and the operator fails to comply with this chapter, the person is not liable to the underground facility owner for damages to the underground facility.

(c) In this section:

(1) “Agricultural operations” means activities performed on land and described by Section 23.51(2), Tax Code.

(2) “Routine maintenance” means operations, not to exceed 24 inches in depth, within a road or drainage ditch involving grading and removal or replacement of pavement and structures.



## §251.157 Duty of Operator to Person Excavating

(a) Each Class A underground facility operator contacted by the notification system shall mark the approximate location of its underground facilities at or near the site of the proposed excavation if the operator believes that marking the location is necessary. The operator shall mark the location not later than:

- (1) the 48th hour after the time the excavator gives to the notification system notice of intent to excavate, excluding Saturdays, Sundays, and legal holidays;
- (2) 11:59 a.m. on the Tuesday following a Saturday notification unless the intervening Monday is a holiday;
- (3) 11:59 a.m. on the Wednesday following a Saturday notification if the intervening Monday is a holiday; or
- (4) a time agreed to by the operator and the excavator.

(b) An operator shall refer to the American Public Works Association color coding standards when marking.

(c) An excavator who has fully complied with this chapter may not be liable for damage to an underground facility that was not marked in accordance with this chapter.



## §251.157 Duty of Operator to Person Excavating

(d) Not later than the 48th hour after the time the excavator gives to the notification center notice of intent to excavate, an operator contacted by the notification center shall notify the excavator of the operator's plans to not mark the proximate location of an underground facility at or near the site of the proposed excavation. The operator must provide the notification by e-mail or facsimile or by another verifiable electronic method approved by the board.



## §251.158 Duty of Operator in Event of an Extraordinary Circumstance

(a) The deadline prescribed by Section 251.157(a) does not apply if the operator experiences an extraordinary circumstance due to an act of God, including a tornado, a hurricane, an ice storm, or a severe flood, or a war, riot, work stoppage, or strike that limits personnel or resources needed to fulfill the operator's obligations under this chapter.

(b) The operator shall notify a notification center of the extraordinary circumstance and shall include in the notification:

- (1) the nature and location of the extraordinary circumstance;
- (2) the expected duration of the situation and the approximate time at which the operator will be able to resume location request activities; and
- (3) the name and telephone number of the individual that the notification system can contact if there is an emergency that requires the operator's immediate attention.



## §251.158 Duty of Operator in Event of an Extraordinary Circumstance

(c) In addition to the notification required by Subsection (b), the operator shall also notify each excavator that has a pending location request in the location where an extraordinary circumstance is being experienced and shall include in the notification:

- (1) the fact that the operator is experiencing an extraordinary circumstance; and
- (2) the approximate time at which the operator will mark the requested location.

(d) A notification center shall inform each excavator notifying the system under Section 251.151 that the operator's location request activities are suspended until the extraordinary circumstance has discontinued or has been corrected within the affected location.

(e) An excavator is relieved from all provisions of this chapter until the operator notifies the notification center that the operator has resumed location request activities within the affected location.



## §251.159 Excavation Damage

- (a) If an excavation operation results in damage to an underground facility, the excavator shall immediately contact the underground facility operator to report the damage.
- (b) If the excavator is not certain of the operator's identity, the excavator shall contact a notification center to report the damage, and the notification center shall immediately notify all other affected notification centers. Immediately on receiving notification, each notification center shall contact each member operator that has underground facilities in or near the area in which the damage occurred.
- (c) Only the operator or a person authorized by the operator may perform repairs, and the repairs must be made in an expeditious manner.
- (d) An excavator shall delay backfilling in the immediate area of the damage until the damage is reported to the operator and a repair schedule is mutually agreed to by the excavator and the operator.
- (e) If damage endangers life, health, or property because of the presence of flammable material, the excavator shall keep sources of ignition away.



## Subchapter E. Penalties



## §251.201 Civil Penalty or Warning Letter

(a) An excavator that violates Section 251.151, 251.152, or 251.159 is liable for a civil penalty of not less than \$500 or more than \$1,000. If a county attorney or district attorney decides not to bring an action to recover the civil penalty, the board of directors of the corporation may, in accordance with Section 251.2011, give the excavator a warning letter and require the excavator to attend a safety training course approved by the board. The county attorney or district attorney shall notify the board of its decision.

(a-1) An excavator that violates Section 251.155(d) is liable for a civil penalty of not less than \$1,000 or more than \$2,000. If a county attorney or district attorney decides not to bring an action to recover the civil penalty, the board of directors of the corporation may, in accordance with Section 251.2011, give the excavator a warning letter and require the excavator to attend a safety training course approved by the board. The county attorney or district attorney shall notify the board of its decision.



## §251.201 Civil Penalty or Warning Letter

(b) Except as provided by Subsection (b-1), if it is found at the trial on a civil penalty that the excavator has violated this chapter and has been assessed a penalty under this section or has received a warning letter from the board one other time before the first anniversary of the date of the most recent violation, the excavator is liable for a civil penalty of not less than \$1,000 or more than \$2,000.

(b-1) If it is found at the trial on a civil penalty that the excavator has violated Section 251.155(d) and has been assessed a penalty under this section or has received a warning letter from the board one other time before the first anniversary of the date of the most recent violation, the excavator is liable for a civil penalty of not less than \$2,000 or more than \$5,000.

(c) Except as provided by Subsection (c-1), if it is found at the trial on a civil penalty that the excavator has violated this chapter and has been assessed a penalty under this section at least two other times before the first anniversary of the date of the most recent violation, or has been assessed a penalty at least one other time before the first anniversary of the date of the most recent violation and has received a warning letter from the board during that period, the excavator is liable for a civil penalty of not less than \$2,000 or more than \$5,000.



## §251.201 Civil Penalty or Warning Letter

(c-1) If it is found at the trial on a civil penalty that the excavator has violated Section 251.155(d) and has been assessed a penalty under this section at least two other times before the first anniversary of the date of the most recent violation, or has been assessed a penalty at least one other time before the first anniversary of the date of the most recent violation and has received a warning letter from the board during that period, the excavator is liable for a civil penalty of not less than \$5,000 or more than \$10,000.

(d) In assessing the civil penalty the court shall consider the actual damage to the facility, the effect of the excavator's actions on the public health and safety, whether the violation was a wilful act, and any good faith of the excavator in attempting to achieve compliance.

(e) Venue for a proceeding to collect a civil penalty under this section is in the county in which:

- (1) all or part of the alleged violation occurred;
- (2) the defendant has its principal place of business in this state; or
- (3) the defendant resides, if in this state.



## §251.201 Civil Penalty or Warning Letter

(f) The appropriate county attorney or criminal district attorney shall bring the action to recover the civil penalty.

(g) This section does not apply to a residential property owner excavating on the property owner's own residential lot.



## §251.2011 Warning Letter and Safety Training Course

(a) The board of directors of the corporation shall establish a procedure to ensure that the board verifies that an excavator has violated Section 251.151, 251.152, or 251.159 before giving the excavator a warning letter and requiring the excavator to attend a safety training course under Section 251.201.

(b) The board shall solicit and consider advice and recommendations from excavators in establishing or approving a safety training course that an excavator may be required to attend under Section 251.201.



## §251.202 Allocation of Civil Penalty

- (a) Fifty percent of the civil penalty collected under Section 251.201 shall be transferred to the county treasurer of the county prosecuting the action and 50 percent of the civil penalty collected under Section 251.201 shall be transferred to the corporation.
- (b) The county treasurer shall deposit all money received under this section in the county road and bridge fund.
- (c) The corporation shall use the money received under this section to develop public service announcements to educate the public about the statewide one-call notification system and its availability as prescribed by Section 251.060(7).



## §251.203 Criminal Penalty

- (a) A person commits an offense if:
- (1) the person without authorization from the owner or operator of the facility intentionally removes, damages, or conceals a marker or sign giving information about the location of a Class A underground facility; and
  - (2) the marker or sign gives notice of the penalty for intentional removal, damage, or concealment of the marker or sign.
    - (a-1) A person commits an offense if the person intentionally or recklessly violates Section 251.155(d).
- (b) An offense under this section is a Class B misdemeanor.



Texas is home to the largest pipeline infrastructure in the nation. The Railroad Commission of Texas (RRC) and its Pipeline Damage Prevention Program aim to reduce the number of pipeline damage incidents through compliance, enforcement and education of Texas' digging laws.

For more information on pipeline safety in Texas, visit [www.rrc.texas.gov/pipeline-safety/](http://www.rrc.texas.gov/pipeline-safety/).

The official Damage Prevention rules of the Railroad Commission of Texas are found in the Texas Administrative Code (TAC), Title 16, Part 1, Chapter 18, as found on the Commission's website at [www.rrc.texas.gov/legal/rules/current-rules/](http://www.rrc.texas.gov/legal/rules/current-rules/).



# Texas Administrative Code

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## §18.1 Scope, Applicability, and General Provisions

(a) This chapter implements the authority of the Railroad Commission of Texas (Commission) under Texas Natural Resources Code, §117.012, Texas Utilities Code, §121.201, and Texas Health and Safety Code, §756.126. Except as provided in subsection (d) of this section, this chapter applies to all persons engaged in or preparing to engage in the movement of earth in the vicinity of an underground pipeline containing flammable, toxic, or corrosive gas, a hazardous liquid, or carbon dioxide.

(b) The requirements of this chapter are based on the presumption that an excavator will notify a notification center pursuant to, and that a pipeline operator will respond in accordance with, the provisions of Texas Utilities Code, Chapter 251, and the requirements of the notification center. However, compliance with the provisions of Texas Utilities Code, Chapter 251, and the requirements of a notification center does not necessarily constitute compliance with the requirements of this chapter.



## §18.1 Scope, Applicability, and General Provisions

(c) Persons that are exempt from the provisions of Texas Utilities Code, Chapter 251, are required to comply with this chapter, unless the person is exempt under the subsection (d) of this section.

(d) This chapter does not apply to:

- (1) the exemptions in Texas Utilities Code, §251.003;
- (2) the movement of earth that does not exceed a depth of 16 inches;
- (3) surface mining operations;
- (4) the following activities when performed by an employee of TxDOT within TxDOT right-of-way:
  - (A) sampling and repair of pavement, base, and subgrade;
  - (B) repair of roadway embankment adjacent to pavement structure;
  - (C) reshaping of unpaved shoulders and drop-offs;
  - (D) installation and maintenance of guardrails, cable barriers, delineators, vehicle attenuators, sign posts, mailboxes, and cables for traffic signals and luminaries;
  - (E) cleaning of ditches; and
  - (F) removal of silt from culverts; or
- (5) hand digging by an employee or contractor of TxDOT for TxDOT's archeological program.



## §18.1 Scope, Applicability, and General Provisions

- (e) This chapter also applies to movement of earth by tillage that exceeds a depth of 16 inches.
- (f) Unless otherwise specified, all time periods used in this chapter shall be calculated from the time the original notification is given to the notification center.
- (g) Unless otherwise specified, all time periods that are stated in days shall mean working days.
- (h) Unless an excavator and an operator otherwise expressly agree in accordance with the requirements set forth in §18.3 of this title, relating to Excavator Notice to Notification Center, the life of a line locate ticket shall be 14 days.
- (i) Unless otherwise expressly stated in this chapter, each excavator and each operator shall retain required records for at least four years. At a minimum, each operator and each excavator shall retain locate tickets and positive response notifications. Retention at a notification center is an acceptable method of retention for locate tickets.



## §18.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) **Damage**—Includes but is not limited to:
  - (A) defacing, scraping, displacement, penetration, destruction, or partial or complete severance of an underground pipeline or of any protective coating, housing, or other protective device of an underground pipeline;
  - (B) weakening of structural or lateral support of an underground pipeline that affects the integrity of the pipeline; or
  - (C) failure to properly replace the backfill surrounding an underground pipeline.
  
- (2) **Demolish or demolition**—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.
  
- (3) **Emergency**—A situation that endangers life, health, or property or a situation in which the public need for uninterrupted service and immediate re-establishment of service if services are interrupted compels immediate action.



## §18.2 Definitions

(4) Excavate—Movement of earth by any means.

(5) Excavator—A person that engages in or is preparing to engage in the movement of earth.

(6) Hand digging—Any movement of earth using non-mechanized tools or equipment, soft digging, or vacuum excavation. Hand digging includes but is not limited to digging with shovels, picks, and manual post hole diggers.

(7) Legal holiday—A holiday specified as a legal holiday by Subchapter B, Chapter 662, Texas Government Code.

(8) Locate or marking—An operator's or its contract locator's physical demarcation of the location of an underground pipeline.

(9) Locate ticket, line locate ticket, or ticket—The record of the notice of intent to excavate given by an excavator to a notification center in conformance with Texas Utilities Code, §§251.151 and 251.152.

(10) Locator—A person charged with determining and marking the approximate horizontal location of underground pipeline that may exist within an area either specified by a notice served on a notification center or designated by white-lining.



## §18.2 Definitions

(11) Movement of earth—Any operation in which earth, rock, or other material in the ground, any structure, or any mass of material is moved, removed, disturbed, or otherwise displaced by hand digging, mechanized equipment or tools of any kind, or explosives, and includes but is not limited to augering, backfilling, boring, cable or pipe plowing and driving, compressing, cutting, demolition, digging, ditching, dragging, dredging, drilling, grading, plowing-in, pulling-in, razing, rendering, ripping, scraping, tilling of earth at a depth exceeding 16 inches, trenching, tunneling, or wrecking.

(12) Mechanized equipment or tool—A piece of equipment or a tool operated by mechanical power, including but not limited to a tractor, trencher, bulldozer, power shovel, auger, backhoe, scraper, drill, cable or pipe plow and/or driver, and other equipment used to plow in or pull in cable or pipe.

(13) Notification center—A legal entity established and operated pursuant to Texas Utilities Code, Chapter 251, Subchapter C.

(14) Notify, notice, or notification—The completed delivery of information to the person to be notified, and the receipt of that information by that person in accordance with this chapter. The delivery of information includes but is not limited to the use of any electronic or technological means of data transfer.



## §18.2 Definitions

(15) Operator—A person who operates on his or her own behalf, or as an agent designated by the owner, a pipeline containing flammable, toxic, or corrosive gas, a hazardous liquid, or carbon dioxide.

(16) Person—Any individual, operator, firm, joint venture, partnership, corporation, association, municipality, or other political subdivision, governmental unit, department or agency, and includes any trustee, receiver, assignee, or personal representative thereof.

(17) Positive response—Notification to an excavator by markings left at an excavation site, or by fax, phone, e-mail, pager, or written correspondence that allows an excavator to know prior to the beginning of excavation that underground pipelines have been located and marked or that there are no underground pipelines in the vicinity of the excavation.

(18) Soft digging—Any movement of earth using tools or equipment that use air or water pressure as the direct means to break up soil or earth for removal by vacuum excavation.

(19) Spot marking—Making a circle around the spot where excavation is to take place, typically used when standard marking techniques would be considered damaging to property or cannot be used because of limited space.



## §18.2 Definitions

(20) Tillage—The manipulation of soil in preparation for planting and the cultivation by loosening or breaking up of soil around growing plants by hand digging or by use of a moldboard, disk, rotary, chisel or subsoil plow, a cultivator, a harrow, or a tiller.

(21) Tolerance zone—Half the nominal diameter of the underground pipeline plus a minimum of 18 inches on either side of the outside edge of the underground pipeline on a horizontal plane.

(22) TDRF—The Texas Damage Reporting Form, the on-line reporting system of the Railroad Commission for use in reporting damage to underground pipelines or violations of this chapter.

(23) Underground pipeline—A pipeline containing flammable, toxic, or corrosive gas, a hazardous liquid, or carbon dioxide that is located partially or totally underground.

(24) White-lining—An excavator's designation on the ground of the area to be excavated using white paint, white flags, white stakes, or any combination of these.



## §18.2 Definitions

(25) Working day—Every day that is not a Saturday, a Sunday, or a legal holiday.



### §18.3 Excavator Notice to Notification Center

- (a) An excavator shall request the location of underground pipelines at each excavation site by giving notice to the notification center as required by Texas Utilities Code, Chapter 251.
- (b) An excavator shall include in the notice the method or methods by which the excavator will receive a positive response.
- (c) When an excavation site cannot be clearly identified and described on a line locate ticket, the excavator shall use white-lining to mark the excavation area prior to giving notice to the notification center and before the locator arrives on the excavation site.
- (d) If an excavation project is too large to mark using white-lining or is so expansive that a full description cannot be provided on a line locate ticket, then the operator and the excavator shall conduct a face-to-face meeting to discuss the excavation activities and to establish protocols for:
- (1) the interval between each notice to the notification center;
  - (2) the scope of each line locate ticket;



### §18.3 Excavator Notice to Notification Center

- (3) the life of each line locate ticket; and
  - (4) the schedule of work on the excavation and the chronological order in which applicable locate tickets are to be marked.
- (e) If an excavation project is not completed at the time a line locate ticket expires, the excavator shall refresh the ticket by giving the notice described in subsection (a) of this section. A request to refresh shall be limited to the area yet to be excavated.
- (f) An excavator and an operator may agree that the life of a line locate ticket is more than 14 days provided that:
- (1) the agreement is in writing; and
  - (2) the agreement is signed and dated by both the excavator and the operator.
- (g) Both the excavator and the operator shall retain a copy of any agreement made pursuant to subsection (f) of this section.



## **§18.4 Excavator Obligation to Avoid Damage to Underground Pipelines**

(a) An excavator shall comply with the requirements of §18.3 of this title, relating to Excavator Notice to Notification Center. An excavator shall also comply with the requirements of Texas Health & Safety Code, Subchapter H, relating to Construction Affecting Pipeline Easements and Rights of-Way, and shall plan an excavation in such a manner as to avoid damage to and minimize interference with all underground pipelines in the vicinity of the excavation area and shall take all reasonable steps to protect underground pipelines from damage.

(b) An excavator shall wait the time required by Texas Utilities Code, Chapter 251, before beginning excavation.

(c) Prior to excavation, an excavator shall confirm that a copy of a valid locate ticket for the location is in the possession of the excavator's designated representative and can be obtained from the representative or can be provided within one hour of a request from the operator or the Commission.



## §18.4 Excavator Obligation to Avoid Damage to Underground Pipelines

(d) Prior to excavation, an excavator shall verify that it is at the correct location as specified on the locate ticket; shall verify white-lining; and, to the best of the excavator's ability, shall make a visual check for any unmarked underground pipelines. Checking for unmarked underground pipelines includes, but is not limited to, looking for additional pipeline line markers, such as painted fence post-type markers, aboveground pipeline valves, meter sets, regulator stations, or rectifier units.

(e) An excavator shall not begin excavating until a second notice is given to the notification center for the area if:

- (1) the excavator has knowledge of the existence of an underground pipeline and has received an "all clear" or a "no conflict" response from an operator;
- (2) the excavator observes clear evidence (such as a line marker or an above-ground fixture) of the presence of an unmarked underground pipeline in the area of the proposed excavation, and has received an "all clear" or a "no conflict" response from an operator;
- (3) there is no positive response for the excavation area; or



## §18.4 Excavator Obligation to Avoid Damage to Underground Pipelines

- (4) the positive response is unclear or obviously erroneous (for example, for a different location or for a different type of underground facility).
- (f) If an excavator has given a second notice in accordance with this section and there is no positive response within four hours, the excavator may begin excavating.
- (g) An excavator shall protect and preserve locate markings from the time the excavator begins work until markings are no longer required for the proper and safe excavation in the vicinity of all underground pipelines.
- (h) Each excavator that damages an underground pipeline shall notify the operator of the damage through the notification center at the earliest practical moment but not later than one hour following the damage incident. An excavator that damages an underground pipeline shall not cover the exposed pipeline without approval of the operator.



## **§18.5 Operator and Excavator Obligations with Respect to Positive Response**

(a) Upon being contacted by the notification system, an operator shall provide a positive response within the time frames specified in Texas Utilities Code, Chapter 251, by either:

- (1) marking the operator's underground pipelines in accordance with the requirements of Texas Utilities Code, Chapter 251, and this chapter; or
- (2) notifying the excavator that the operator has no underground pipelines in the vicinity of the proposed excavation area. The operator shall provide this "all clear" or "no conflict" notice using the method or methods that the excavator specified in accordance with §18.3 of this title, relating to Excavator Notice to Notification Center.

(b) Both the excavator and the operator shall make a record of the positive response regarding each line locate ticket received.



### **§18.5 Operator and Excavator Obligations with Respect to Positive Response**

(c) An excavator that gives a second notice to the notification center pursuant to §18.4(e) of this title, relating to Excavator Obligation to Avoid Damage to Underground Pipelines, because an operator failed to provide a positive response to an excavator shall report that fact to the Commission through TDRF as set forth in §18.11 of this title, relating to Reporting Requirements. An excavator shall also report an operator's failure to provide a positive response to a second call to the Commission through TDRF as specified in §18.11.

(d) An operator that receives a notice of damage to its underground pipeline through a notification center pursuant to §18.11(b) of this title, relating to reporting requirements, shall respond within four hours.



## §18.6 General Marking Requirements

(a) At a minimum, all markings shall conform to the requirements of American Public Works Association (APWA) Uniform Color Code (ANSI Standard Z535.1, Safety Color Code).

(b) Markings shall be valid for an excavation site for 14 days from the time a positive response is given, unless the markings were placed in response to an emergency and the emergency condition has ceased to exist. If a line locate ticket has been refreshed pursuant to §18.3(e) of this title, relating to Excavator Notice to Notification Center, then the operator shall either ensure that markings are still visible and valid or shall re-mark.

(c) If the use of line marking may permanently damage property (driveways, landscaping, historic locations to the extent boundaries are known), a locator shall use spot marking or another suitable marking method or methods.



## §18.7 Excavator Marking Requirements

- (a) Prior to giving notice pursuant to §18.3 of this title, relating to Excavator Notice to Notification Center, an excavator shall mark, if applicable according to §18.3(c), the specific excavation area using white paint, flags, or stakes, whichever is most visible for the terrain.
- (b) An excavator shall mark the area of excavation using intervals that show the direction of the excavation.



## §18.8 Operator Marking Requirement

- (a) A locator shall use all information necessary to mark underground pipelines accurately.
- (b) Locators shall mark the approximate center line of an underground pipeline.
- (c) If, in the process of marking an underground pipeline, a locator discovers a customer-owned underground pipeline, the locator shall make a reasonable effort to advise the excavator of the presence of the customer-owned underground pipeline.
- (d) Where a proposed excavation crosses an underground pipeline, markings shall be at intervals that clearly define the route of the underground pipeline, to the extent possible.
- (e) A locator shall mark underground pipelines by means of stakes, paint, flags, or a combination of two or more of these. The terrain, site conditions, and type and extent of the proposed excavation shall be considered in determining the most suitable means for marking underground pipelines.



## §18.8 Operator Marking Requirement

(f) A locator shall mark at sufficient intervals to indicate clearly the approximate horizontal location and direction of the underground pipeline or pipelines. The distance between any two marks indicating the same line shall not exceed 20 feet; however, a shorter distance between marks may be necessary because of site conditions or directional changes of the underground pipeline.

(g) Markings of an underground pipeline greater than six inches in nominal outside dimension shall include the size in inches at every other mark.

(h) A locator shall extend all markings, if practical, at least one additional mark beyond the boundaries of the specific location of the proposed work as detailed on the line locate ticket.

(i) A locator shall make paint marks approximately eight to ten inches in length and one to two inches in width except when spot marking is necessary. A locator shall make a minimum of three separate marks for each underground pipeline marking.



## §18.9 Options for Managing an Excavation Site in the Vicinity of an Underground Pipeline

(a) After complying with the notice requirements of §18.3 of this title, relating to Excavator Notice to Notification Center, an excavator and an operator may jointly establish the protocols applicable to an excavation site in the vicinity of underground pipelines based on the particular characteristics of each job. The protocols applicable to an excavation site may:

- (1) designate the contact person or persons for each entity working at an excavation site;
- (2) establish the required mode or modes of communication among all entities working at an excavation site, e.g., telephone or other electronic means or face-to-face meetings at prescribed times or intervals;
- (3) provide the method for coordinating work activities among all entities working at an excavation site;
- (4) provide for the ownership and/or possession of the locate ticket or tickets;
- (5) declare which entity or entities must have the locate ticket or locate ticket number before beginning work;
- (6) state the life of a locate ticket and the circumstances that require refreshing the locate ticket;



## §18.9 Options for Managing an Excavation Site in the Vicinity of an Underground Pipeline

- (7) state the schedule of work on the excavation and, if applicable, the chronological order in which applicable locate tickets are to be located;
- (8) designate the extent of the tolerance zone, provided that it shall not be less than half the nominal diameter of the underground pipeline plus a minimum of 18 inches on either side of the outside edge of the underground pipeline on a horizontal plane and the type of excavation permitted within the tolerance zone; and
- (9) provide for any other agreement with respect to excavation activities and/or marking requirements that will or will tend to ensure the proper and safe excavation in the vicinity of an underground pipeline.

(b) If an excavator and an operator jointly establish protocols pursuant to this section, both the excavator and the operator shall make and retain a record of the agreement.



## §18.10 Excavation within Tolerance Zone

(a) An excavator shall comply with the requirements of Texas Health & Safety Code, Subchapter H, relating to Construction Affecting Pipeline Easements and Rights-of-Way.

(b) When excavation is to take place within the specified tolerance zone, an excavator shall exercise such reasonable care as may be necessary to prevent damage to any underground pipeline in or near the excavation area. Methods to consider, based on certain climate or geographical conditions, include hand digging when practical, soft digging, vacuum excavation methods, pneumatic hand tools. Other mechanical methods or other technical methods that may be developed may be used with the approval of the underground pipeline operator. Hand digging and non-invasive methods are not required for pavement removal.



## §18.11 Reporting Requirements

(a) Each operator of an underground pipeline shall report to the Commission all damage to its pipelines caused by an excavator. Within 30 days of the damage incident or of the operator's actual knowledge of the damage incident, an operator shall submit the information to the Commission through TDRF, which may be accessed through the Commission's online reporting system using its assigned operator identification code.

(b) Each excavator that damages an underground pipeline shall notify the operator of the damage through the notification center at the earliest practical moment but not later than one hour following the damage incident. The excavator shall also submit report of the damage incident to the Commission using TDRF, which may be accessed through the Commission's online reporting system and the excavator sign-in, within 30 days of the incident.



## §18.11 Reporting Requirements

(c) If damage to a pipeline from excavation activity causes the release of any flammable, toxic, or corrosive gas, hazardous liquid, or carbon dioxide from the pipeline, the excavator shall promptly report the release to appropriate emergency response authorities by calling 911.

(d) Each excavator that makes an additional call to the notification center pursuant to §18.4(e) of this title, relating to Excavator Obligation to Avoid Damage to Underground Pipelines, because the excavator did not receive a positive response, shall report that fact to the Commission through TDRF. An excavator shall also report an operator's failure to provide a positive response to a second call to the Commission through TDRF.

(e) An emergency response official, a member of the general public, or another person aware of damage to an underground pipeline is encouraged to submit an incident form using TDRF, which can be accessed through the Commission's online reporting system. Entries can be made through the general public or emergency response official sign-in.



## §18.12 Penalty Guidelines

(a) Policy. Improved safety and environmental protection are the desired outcomes of any enforcement action. Encouraging operators, excavators, and other persons to take appropriate voluntary corrective and future protective actions once a violation has occurred is an effective component of the enforcement process. Deterrence of violations through penalty assessments is also a necessary and effective component of the enforcement process. A rule-based enforcement penalty guideline to evaluate and rank underground pipeline damage prevention-related violations is consistent with the central goal of the Commission's enforcement efforts to promote compliance. Penalty guidelines set forth in this section will provide a framework for more uniform and equitable assessment of penalties throughout the state, while also enhancing the integrity of the Commission's enforcement program.

(b) Only guidelines. The penalty amounts shown in the tables in this section are provided solely as guidelines to be considered by the Commission in determining the amount of administrative penalties for violations of the requirements of Texas Health and Safety Code, §756.126; Texas Natural Resources Code, §117.012; Texas Utilities Code, §121.201; or the provisions of a rule or standard adopted or an order issued under any of these statutes, as they pertain to underground pipeline damage prevention.



## §18.12 Penalty Guidelines

(c) Commission authority. The establishment of these penalty guidelines shall in no way limit the Commission's authority and discretion to cite violations and assess administrative penalties. The typical penalties listed in this section are for the most common violations cited; however, this is neither an exclusive nor an exhaustive list of violations that the Commission may cite. The Commission retains full authority and discretion to cite violations of Texas Health and Safety Code, §756.126; Texas Natural Resources Code, §117.012; and Texas Utilities Code, §121.201, and the provisions of a rule or standard adopted or an order issued under those statutes and to assess administrative penalties in any amount up to the statutory maximum when warranted by the facts in any case, regardless of inclusion in or omission from this section.

(d) Factors considered. The amount of any penalty requested, recommended, or finally assessed in an enforcement action will be determined on an individual case-by-case basis for each violation, taking into consideration the following factors:

- (1) the person's history of previous violations or formal warnings, including the number of previous violations or formal warnings;
- (2) the seriousness of the violation and of any pollution resulting from the violation;



## §18.12 Penalty Guidelines

- (3) any hazard to the health or safety of the public;
- (4) the degree of culpability;
- (5) the demonstrated good faith of the person charged; and
- (6) any other factor the Commission considers relevant, including but not limited to the number of locate requests received and responded to by an operator and the number of location notifications given by an excavator in the previous year.

(e) Typical penalties. Regardless of the method by which the typical penalty amount is calculated, the total penalty amount will be within the statutory limit. Typical penalties for violations of Texas Health and Safety Code, §756.126; Texas Natural Resources Code, §117.012, and Texas Utilities Code, §121.201, relating to excavation in the vicinity of an underground pipeline and for violations of a rule or standard adopted or an order issued under those statutes relating to excavation in the vicinity of an underground pipeline are set forth in Table 1.

## §18.12 Penalty Guidelines

Figure: 16 TAC §18.12(e)

Table 1. Typical Penalties

<b>Rule and violation</b>	<b>Guideline Penalty Amount</b>
16 TAC §18.1-Failure to comply with Chapter 18	\$2,000
16 TAC §18.3-Failure to notify notification center	\$2,500
16 TAC §18.3-Failure to include method for positive response	\$1,000
16 TAC §18.3-Failure to use white lining where appropriate	\$1,000
16 TAC §18.3-Failure to conduct a required face-to-face meeting	\$1,000
16 TAC §18.3, §18.9-Failure to establish sufficient protocols when required	\$1,000
16 TAC §18.3-Failure to refresh an expired locate ticket	\$1,000
16 TAC §18.4-Failure to plan excavation to avoid damage or take reasonable steps to protect pipelines	\$1,000
16 TAC §18.4-Failure to wait the required time to excavate	\$1,000
16 TAC §18.4-Failure to give second notice when required	\$1,000
16 TAC §18.4-Failure to confirm valid locate ticket	\$1,000
16 TAC §18.4-Failure to protect locate markings	\$1,000
16 TAC §18.5-Failure to provide positive response on first or second notice	\$1,000
16 TAC §18.5-Failure to keep record of positive response	\$1,000
16 TAC §18.5, §18.11-Failure to notify of no positive response	\$1,000
16 TAC §§18.6-18.8-Failure to mark excavation area or pipeline properly	\$2,500
16 TAC §18.6-Failure to notify notification center for excavation activity after an emergency notice and the emergency condition ceased to exist	\$1,000
16 TAC §18.9-Failure to record and/or retain protocol agreement	\$1,000
16 TAC §18.10-Failure to excavate with reasonable care within Tolerance Zone	\$2,500
16 TAC §18.11-Failure to submit a Texas Damage Reporting Form	\$2,000
16 TAC §18.11-Failure of excavator to report pipeline damage to operator	\$2,000

## §18.12 Penalty Guidelines

(f) Penalty enhancements for certain violations. For violations that involve threatened or actual pollution; result in threatened or actual safety hazards; or result from the reckless or intentional conduct of the person charged, the Commission may assess an enhancement of the typical penalty. The enhancement may be in any amount in the range shown for each type of violation as shown in Table 2.

Figure: 16 TAC §18.12(f)

Table 2. Guideline Penalty Enhancements

<b>For violations that involve:</b>	<b>Threatened or actual pollution</b>	<b>Threatened or actual safety hazard</b>	<b>Severity of violation or culpability of person charged</b>
Bay estuary or marine habitat	\$5,000 to \$25,000		
Pollution resulting from the violation	\$5,000 to \$25,000		
Death or personal injury		\$5,000 to \$25,000	
Impact to a residential or public area		\$5,000 to \$25,000	
Reportable incident or accident		\$5,000 to \$25,000	
Any hazard to the health or safety of the public		\$5,000 to \$25,000	
The seriousness of the violation		\$5,000 to \$25,000	
Reckless conduct of person charged			Up to double the total penalty
Intentional conduct of person charged			Up to triple the total penalty

## §18.12 Penalty Guidelines

(g) Penalty enhancements for certain violators. For violations in which the person charged has a history of prior violations or warnings within seven years of the current enforcement action, the Commission may assess an enhancement based on either the number of prior violations or the total amount of previous administrative penalties, but not both. The actual amount of any penalty enhancement will be determined on an individual case-by-case basis for each violation. The guidelines in Tables 3 and 4 are intended to be used separately. Either guideline may be used where applicable, but not both.

Figure 1: 16 TAC §18.12(g)

Table 3. Guideline penalty enhancements based on number of prior violations or warnings within seven years

<b>Number of violations or warnings in the seven years prior to action</b>	<b>Guideline Enhancement Amount</b>
One	Double penalty amount
More than two but fewer than five	Triple penalty amount
More than five but fewer than ten	Four times penalty amount
More than ten	Five times penalty amount

Figure 2: 16 TAC §18.12(g)

Table 4. Guideline penalty enhancements based on total amount of prior penalties within seven years

<b>Total administrative penalties assessed in the seven years prior to action</b>	<b>Guideline Enhancement amount</b>
Less than \$10,000	\$1,000
Between \$10,001 and \$25,000	\$2,500
Between \$25,001 and \$50,000	\$5,000
Between \$50,001 and \$100,000	\$10,000
Over \$100,000	10% of total amount



## §18.12 Penalty Guidelines

(h) Penalty reduction for settlement before hearing. The recommended monetary penalty for a violation may be reduced by up to 50% if the person charged agrees to a settlement before the Commission conducts an administrative hearing to prosecute a violation. Once the hearing is convened, the opportunity for the person charged to reduce the basic monetary penalty is no longer available. The reduction applies to the basic monetary penalty amount requested and not to any requested enhancements.

(i) Demonstrated good faith. In determining the total amount of any monetary penalty requested, recommended, or finally assessed in an enforcement action, the Commission may consider, on an individual case-by-case basis for each violation, the demonstrated good faith of the person charged. Demonstrated good faith includes but is not limited to actions taken by the person charged before the filing of an enforcement action to remedy, in whole or in part, a violation of the rules in this chapter or to mitigate the consequences of a violation of the rules in this chapter.

(j) Other sanctions. Depending upon the nature of and the consequences resulting from a violation of this chapter, the Commission may impose a non-monetary penalty, such as requiring attendance at a safety training course, or may issue a warning.

## §18.12 Penalty Guidelines

(k) Penalty calculation worksheet. The penalty calculation worksheet shown in Table 5 lists the typical penalty amounts for certain violations; the circumstances justifying enhancements of a penalty and the amount of the enhancement; and the circumstances justifying a reduction in a penalty and the amount of the reduction.

Table 5. Penalty calculation worksheet Figure: 16 TAC §18.12(k)

Figure: 16 TAC §18.12(k)

Table 5. Penalty calculation worksheet

	<b>Violations from Table 1</b>	<b>Typical penalty amounts from Table 1</b>	
1	16 TAC §18.1-Failure to comply with Chapter 18	\$2,000	\$
2	16 TAC §18.3-Failure to notify notification center	\$2,500	\$
3	16 TAC §18.3-Failure to include method for positive response	\$1,000	\$
4	16 TAC §18.3-Failure to use white lining where appropriate	\$1,000	\$
5	16 TAC §18.3-Failure to conduct a required face-to-face meeting	\$1,000	\$
6	16 TAC §18.3; §18.9-Failure to establish sufficient protocols when required	\$1,000	\$
7	16 TAC §18.3-Failure to refresh an expired locate ticket	\$1,000	\$
8	16 TAC §18.4-Failure to plan excavation to avoid damage or take reasonable steps to protect pipelines	\$1,000	\$
9	16 TAC §18.4-Failure to wait the required time to excavate	\$1,000	\$
10	16 TAC §18.4-Failure to give second notice when required	\$1,000	\$
11	16 TAC §18.4-Failure to confirm valid locate ticket	\$1,000	\$
12	16 TAC §18.4-Failure to protect locate markings	\$1,000	\$
13	16 TAC §18.5-Failure to provide positive response on first or second notice	\$1,000	\$
14	16 TAC §18.5-Failure to keep record of positive response	\$1,000	\$
15	16 TAC §18.5; §18.11-Failure to notify of no positive response	\$1,000	\$
16	16 TAC §§18.6-18.8-Failure to mark excavation area or pipeline properly	\$2,500	\$
17	16 TAC §18.6-Failure to notify notification center for excavation activity after an emergency notice and the emergency condition ceased to exist	\$1,000	\$
18	16 TAC §18.9-Failure to record and/or retain protocol agreement	\$1,000	\$
19	16 TAC §18.10-Failure to excavate with reasonable care within Tolerance Zone	\$2,500	\$
20	16 TAC §18.11-Failure to submit a Texas Damage Reporting Form	\$2,000	\$

## §18.12 Penalty Guidelines

21	16 TAC §18.11-Failure of excavator to report pipeline damage to operator	\$2,000	\$
22	<b>Subtotal of typical penalty amounts from Table 1 (lines 1-21, inclusive)</b>		\$
23	<b>Reduction for settlement before hearing: up to 50% of line 22 amt.</b>		% \$
24	<b>Subtotal: amount shown on line 22 less applicable settlement reduction (line 23)</b>		\$
<b>Penalty enhancement amounts for threatened or actual pollution or safety hazard from Table 2</b>			
25	Bay or estuary or marine habitat	\$5,000 to \$25,000	\$
26	Pollution resulting from the violation	\$5,000 to \$25,000	\$
27	Death or personal injury	\$5,000 to \$25,000	\$
28	Impact to a residential or public area	\$5,000 to \$25,000	\$
29	Reportable incident or accident	\$5,000 to \$25,000	\$
30	Any hazard to the health or safety of the public	\$5,000 to \$25,000	\$
<b>Penalty enhancements for severity of violation from Table 2</b>			
31	The seriousness of the violation	\$5,000 to \$25,000	\$
32	<b>Subtotal: amount on line 24 plus all amounts on lines 25 through 31, inclusive</b>		\$
<b>Penalty enhancements for culpability of person charged from Table 2</b>			
33	Reckless conduct of person charged	double line 32 amt.	\$
34	Intentional conduct of person charged	triple line 32 amt.	\$
<b>Penalty enhancements for number of prior violations or warnings within past seven years from Table 3</b>			
35	One	double line 32 amt.	\$
36	More than two but fewer than five	triple line 32 amt.	\$
37	More than five but fewer than ten	four times line 32 amt.	\$
38	Ten or more	five times line 32 amt.	\$
<b>Penalty enhancements for amount of penalties within past seven years from Table 4</b>			
39	Less than \$10,000	\$1,000	\$
40	Between \$10,001 and \$25,000	\$2,500	\$
41	Between \$25,001 and \$50,000	\$5,000	\$
42	Between \$50,001 and \$100,000	\$10,000	\$
43	Over \$100,000	10% of total amt.	\$
44	<b>Subtotal: line 32 plus the amount(s) on line 33 and/or 34 plus the amount shown on any one line from 35 through line 43, inclusive</b>		\$
45	<b>Reduction for demonstrated good faith of person charged</b>		\$
46	<b>TOTAL PENALTY AMOUNT: amount on line 44 less any amount shown on line 45</b>		\$



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Call before you dig.**

811 is the federally designated call before you dig number that helps homeowners and professionals avoid damaging these underground utilities. When you make the free call to 811 a few days before you dig, you'll help prevent unintended consequences such as injury to you or your family, damage to your property, utility service outages to the entire neighborhood, and potential fines and repair costs.

[www.call811.com](http://www.call811.com)



Our mission is to serve Texas by our stewardship of natural resources and the environment, our concern for personal and community safety, and our support of enhanced development and economic vitality for the benefit of Texans.

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Texas811 is the link between your plans to dig and our member utility companies. Texas811 does not actually mark underground utilities. We notify utility companies of the planned excavation and they send locators to mark their lines.

Founded in 1984, the non-profit Texas811 is the largest one-call contact notification center in the country with more than 1,700 members. Approximately 80% of all requests to locate underground utilities in the state of Texas originate with Texas811.

Texas811 members are utility companies and municipalities who choose Texas811 to provide them notifications of planned excavations near their underground lines.

To educate excavators, emergency responders and the public, Texas811 hosts damage prevention educational events; an annual Summit, mock line strikes, locate rodeos and training sessions. Texas811 manages the largest Facebook page of any state one-call organization in the country, which helps educate the general public about underground safety.



# APWA Uniform Color Code

For Marking Underground Utility Lines



Proposed Excavation



Temporary Survey Markings



Electric Power Lines, Cables,  
Conduit and Lighting Cables



Gas, Oil, Steam, Petroleum or  
Gaseous Materials



Communication, Alarm or Signal  
Lines, Cables or Conduit



Potable Water



Reclaimed Water, Irrigation and  
Slurry Lines



Sewers and Drain Lines