



Oregon

Tina Kotek, Governor

Oregon Utility Notification Center
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(503) 232-1987

Oregon Administrative Rules Committee Meeting
Date: Tuesday, April 4, 2023
Time: 4 – 5 p.m.

Join Zoom Meeting

<https://us06web.zoom.us/j/81295269463?pwd=bmFwdEs4L2tkOUZyOXBiMnVwS091QT09>

Meeting ID: 812 9526 9463 | Passcode: 830017

A G E N D A

1. Announcements and Introductions

- a. Announcements and Guest sign-in
- b. Review/approve and/or amend prior Meeting Minutes from 12.14.22
- c. Comments from the Chair
 - i. Clarification of ticket language “Status – Does not participate”
 - ii. Consolidation of proposed rule changes for rulemaking process efficiency

2. OAR Committee Updates on Rulemaking Process

- a. OAR 952-001-0050 (2) – relating to non-invasive excavation within a defined enclosure

Existing language: The notice requirement of section (1) of this rule does not apply if the excavation is in response to an emergency, or if all of the following apply:

- (a) The excavator is a tenant or an owner of private property;
- (b) The excavation is on private property of that owner or tenant;
- (c) The excavation is less than 12 inches in depth; and
- (d) The excavation is not within an established easement.

Proposed language: The notice requirement of section (1) of this rule does not apply if the excavation is in response to an emergency, **is made with non-invasive tools within a defined enclosure (i.e. valve and meter boxes and vault(s) that does not exceed the depth of the structure,** or if all of the following apply:

- (a) The excavator is a tenant or an owner of private property;
- (b) The excavation is on private property of that owner or tenant;
- (c) The excavation is less than 12 inches in depth; and
- (d) The excavation is not within an established easement.

3. Old Business

- a. OAR Committee Review of Proposed Rulemaking
 - i. OAR 952-001-0010 (10) – defining ‘large area’

Existing language: “Large area” means a proposed excavation requiring more work or time to locate utility facilities than can reasonably be completed within the parameters of section (1) of 952-001-0050.

Proposed language: “Large area” means **a project that exceeds seven hundred fifty linear feet.**

Alternative Proposed language: “Large area” means a proposed excavation requiring more work or time to locate utility facilities than can reasonably be completed within the parameters of section (1) of 952-001-0050 or 952-001-0080.

- ii. OAR 952-001-0040 – amending language for requiring excavators to pre-mark all proposed excavation in white paint.

Existing language: (1) Except as provided in section (2) of this rule, prior to notifying the Oregon Utility Notification Center, an excavator must pre-mark with the color white the immediate area of the proposed excavation within both the public rights-of-way and underground easements.

(2) An excavator need not pre-mark as required in section (1) of this rule if:

- (a) The operator can determine precisely the direction, length and location of the proposed excavation by referring to a locate ticket; or
- (b) Before the beginning of the proposed project, the excavator and the operator met at the construction site to exchange the information required under section (1) of this rule.

Proposed language: (1) Except as provided in section (2) of this rule, prior to notifying the Oregon Utility Notification Center, an excavator must pre-mark with the color white the immediate area of the proposed excavation within both the public rights-of-way and underground easements.

(2) An excavator need not pre-mark as required in section (1) of this rule if:

- (a) Before the beginning of the proposed project, the excavator must communicate directly with the operators to ensure that the boundary of the excavation area is accurately identified; or
- (b) Before the beginning of the proposed project, the excavator and the operator met at the construction site to exchange the information required under section (1) of this rule.

Alternative Proposed language: Prior to notifying the Oregon Utility Notification Center, it is the excavators/homeowner/contractor's responsibility to mark the perimeter of the area to be excavated with the color white paint.

In the event of adverse weather conditions, a wooden stake painted with white on the top 6” shall be used. The work area shall be designated directly on the ground. Marking with string and any other means is not recognized.

In the event that white paint or stakes are not present, the locate request is considered null and void.

- iii. OAR 952-001-0080 – amending rule to provide for design information review

Existing language: (1) Within 10 business days after a designer notifies the Oregon Utility Notification Center of a proposed project, the operator of the underground facilities must:

- a. Mark within 24 inches of the outside lateral dimensions of both sides of all of its locatable underground facilities within the area of proposed excavation. All marks must indicate the name, initials or logo of the operator of the underground facilities, and the width of the facility if it is greater than 2 inches;
- b. Provide the excavator the best description available to the operator of the unlocatable underground facilities in the area of the proposed excavation including as-constructed drawings, or other facility maps that are maintained by the facility operator; or
- c. Contact the person requesting design information and agree on a time, prior to the beginning of the proposed project, for exchange of the information required under subsection (a) or subsection (b) of this section of this rule.

(2) If a designer intends to perform work at multiple sites or over a large area, the designer must take reasonable steps to work with the facility operators, including

preconstruction meetings, so that the operators may locate their facilities at a time reasonably in advance of the actual start of survey or design for each phase of work.

Proposed language: (1) Within 10 business days after a designer notifies the Oregon Utility Notification Center of a proposed project, the operator of the underground facilities must:

- a. Mark within 24 inches of the outside lateral dimensions of both sides of all of its locatable underground facilities within the area of proposed excavation. All marks must indicate the name, initials or logo of the operator of the underground facilities, and the width of the facility if it is greater than 2 inches;
 - b. Provide the excavator the best description available to the operator of the unlocatable underground facilities in the area of the proposed excavation including as-constructed drawings, or other facility maps that are maintained by the facility operator; **or**
 - c. **Providing copies of the best reasonably available records by electronic message, mail, facsimile, or other delivery method. (RCW 19.122.030 (4)(b)(iii))**
 - d. Contact the person requesting design information and agree on a time, prior to the beginning of the proposed project, for exchange of the information required under subsection (a) or subsection (b) of this section of this rule.
- (2) If a designer intends to perform work at multiple sites or over a large area, the designer must take reasonable steps to work with the facility operators, including preconstruction meetings, so that the operators may locate their facilities at a time reasonably in advance of the actual start of survey or design for each phase of work.

Alternative Proposed language: (1) Within 10 business days after a designer notifies the Oregon Utility Notification Center of a proposed project, the operator of the underground facilities must:

- a. Mark within 24 inches of the outside lateral dimensions of both sides of all of its locatable underground facilities within the area of proposed excavation. All marks must indicate the name, initials or logo of the operator of the underground facilities, and the width of the facility if it is greater than 2 inches;
- b. Provide the excavator the best description available to the operator of the **unlocatable** underground facilities in the area of the proposed excavation including as-constructed drawings, or other facility maps that are maintained by the facility operator; **or**
- c. Contact the person requesting design information and agree on a time, prior to the beginning of the proposed project, for exchange of the information required under subsection (a) or subsection (b) of this section of this rule.

- b. OAR Committee Review of Changes to Oregon Revised Statutes
 - i. ORS 757.552.(2)(c) – remove outdated reference to 1995 Standards Manual

Existing language: (c) Adopt rules according to ORS chapter 183 that regulate the notification and marking of underground facilities to prevent damage to underground facilities. The rules, insofar as is practicable, shall be consistent with the Oregon Utilities Coordinating Council Standards Manual of March 31, 1995.

Proposed language: (c) Adopt rules according to ORS chapter 183 that regulate the notification and marking of underground facilities to prevent damage to underground facilities. ~~The rules, insofar as is practicable, shall be consistent with the Oregon Utilities Coordinating Council Standards Manual of March 31, 1995.~~

- ii. ORS 757.552(4) – remove all exemptions to participation in the Oregon Utility Notification Center rates.

Existing language: (4) Notwithstanding subsection (2)(b) of this section, the board of directors shall not establish rates or other charges that require payments from any subscriber who receives fewer than 50 telephone calls in the calendar year or that result in annual payments of more than \$500 for any of the following subscribers:

- (a) Cities with a population under 15,000;

- (b) Telecommunications utilities serving fewer than 50,000 access lines and regulated by the Public Utility Commission under ORS chapter 759;
- (c) Cable system operators serving fewer than 15,000 customers;
- (d) Utilities, special districts, people's utility districts or authorities providing electricity, water or sanitary sewer service to fewer than 15,000 residential customers; and
- (e) Telecommunications cooperatives.

Proposed language: ~~(4) Notwithstanding subsection (2)(b) of this section, the board of directors shall not establish rates or other charges that require payments from any subscriber who receives fewer than 50 telephone calls in the calendar year or that result in annual payments of more than \$500 for any of the following subscribers:~~

- ~~(a) Cities with a population under 15,000;~~
- ~~(b) Telecommunications utilities serving fewer than 50,000 access lines and regulated by the Public Utility Commission under ORS chapter 759;~~
- ~~(c) Cable system operators serving fewer than 15,000 customers;~~
- ~~(d) Utilities, special districts, people's utility districts or authorities providing electricity, water or sanitary sewer service to fewer than 15,000 residential customers; and~~
- ~~(e) Telecommunications cooperatives.~~

4. New Business

- a. OAR 952-001-0100 – Relating to record keeping for abandoned facilities (Kyle Thomas)
- b. Creating a damage ticket (Melanie Lewis)
- c. Reducing 45-day ticket life (Jaimie Lemke)
- d. Define noninvasive tools (Jaimie Lemke)
- e. Review exemptions for sidewalk and road maintenance referenced in OAR 952-001-0010 (22) and ORS 757.542(3) (Jaimie Lemke)
- f. Requiring new utilities to be locatable (Jaimie Lemke)
- g. Review effective enforcement for dig law violations (Jaimie Lemke)

5. For the Good of the Order

6. Next Meeting: tbd