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Proposed Amendments to the

# South Carolina Underground Utility Damage Prevention Act

With

## Common Ground Alliance Best Practice References

(Best Practice References are noted in blue and boxed.)

Officially formed in 2000, the CGA represents a continuation of the damage prevention efforts embodied by the [Common Ground Study](#). Sponsored by the U.S. Department of Transportation and completed in 1999, this Study represents the collaborative work of 160 industry professionals who identified best practices relating to damage prevention.

The CGA provides today's optimal forum where stakeholders can share information and perspectives and work together on all aspects of damage prevention issues. This allows the achievement of results that would otherwise be impossible. The CGA is working with industry stakeholders and regulators to produce stronger, more effective results through partnership, collaboration, and the pursuit of common goals in damage prevention.

### **Purpose**

The Purpose of the Common Ground Alliance (CGA) is to prevent damage to underground infrastructure by:

- Fostering a sense of shared responsibility for the protection of underground facilities;
- Supporting research;
- Developing and conducting public awareness and education programs;
- Identifying and disseminating the stakeholder Best Practices such as those embodied in the Common Ground Study; and,
- Serving as a clearinghouse for damage data collection, analysis, and dissemination

1 CHAPTER 35.

2  
3 UNDERGROUND UTILITY SAFETY and DAMAGE PREVENTION ACT

4  
5 SECTION 58-35-10. Short title.

6  
7 This chapter may be cited as the “Underground Utility SAFETY and Damage Prevention Act”.

8  
9 SECTION 58-35-20. Definitions.

10  
11 As used in this chapter:

12  
13 *(1) “Abandoned Facilities” – Underground or submerged line or facility no longer in use. When*  
14 *information on abandon facilities is available, they shall be located and treated as live facilities unless*  
15 *the owner/operator agrees to their destruction.*

16  
17  
18 ~~(4) “Association” means a group of public utilities or their representatives or an organization contracting~~  
19 ~~with a group of public utilities formed for the purpose of receiving and giving notice of excavation,~~  
20 ~~demolition or similar activities in the State. (See Notification Center)~~

21  
22 *(2) Common Ground Alliance – A not-for-profit corporation created pursuant to issuance of the United*  
23 *States Department of Transportation’s Common Ground Study of One Call System Best Practices.*

24  
25 (23) “Damage” includes *but is not limited to* the substantial weakening of structural or lateral support of  
26 an underground ~~utility~~ facility, penetration or destruction of protective coating, housing, or other protective  
27 device of a ~~utility~~ facility and the partial or complete severance of a ~~utility~~ facility.

28  
29  
30  
31 ~~(34)~~ “Demolish” or “demolition” means any operation by which a structure or mass of material is  
32 wrecked, razed, rendered, moved or removed by means of any tools, equipment, or discharge of  
33 explosives.

34  
35 *(5) “Design locate request” means a communication to the notification center in which a request for*  
36 *locating existing facilities for bidding, predesign, or advance planning purposes is made. A design locate*  
37 *request may not be used for excavation purposes.*

38  
39 *(6) “Emergency” means a sudden or unforeseen occurrence involving a clear and imminent danger to life,*  
40 *health, or property; the interruption of essential utility services; or the blockage of transportation facilities*  
41 *that require immediate action.*

42  
43  
44 (47) “Excavate” or “excavation” means an operation for the purpose of the movement or removal of  
45 earth, rock, or other materials in or on the ground by use of mechanized equipment or by discharge of  
46 explosives and including augering, backfilling, digging, ditching, drilling, well drilling, grading,  
47 plowing-in, pulling-in, ripping, scraping, trenching and tunneling, but not including the tilling of soil for  
48 agricultural purposes, gardening or landscaping which involves the movement of less than one cubic yard  
49 of soil or other materials.

1 (8) "Facility" means any underground line, system or facility used for producing, storing, conveying,  
2 transmitting, or distributing communication, electricity, gas, petroleum, petroleum products, hazardous  
3 liquids, water, steam or sewerage, including storm drainage.  
4

5  
6 (9) "Facility owner/operator" means any person, utility, municipality, authority, political subdivision or  
7 other person or entity who owns, operates or controls the operation of an underground line/facility.  
8

9  
10 (10) "Location of Underground facilities" (Tolerance Zone) means the space in which a facility is  
11 located and in which due care is to be taken. The location of underground facilities shall extend 18"  
12 each side of the indicated location of the facility or 18" each side of the indicated outside edge of the  
13 facility.  
14

15  
16  
17 (511) "Mechanized equipment" means equipment operated by means of mechanical power including  
18 trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows and other  
19 equipment used for plowing-in or pulling-in cable or pipe.  
20

21 (12) "Member" means a facility owner/operator that is a member of the non-profit notification center as  
22 set forth in 58-35-70.  
23

24  
25 (13) "Notification Center" means non-profit notification center, sponsored by facility owner/operators or  
26 units of local government (cities, towns and counties), that will provide for the receipt of notification of  
27 excavation operations within the state of South Carolina and will maintain a database, provided by its  
28 members that includes the geographic areas in which its members will receive transmissions of notices of  
29 proposed excavation to its members.  
30

31  
32 (614) "Person" means any individual, owner, corporation, partnership, association, or any other entity  
33 organized under the laws of any state; any subdivision or instrumentality of a state; and any authorized  
34 representative thereof.  
35

36 ~~(714) "Utility" means any underground line, system or facility used for producing, storing, conveying,~~  
37 ~~transmitting, or distributing communication, electricity, gas, petroleum, petroleum products, hazardous~~  
38 ~~liquids, water, steam or sewerage, including storm drainage.~~  
39

40 ~~(8) "Operator" means any person who owns or operates a utility.~~  
41

42 (915) "Public utility" means any organization, corporation, municipality, municipal department, authority  
43 or other association providing service to the general public or segments thereof with any type of  
44 utility facility.  
45

46 (1016) "Working day" means every day, except Saturday, Sunday and legal holidays.  
47

48 **SECTION 58-35-30.** Effect of permit on liability.  
49

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

3  
4 **SECTION 58-35-40.** Determination of location of underground utilities prior to excavation or  
5 demolition.

6  
7 Except as provided in Sections 58-35-50 and 58-35-90, no person may excavate in a street, highway,  
8 public space, a private easement of an operator, or near the location of an underground ~~utility~~ *facility*  
9 installed on the premises of a customer served by such a ~~utility~~ *facility*, or demolish a building without  
10 having first ascertained from the public utilities the location of all their underground ~~utilities~~ *facilities* in  
11 the area that would be affected by the proposed excavation or demolition.

12  
13 Prior to any excavation or demolition, the person financially responsible or the architect, engineer or  
14 designer responsible for such activities should consult with all the public utilities operating in the area and  
15 cause a detailed plan to be drawn and furnished to the entity physically doing the excavation or  
16 demolition that will show the location of all ~~utilities~~ *facilities* in accordance with the provisions of Section  
17 58-35-80.

18  
19 **SECTION 58-35-50.** Exemptions.

20  
21 Excavation is exempt from the provisions of this chapter under the following conditions:

22  
23 (a) When conducted after individual contacts with public utilities or after joint preconstruction  
24 conferences with public utilities and the person proposing the excavation or demolition has a statement in  
25 writing from all public utilities operating in the area that the proposed activity was reviewed and  
26 notification provided; or

27  
28 (b) When the Department of Transportation or a public utility is carrying out excavation or demolition  
29 entirely on and within an easement or ~~rights~~-of-way owned and controlled or controlled by that public  
30 utility or department and where no other public utility's facilities have been permitted, are existing, or are  
31 likely to exist; or

32  
33 (c) When a landowner installs or has installed facilities for his own purposes and under his direction on  
34 his own land provided: (1) he or his authorized representative has general knowledge of the location of  
35 underground utilities on his lands; and (2) the work location is remote from these utilities or facilities of a  
36 public utility serving the landowner or others.

37  
38 (d) In those localities or communities and within recognized boundaries, the Department of  
39 Transportation and public utilities are exempt if they (1) are doing minor excavations such as for  
40 replacing or setting one or two poles, digging test holes, handholes, normal roadway maintenance, or  
41 similar minor excavations, and (2) there is a local agreement between public utilities and the Department  
42 of Transportation which includes notification before excavation or demolition.

43  
44 **SECTION 58-35-60.** Notice of intent to excavate or demolish.

45  
46 (a) Except as provided in Sections 58-35-50 and 58-35-90, before commencing any excavation or  
47 demolition operation as described in Section 58-35-40, each person responsible for such excavation or  
48 demolition shall serve advance written, *electronic* or telephonic notice of intent to excavate or demolish  
49 not less than ~~three~~ *two*, but not more than ~~ten~~ *fifteen* full working days

50  
51 1.

1 ~~On each operator which has underground utilities located in the proposed area of excavation or~~  
2 ~~demolition; or~~

3 2. ~~If the proposed area of excavation or demolition is served by an association~~ *On the association notification center*  
4 provided for in Section 58-35-70, ~~on such association and on each operator which has underground~~  
5 ~~utilities in the proposed area of excavation or demolition that is not receiving the services of the~~  
6 ~~association;~~ where demolition of a building is proposed, operators shall be given reasonable time to  
7 remove or protect their underground utilities before demolition of the building is commenced.

8  
9 (b) The written, *electronic* or telephonic notice required by Section 58-35-60(a) must contain the name,  
10 address, and telephone number of the person filing the notice of intent, and, if different, the person  
11 responsible for the excavation or demolition, the starting date, anticipated duration, and type of  
12 excavation or demolition operation to be conducted, the location of the proposed excavation or  
13 demolition, and whether or not explosives are to be used.

14  
15 (c) ~~If the notification required by this section is made by telephone, an~~ adequate record of such  
16 notification shall be maintained by the operators and ~~associations~~ *notification center* notified to document  
17 compliance with the requirements of this chapter. *This record shall be made available to the person*  
18 *filing the notice of intent upon request.*

19  
20 **Reference: CGA Best Practice 3-8: Retention of Voice Records According To Applicable Statutes**

21  
22 **Practice Statement:** Voice records of all calls concerning requests to locate facilities are kept in retention  
23 according to applicable statutes.

24  
25 **SECTION 58-35-70.** Operators association for mutual receipt of notice of excavation or demolition;  
26 reports.

27  
28 (A) Operators must form and operate ~~an association~~ *a notification center* providing for mutual receipt of  
29 Section 58-35-60 notification of excavation or demolition operations in a defined geographical area. ~~An~~  
30 ~~association~~ *A notification center* that provides this service on behalf of operators having utilities within  
31 South Carolina must file with the South Carolina Public Service Commission the telephone number and  
32 address of the ~~association~~ *notification center*, a description of the geographical area served by the  
33 ~~association~~ *notification center*, and a list of the names and addresses of each operator receiving this service  
34 from the ~~association~~ *notification center*. *The notification center shall be governed by a board of directors*  
35 *composed of underground utility safety and damage prevention stakeholders that includes, but is not*  
36 *limited to: facility owner/operators, road builders, municipal utility contractors, home builders, contract*  
37 *locators, municipal representatives, design/engineering professionals licensed to do business in South*  
38 *Carolina. Stakeholder representatives other than facility owner/operators shall be appointed to the*  
39 *board by the SC Legislature.*

40  
41 **Reference: CGA Best Practice 3-4: One Call Center Governance**

42  
43 **Practice Statement:** The one call center is governed by a board of directors representing the diverse  
44 makeup of the constituent groups, for example facility owners/operators, designers,  
45 contractors/excavators, and government.

46  
47 **CGA Best Practice 7-2 Incentive - One Call Center Board of Directors:** Boards are composed of  
48 representatives of all stakeholders. Representation of all stake holders in the governance of the one call  
49 center (although not necessarily in the administration of the one call center) assures that the viewpoint of  
50 all stakeholders will be -considered in the policies and programs of the one call center.

1 (B) The ~~association~~*notification center* must file with the Chairman of the House of Representatives  
2 Labor, Commerce and Industry Committee and the Chairman of the Senate Judiciary Committee not later  
3 than April fifteenth of each year, a report covering the activities and operations of the ~~association~~  
4 *notification center* for the preceding calendar year including, but not limited to, information reflecting:  
5 average speed of answer; abandoned call rate; transmit times; total number of locate requests; total  
6 number of transmissions; and a disaster recovery plan. *The aforementioned legislative Committees shall*  
7 *have oversight authority over the notification center or assign such authority to the appropriate State*  
8 *entity.*

9  
10 (C) ~~No operator is required to join an association.~~ *Every facility owner/operator must be a member of the*  
11 *Notification Center. Facility owner/operator failing to become a member of a notification center will be*  
12 *unable to recover any cost associated with damage to their facilities.*

13  
14  
15  
16 **SECTION 58-35-80.** Information to be supplied by *facility owner*/operators.

17  
18 Each operator or designated representative, including ~~an association~~*the notification center* established in  
19 accordance with Section 58-35-70, notified in accordance with Section 58-35-60, shall, *within two*  
20 *working days from the time of the notification to the Notification Center* ~~not less than one working day in~~  
21 ~~advance of the proposed excavation or demolition~~, unless another period is provided by agreement  
22 between the person responsible for the excavation or demolition and the operator or designated  
23 representatives, supply, ~~by use of maps or other appropriate means~~, the following information to the  
24 person responsible for the excavation or demolition *in accordance with Common Ground Alliance*  
25 *Guidelines for Operator's Facility Field Delineation:*

26  
27 **References: CGA Best Practice's Appendix B: Uniform Color Code & Marking Guidelines**

28  
29 (1) The ~~approximate~~ location and description of all of its underground ~~utilities~~*facilities* which may be  
30 damaged ~~as a result of~~ *in the proposed area of* excavation or demolition;.

31  
32 (2) The location and description of all ~~utility~~*facility* markers indicating the approximate location of the  
33 underground ~~utilities~~*facilities*;

34  
35 (3) Any other information that would assist that person in locating and thereby avoiding damage to the  
36 underground utilities ~~including providing adequate temporary markings, when necessary, indicating the~~  
37 ~~approximate location of the underground utility in locations where permanent utility markers do not exist.~~  
38 For the purposes of this section the approximate location of underground utilities is defined as a "strip of  
39 land at least ~~five~~*three* feet wide, but not wider than the width of the utility plus ~~two and one-half feet~~*18*

40 *inches* on either side of the utility."  
41  
42 **Reference CGA Best Practices 5-19: Excavation Tolerance Zone**

43  
44 **Practice Statement:** The excavator observes a tolerance zone which is comprised of the width of the  
45 facility plus 18" on either side of the outside edge of the underground facility on a horizontal plane.

46  
47 (4) *Each facility owner/operator, either upon determining that no utility facility is present on the tract or*  
48 *parcel of land or upon completion of the designation of the location of any facilities on the tract or parcel*  
49 *of land as required by 58-35-80 (1), (2), (3), shall provide this information to the notification center and*  
50 *the information shall be made readily available to the excavator.*

1 **Reference: CGA Best Practice 4-9: Positive Response Is Provided To Facility Locate Requests.**

2  
3 **Practice Description:** All facility locate requests result in a positive response from the facility  
4 owner/operator to the excavator. A positive response may include one or more of the following: markings  
5 or documentation left at the job site, callback, fax, or automated response system. A positive response  
6 allows the excavator to know whether all facility owners/operators have marked the requested area prior  
7 to the beginning of the excavation.  
8

9 **CGA Best Practice 5-8: Positive Response**

10  
11 **Practice Statement:** The excavator is notified by the underground facility owner/operator of the tolerance  
12 zone of the underground facility by marking, flagging, or other acceptable methods at the work site, or is  
13 notified that a no conflict situation exists. This takes place after notification from the one call- center to the  
14 underground facility owner/operator and within the time specified by state/provincial law.  
15

16  
17 *(5)The owner of an underground facility shall notify the excavator whether the facility is active or*  
18 *abandoned. For an underground facility abandoned after December 31, 2010 or covered by installation*  
19 *records prepared under section 58-35-100, subsection (a), the owner of the facility may not advise or*  
20 *represent to the excavator that a facility or portion of a facility is abandoned unless the owner has*  
21 *verified, by reference to installation records or by testing, that the facility or portion is actually*  
22 *abandoned and not merely inactive. An inactive facility shall be considered active for purposes of this*  
23 *article. For all purposes under this article, a facility owner, excavator or other person subject to this*  
24 *article may not represent that an underground facility is abandoned, or treat an underground facility as*  
25 *abandoned, unless the facility has been verified as abandoned pursuant to this subsection.*  
26

27 **Reference: CGA Best Practices 4-11: Information on Abandoned Facilities Is Provided When**  
28 **Possible.**  
29

30  
31 *(6) Locators shall be trained in applicable locating industry standards and practices no less stringent*  
32 *than the National Utility Locating Contractors Association's locator training standards and practices.*  
33 *Facility owner/operators shall maintain documentation for all locators they employ and/or contract to*  
34 *respond to notices of intent to excavate as set forth in Sec.58-35-80, (1), (2) and (3).*  
35

36 **Reference CGA Best Practice 4-5: Locators Are Properly Trained. Locator Training Is Documented.**

37  
38 **Practice Description:** Minimum training guidelines and practices are adopted for locator training. These  
39 guidelines and practices include the following:  
40

- 41 • Understanding System Design/Prints/Technology
- 42 • Understanding Construction Standards and Practices for all Types of Facilities
- 43 • Equipment Training and Techniques
- 44 • Plant Recognition Training
- 45 • Theory of Locating
- 46 • Daily Operations
- 47 • Facility Owner/Excavator Relationships and Image
- 48 • Safety Procedures Per OSHA Regulations/Federal, State/Provincial and Local Laws
- 49 • Written and Field Testing
- 50 • Field Training
- 51 • Annual Retesting.
- 52

1 The NULCA Locator Training Standards and Practices represent an accepted model within the locate  
2 industry. Documentation of all training is maintained to ensure that facility locators have been properly  
3 trained.

4  
5 Should there be no response by the operators of all the public utilities at the site within ~~three~~-two working  
6 days of telephonic notification, the person responsible for the excavation or demolition is free to proceed  
7 as though the location of all utilities had been determined as described earlier in this section.

8  
9 *(7) If a facility locator becomes aware of an error or omission in facility placement documentation when  
10 responding to a notice of intent to excavate, the facility locator shall notify the facility owner/operator  
11 and the facility owner/operator shall update their records to correct the error or omission.*

12  
13 *The notification shall include the following information:*

- 14  
15 *a) Name (and company if contracted),*  
16 *b) Contact phone number of the individual(s) submitting change,*  
17 *c) Location (either address(s) or reference points),*  
18 *d) Size and type of facility,*  
19 *e) Nature of the error or omission, and*  
20 *f) Sketch of the change in relation to the other facilities.*

21  
22  
23 **Reference: CGA Best Practice 4-2:** If A Facility Locator Becomes Aware Of An Error Or Omission, Then  
24 The Facility Locator Provides Information For Updating Records That Are In Error Or To Add New  
25 Facilities.

26  
27 **Practice Description:** During the course of a locating activity, a locator may become aware of errors or  
28 omissions. Methods are in place to notify a facility owner/operator of that error or omission. The  
29 corrections are submitted to the appropriate person or department in a timely manner. The method of  
30 notification is determined by the facility owner/operator and includes the following information:

- 31  
32 • Name (and company if contracted),  
33 • Contact phone number of the individual(s) submitting change,  
34 • Location (either address or reference points),  
35 • Size and type of facility,  
36 • Nature of the error or omission, and  
37 • Sketch of the change in relation to the other facilities.

38  
39 Omissions and errors may occur due to misdrawn records, changes during construction at the job site,  
40 repair or abandonment of facilities and delays in posting new records. Failure to note errors or omissions  
41 when found could result in damages to the facility at a later date. The 1994 NTSB Excavation Damage  
42 Prevention Workshop stated: "facility operators should be required to update maps when excavation finds  
43 errors in the mapping system."

44  
45 *(8) A facility locator shall document work completed in response to a notice of intent to excavate. The  
46 documentation shall include but not limited to all facilities marked in the area of proposed excavation.*

47  
48 **Reference: CGA Best practices 4-15:** Documentation Of Work Performed On A Locate Is Maintained.

49  
50 **Practice Description:** A facility locator always documents what work was completed on a locate request.  
51 This assists in the locate process by making a locator review what was located and then verify that all  
52 facilities within the requested area were marked. Careful documentation helps ensure that there is an  
53 accurate record of the work that was performed by the locator and helps eliminate confusion over what  
54 work was requested by the excavator.

1  
2 **SECTION 58-35-90. Facility rights-of-way placement and responsibility**  
3

4 *Facility owner/operators that operate and/or construct facilities within an easement or rights-of-way*  
5 *owned and controlled or controlled by the SC Department of Transportation shall comply with the South*  
6 *Carolina Department of Transportation’s “Policy for Accommodating Utilities on Highway Rights-of-*  
7 *Way.” Facility owner/operators shall comply with all local utility rights-of-way accommodation*  
8 *placement requirements and policies where they operate and/or construct facilities in an area under such*  
9 *jurisdictional authority.*

10  
11 **Reference: CGA Best Practices 2-6:** Follow All Applicable Codes, Statutes and Facility Owner/operator  
12 Standards

13  
14 **Practice Statement:** When planning and designing the installation of new or replacements of existing  
15 underground facilities, the designer follows all federal, state/provincial and local guidelines, codes,  
16 statutes and other facility owner/operator standards.

17  
18 **SECTION 58-35-~~90~~100. Installation records of underground facilities**  
19

20 *(1) For all new underground facilities, excluding service drops and service lines, installed after January*  
21 *1, 2011 in a public street, alley or rights-of-way dedicated to the public use, but not including any express*  
22 *or implied private property utility easement, the facility owner/operator of an underground facility shall*  
23 *prepare, or cause to be prepared, installation records of the underground facility, shall keep such records*  
24 *in its possession and shall refer to such records in locating and marking pursuant to section 58-35-80.*  
25 *Installation records shall also reflect any field notes or other indications by the installer of the facilities*  
26 *that the installation involved deviations or changes from installation standards, instructions or designs,*  
27 *including vertical and horizontal deviations, and the correction of any inaccuracies found as a result of*  
28 *locating or marking the underground facilities. Installation records of an underground facility shall*  
29 *indicate if all or a portion of the facility has been abandoned.*

30  
31 *(2) Information contained in installation records relating to the nature and location of underground*  
32 *facilities, shall be made available to persons who request same information as specified in 58-35-60 and*  
33 *who are engaged in design of construction projects involving excavation in a public street, alley or*  
34 *rights-of-way dedicated to the public use, excluding any express or implied private property utility*  
35 *easement. The owner of the underground facility may indicate any portions of the information that are*  
36 *proprietary and require the person to protect proprietary matters. The owner of the underground facility*  
37 *shall respond to such requests as specified in 58-35-80.*

38  
39 **Reference CGA Best Practice 6-16:** Detailed mapping information is collected.

40  
41 The facility owner/operator captures the following information to ensure project safety in the plan, design,  
42 construction, documentation, location, and maintenance of their longitudinal utility.

- 43  
44 1. Any new construction into the electronic mapping database at the time of installation  
45 2. The location of abandoned or sold facilities is retained in the database.  
46 3. The electronic mapping database includes the following detailed information: (see BP)  
47

48 This is universally a general practice of major pipe line and long distance telecommunication operators  
49 and railroads.

50  
51 **5-28: As-built Documentation**  
52

1 **Practice Statement:** Contractors installing underground facilities notify the facility owner/operator if the  
2 actual placement is different from expected placement.

3  
4 *(3) All facilities installed by facility owners or operators on or after January 1, 2011, shall be installed in*  
5 *a manner which will make them locatable using a generally accepted electronic locating method by*  
6 *facility owners or operators.*  
7

8 **Reference CGA Best Practice 2-5: Markers for Underground Facilities**  
9

10 **Practice Statement:** The presence and type of underground facilities are indicated by permanent above  
11 and below ground markers and material.

12  
13  
14  
15 Notice in case of emergency excavation or demolition.

16  
17 Compliance with the notice requirements of Section 58-35-60 is not required of persons responsible for  
18 emergency excavation or demolition to ameliorate an imminent danger to life, health, or property or to  
19 restore existing service. Such persons shall give, as soon as practicable, oral notice of the emergency  
20 excavation or demolition to each operator having underground utilities located in the area or to an  
21 association provided for in Section 58-35-70, that serves an operator where such excavation or demolition  
22 is to be performed and requests emergency assistance from each operator so identified in locating and  
23 providing immediate protection to its utilities. An imminent danger to life, health, or property exists  
24 whenever there is a substantial likelihood that loss of life, health, or property will result before the  
25 procedures under Sections 58-35-60 and 58-35-80 can be fully complied with.  
26  
27  
28

29 **SECTION 58-35-100110.** Additional duties of persons responsible for excavation or demolition.

30  
31 In addition to the notification requirements of Section 58-35-60, each person responsible for any  
32 excavation or demolition operation designated in Sections 58-35-40 shall:  
33

34 (1) Plan the excavation or demolition to avoid damage to or minimize interference with underground  
35 utilities in and near the construction area;  
36

37 ***(2) Excavations within the Tolerance Zone***  
38

39 *Powered or mechanized equipment, (except non-invasive equipment specifically designed or intended to*  
40 *protect the integrity of the underground facility) shall not be used within the marked tolerance zone of*  
41 *existing underground facilities until the precise location of the underground facilities has been visually*  
42 *identified by the excavator and reasonable precautions are taken to avoid any substantial weakening of*  
43 *the facilities structural/lateral support and/or penetration or destruction of the facilities or their*  
44 *protective coatings. Mechanical means may be used, as necessary, for initial penetration and removal of*  
45 *pavement or other materials requiring use of mechanical means of excavation and then only to the depth*  
46 *of such pavement or other materials.*  
47

48 *For parallel type excavations within the tolerance zone, the existing facility shall be visually identified at*  
49 *intervals not to exceed 50 feet along the line of excavation to avoid damages. The excavator shall*  
50 *exercise due care at all times to protect underground utility lines when exposing these facilities.*  
51

1 **Reference: CGA Best Practice 5-20: Excavation within Tolerance Zone**

2  
3 **Practice Statement:** When excavation is to take place within the specified tolerance zone, the excavator  
4 exercises such reasonable care as may be necessary for the protection of any underground facility in or  
5 near the excavation area. Methods to consider, based on certain climate or geographical conditions,  
6 include: hand digging when practical (pot holing), soft digging, vacuum excavation methods, pneumatic  
7 hand tools, other mechanical methods with the approval of the facility owner/operator, or other technical  
8 methods that may be developed. Hand digging and non-invasive methods are not required for pavement  
9 removal.

10  
11  
12 (23) Maintain a clearance between an underground ~~utility~~-facility and the cutting edge or point of any  
13 mechanized equipment, taking into account the known limit of control of such cutting edge or point, as  
14 may be reasonably necessary to avoid damage to such ~~utility~~facility;

15  
16 (34) Provide such support for underground utilities in and near the construction area, including backfill  
17 operations, as may be reasonably required by the operator for the protection of such utilities.

18 **SECTION 58-35-110120.** Notification required when damage done.

19  
20  
21 (a) Except as provided by Section 58-35-110(b), each person responsible for any excavation or  
22 demolition operation designated in Section 58-35-40 that results in any damage to an underground ~~utility~~  
23 facility shall, immediately upon discovery of such damage, notify the operator of such ~~utility~~-facility of  
24 the location and nature of the damage and shall allow the operator reasonable time to accomplish  
25 necessary repairs before completing the excavation or demolition in the immediate area of such  
26 ~~utility~~facility.

27 (b) Each person responsible for any excavation or demolition operation designated in Section 58-35-40  
28 that results in damage to an underground ~~utility~~-facility where *a damage (emergency) results in the escape*  
29 *of any flammable, toxic, or corrosive gas or liquid or endangers life, health, or property, the excavator*  
30 *responsible immediately notifies 911 and the facility owner/operator if known. The excavator takes*  
31 *reasonable measures to protect themselves and those in immediate danger, general public, property, and*  
32 *the environment until the facility owner/operator or emergency responders have arrived and completed*  
33 *their assessment.*

34  
35 **Reference: CGA Best Practice 5-25: Notification of Emergency Personnel**

36  
37 **Practice Statement:** If the damage results in the escape of any flammable, toxic, or corrosive gas or  
38 liquid or endangers life, health, or property, the excavator responsible immediately notifies 911 and  
39 the facility owner/operator.<sup>20</sup> The excavator takes reasonable measures to protect themselves and those  
40 in immediate danger, the general public, property, and the environment until the facility owner operator or  
41 emergency responders have arrived and completed their assessment.

42  
43 ~~such damage may endanger life, health or property, the person responsible for the work shall,~~  
44 ~~immediately upon discovery of such damage, take immediate action to protect the public and property,~~  
45 ~~notify the operator, police or fire departments and take such other actions as may be appropriate to~~  
46 ~~minimize the hazards until the arrival of the operator's personnel, police or fire departments. The~~  
47 ~~excavator shall delay any backfilling in the immediate area of the damaged utility until authorized by the~~  
48 ~~operator. Repair of any damage shall be performed by the operator or by qualified personnel authorized~~  
49 ~~by the operator.~~

50  
51 **58-35-130. Design Locate Request.**

1 *Any person may submit a design locate request to the notification center. Such design locate request*  
2 *shall:*

3 *a) Describe the tract or parcel of land for which the design locate request has been submitted with*  
4 *sufficient particularity, as defined by policies developed and promulgated by the notification center,*  
5 *to enable the facility owner/operator to ascertain the precise tract or parcel of land involved; and*  
6

7 *b) State the name, address, and telephone number of the person who has submitted the design locate*  
8 *request, as well as the name, address, and telephone number of any other person authorized to review*  
9 *any records subject to inspection.*

10  
11 *(c) Within ten working days after a design locate request has been submitted to the notification center*  
12 *for a proposed project, the facility owner/operator shall respond by one of the following methods:*

13  
14 *(1) Designate in accordance with 58-35-80 the location of all facilities within the area of the*  
15 *proposed excavation or;*

16 *(2) Provide to the person submitting the design locate request the best available description*  
17 *of all facilities in the area of proposed excavation, which might include drawings of*  
18 *facilities already built in the area, or other facility records that are maintained by the*  
19 *facility owner/operator; or*

20 *(3) At an acceptable location, allow the person submitting the design locate request or any*  
21 *other authorized person to inspect or copy the drawings or other records for all facilities*  
22 *within the proposed area of excavation.*

23 *(4) A facility owner/operator may reject a design/survey locate request based on homeland*  
24 *security pending additional information confirming the legitimacy of the request. The*  
25 *owner/operator must notify the person making the request of the denial and request*  
26 *additional information within the time frame set forth in 58-35-80.*

27 **Reference: CGA Best Practice 3-15: One Call Center Accepts Notifications from Designers**

28 **Practice Statement:** The one call center accepts design requests and has the ability to process them as  
29 designated by the facility owners/operators.

30  
31 ***58-35-140. South Carolina Underground Utility Safety and Damage Prevention Board.***  
32

33 *a) The South Carolina Underground Utility Safety and Damage Prevention Board is hereby created*  
34 *by the South Carolina State Legislature. The Board shall assist in the enforcement of this*  
35 *chapter, and shall perform duties including, but not limited to, the review of reported violations*  
36 *of this Act, and determining appropriate penalties to impose on persons violating the provisions*  
37 *of this chapter. Such steps shall include education of and the enforcement of this Act.*  
38

39 *1. The Board shall consist of 13 members appointed by the SC Legislature. Board Members*  
40 *shall serve 4 year staggered terms, and shall be compensated reasonable expense as*  
41 *determined by the Board. Business Members shall be representatives of companies*  
42 *licensed to do business in the state of South Carolina. The Board shall consist of:*

43  
44 *1 SC Department of Transportation Representative*  
45 *1 SC Department of Labor Representative*  
46 *1 Facility Contract Locator Representative*  
47 *1 Notification Center Representative*

- 1 *1 Electric Utility Company Representative*
- 2 *1 Telecommunications Company Representative*
- 3 *1 Natural Gas Utility Representative*
- 4 *1 Hazardous Liquid Pipeline Company Representative*
- 5 *1 Municipal Representative*
- 6 *1 Licensed Highway Contractor Representative Who Does Not Own or Operate Facilities*
- 7 *1 Licensed Public Utility Contractor Representative Who Does Not Own or Operate*
- 8 *Facilities*
- 9 *1 Licensed Building Contractor Representative Who Does Not Own or Operate Facilities*
- 10 *1 Other Excavator Representative Who Does Not Own or Operate Facilities*

- 11
- 12 *2. The Board shall, by consensus of the full Board, adopt guidelines for penalties and other*
- 13 *methods of enforcement for violations of the various articles of this chapter. The*
- 14 *penalties and enforcement, within the above established guidelines, shall be subject to a*
- 15 *2/3 majority of the quorum present at the hearing during which the violation is*
- 16 *confirmed.*
- 17
- 18 *3. The Board shall meet quarterly, in SC and shall publish records of business conducted,*
- 19 *measures taken, and progress made in reducing underground damage.*
- 20
- 21 *4. A quorum of the Board shall be at least 51% of the membership of the Board*
- 22
- 23 *5. The members of the Board shall be immune, individually and jointly, from civil liability*
- 24 *for any act or omission done or made in the performance of their duties while serving as*
- 25 *members of such Board, but only in the absence of willful misconduct.*
- 26

27 *b) Failure to comply with this chapter may be reported to the Board. A complaint shall be by*

28 *written notice of alleged violation.*

29

- 30 *1. Any person reporting an alleged violation subject to penalties may file a complaint to the*
- 31 *Board in the following manner:*
- 32
- 33 *a) Submit a “cost to file” deposit, as determined by the Board, along with details of*
- 34 *the alleged violation on the required complaint form.*
- 35
- 36 *b) A complaint must be filed within 90 calendar days from the date of an alleged*
- 37 *violation, or discovery an alleged violation.*
- 38
- 39 *c) The Board will provide a copy of the complaint to the alleged violator within ten*
- 40 *(10) calendar days of receipt of the complaint by registered mail. The alleged*
- 41 *violator has 30 calendar days to respond to the complaint.*
- 42
- 43 *d) At a scheduled meeting the Board shall determine if a violation has occurred, and*
- 44 *render a decision of the alleged violation. Either party to the complaint may*
- 45 *request a hearing before the Board.*
- 46
- 47 *e) The non-prevailing party will be required to reimburse or relinquish the cost to file*
- 48 *and pay the appropriate fine/penalty levied by the Board. The cost to file will be*
- 49 *retained for expenses of the Board. Penalties collected shall be remitted as*
- 50 *directed by the State Legislature*
- 51

1 **Reference: CGA Best Practice 7-5, Enforcement**

2  
3 **A. Authority**

4  
5 **Practice Statement:** An authority is specified through state statutes and given the resources to enforce  
6 the law.

7  
8 **B. Structured Review Process**

9  
10 **Practices Statement:** A structured review process is used to impartially adjudicate alleged violations.

11  
12 **SECTION 58-35-120150.** Penalties; actions; effect on civil remedies.

13  
14 Any person who violates any provision of this chapter shall be subject to a civil penalty not to exceed one  
15 thousand dollars for each such violation. Actions to recover the penalty provided for in this section shall  
16 be brought by the ~~attorney general~~ **South Carolina Underground Utility Safety and Damage Prevention**  
17 **Board** at the request of the injured party ~~in the proper forum in and for the county in which the cause, or~~  
18 ~~some part thereof, arose or in which the defendant has its principal place of business or resides.~~ All  
19 penalties recovered in any such actions shall be paid into the general fund of the State. This chapter does  
20 not affect any civil remedies for personal injury or property damage except as otherwise specifically  
21 provided for in this chapter. The penalty provisions of this chapter are cumulative to and not in conflict  
22 with any provisions of law with respect to civil remedies for personal injury or property damage.  
23

24 **Reference: CGA Best Practice 7-3: Penalties**

25  
26 **Practice Statement:** Compliance programs include penalties for violations of the damage prevention  
27 laws or regulations.

28  
29 **A penalty system** includes education as an alternative or supplement to civil or other penalties.

30 **A penalty system** also uses a tiered structure to distinguish violations by the level of severity or repeat  
31 offenses (e.g., warning letters, mandatory education, civil penalty amounts).

32 **A penalty system** also establishes mitigating and aggravating factors for determining the penalty for a  
33 violation by statute or regulation.

34 **A penalty system** does not allow any violator or class of violators to be shielded from the consequences  
35 of a violation (i.e., all stakeholders should be accountable).

36  
37 **SECTION 58-35-160 Recovery of Damages**

38  
39  
40 *(a) If a violation of this article results in physical contact with an underground facility, the violator is*  
41 *liable to the owner of the facility for actual damages to the facilities.*

42  
43 *(b) If the owner or operator fails to locate or incorrectly locates the underground facility, pursuant to*  
44 *this article, the owner or operator becomes liable for resulting damages, costs and expenses to the*  
45 *injured party.*

46  
47 *(c) If, after receiving proper notification, the Notification Center fails to discharge its duties,*  
48 *resulting in damage to an underground facility, the system, if found liable, shall be liable to all*  
49 *parties, as defined in this act.*

50  
51 **Reference: CGA Best Practice 7-4: Damage Recovery**

52  
53 **Practice Statement:** State damage prevention laws and regulations recognize the right to recover  
54 damages and costs resulting from noncompliance.

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3  
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7  
8  
9  
10

*(1) This section is not applicable to an excavation made:*

*(a) During an emergency which involves danger to life, health or property if reasonable precautions are taken to protect underground facilities.*

*(b) With hand tools on property owned or occupied by the person performing the excavation while gardening or tilling such property.*