

10. WYOMING STATE LAW

TITLE 37 Public Utilities

CHAPTER 12

ARTICLE 3. DAMAGE TO UNDERGROUND PUBLIC UTILITY FACILITIES

§ 37-12-301. Short title; definitions.

- (a) This act may be known and shall be cited as the "Wyoming Underground Facilities Notification Act."
- (b) As used in this act:
- (i) "Business day" means any twenty-four (24) hour period other than Saturday, Sunday or legal holiday;
 - (ii) "Emergency" means an occurrence, including a loss of communications, which demands immediate action to protect the health, safety and welfare of the public and to prevent loss of life, health, property or essential public services. "Emergency" shall include ruptures and leakage of pipelines, explosions, fires and similar instances where immediate action is necessary to prevent loss of life or significant damage to underground facilities or the environment;
 - (iii) "Excavation" means any operation in which earth, rock or other material on or below the ground is moved or otherwise displaced by means of power tools, power equipment or explosives, and includes grading, trenching, digging, ditching, drilling, augering, tunneling, scraping and cable or pipe installing, except tilling of soil and gardening or agricultural purposes;
 - (iv) "Impoundment" means a closed basin formed naturally, or artificially built, which is dammed or excavated for the retention of water, slurry or other liquid or semi liquid material;
 - (v) "Notification center" means a center that receives notice from excavators of planned excavation or other requests for location and transmits this notice to participating operators;
 - (vi) "Person" means an individual, partnership, municipality, state, county, political subdivision, utility, joint venture, corporation, limited liability company, statutory trust or other business entity and includes the employer of an individual;
 - (vii) "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 (1) or more gates that are locked at all times or monitored by a person who can prevent unauthorized access;
 - (viii) "Sump" means a surface pit into which drilling mud flows on reaching the surface of the well after being pumped through the drill pipe and bit, then up through the annular opening between the walls of the hole and the drill pipe, carrying with it cuttings from the well, which settle out of the mud in the sump

pits;

- (ix) "Underground facility" means any item of personal property buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cable television, electric energy, oil, gas, hazardous liquids or other substances and including but not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes and attachments;
- (x) "This act" means W.S. 37-12-301 through 37-12-305.

§ 37-12-302. Notice of excavation by excavator; information to be supplied upon notice; exceptions; penalty.

(a) Every person having the right to bury underground facilities shall file with the notification center a general description of the area served together with the name, address and telephone number of the person from whom necessary information may be obtained concerning the location of underground facilities.

(b) Any person requiring excavation or design for excavation shall obtain information from persons with underground facilities, as to the nature, location, and depth if known, of underground facilities. If the information is not available, the person requiring excavation shall determine at their expense the nature and location of the underground facilities. The person requiring excavation shall make the information and location a part of the plan by which the excavators operate. This subsection shall not apply to underground facility owners performing excavation on their own underground facilities.

(c) Except as hereafter provided, no person shall make or begin excavation without first notifying any person having underground facilities in the area of the proposed excavation. Notice shall be given by any electronic medium or in person at least two (2) full business days, but not more than fourteen (14) business days prior to any excavation to the notification center pursuant to W.S. 37-12-304. Unless the location marks are still visible, if an excavation on a single project lasts more than fourteen (14) business days, the excavator shall give notice at least once each succeeding fourteen (14) business day period. Notice to the notification center is notice to each member thereof in the area. Notification of the following information to the notification center shall be required and shall include the:

- (i) Name of the person notifying the system;
- (ii) Name, address and telephone number of the excavator;
- (iii) Specific location, starting date and description of the intended activity.

(d) A person shall at their expense, upon receipt of the notice provided for in subsection (c) of this section, mark the location of the facilities with stakes, paint or by other clearly identifiable marking within twenty-four (24) inches horizontally from the exterior sides of the underground facilities. The location shall be marked using American Public Works Association color standards. If requested by the excavator, the person receiving the notice shall advise the excavator of the nature, location, size, function and

depth if known, of underground facilities in the proposed excavation area. The person providing information shall respond no later than two (2) full business days after receipt of the notice or at a time mutually agreed to by the parties.

(e) Emergency excavations are exempt from the time constraints of the provisions of subsections (c) and (d) of this section.

(f) If information requested pursuant to subsections (c) and (d) of this section is not provided within the time specified therein, or if the information provided fails to identify the location of the underground facilities in accordance with subsection (d) of this section, then any person damaging or injuring underground facilities shall not be liable for such damage or injury except on proof of negligence. However, if information requested pursuant to subsections (c) and (d) of this section is provided within the time specified therein, and if the information provided sufficiently identifies the location of the underground facilities in accordance with subsection (d) of this section, then any person damaging or injuring underground facilities shall be liable for all damage or injury to persons or property.

(g) Compliance with this section does not excuse a person from acting in a careful and prudent manner nor does compliance with this section excuse a person from liability for damage or injury for failure to so act.

(h) When any contact with or damage to any underground facility occurs, the excavator shall immediately inform the operator of the facility.

(j) Any person who causes damage to any underground facility by knowingly and willfully violating any provision of this act is subject to a civil penalty of an amount not to exceed five thousand dollars (\$5,000.00). An action may be brought by the attorney general, district attorney or county attorney for enforcement of the civil penalty pursuant to this section. This subsection shall not apply to any governmental entity as defined by W.S. 1-39-103(a)(i), which participates in a notification center as provided by this act. Nothing in this subsection shall affect any provision of the Wyoming Governmental Claims Act, W.S. 1-39-101 through 1-39-120. Any civil penalty received under this section shall be deposited into the county public school fund of the county in which the violation occurred.

(k) Any person who shall make or begin excavation without complying with the provisions of this act and whose excavation causes injury or damage to an underground facility, shall be liable for all damages, including personal injury and property damages, caused by the excavation. This liability for damages is in addition to any penalty that may be imposed under subsection (j) of this section.

§ 37-12-303. Repealed by Laws 1996, ch. 113, § 3.

§ 37-12-304. Notification centers; formation; duties.

(a) Persons having underground facilities shall join the notification center and shall participate in the notification center providing for mutual receipt of notification of excavation activities in a specified area and pay their share of the cost for the service provided.

(b) The notification center shall:

- (i) File with the county clerk the statewide toll-free telephone number;
- (ii) Maintain adequate records documenting compliance with the requirements of this act, including the following:
 - (A) Records of all telephone calls and other notifications received electronically;
 - (B) Records of all location requests which shall be retained for fifty (50) months and can be printed through use of a unique file numbering system developed by the notification center.
- (iii) Provide the service at a minimum during normal business hours, Monday through Friday, excluding legal holidays;
- (iv) For calls received after normal business hours for the notification center, provide a recording for callers which explains emergency notification and excavation procedures;
- (v) Provide a timely method for notifying participating members of the information received regarding proposed excavation activities. The method of notification shall be determined by each notification system;
- (vi) Upon request, provide to persons giving notice of an intent to engage in an excavation activity the names of participating operators of underground facilities to whom the notice will be transmitted;

§ 37-12-305. Exemptions.

- (a) The following oil and gas production facilities are not subject to this act:
 - (i) Aboveground or underground storage tanks, sumps, impoundments or piping connected to aboveground or underground storage tanks, sumps or impoundments located in the same tract of land as the storage tanks, sumps or impoundments;
 - (ii) Underground production facilities operated by the owner of a secured facility which are located entirely within the secured facility;
 - (iii) Piping within a well bore;
 - (iv) Underground facilities which are located on a production lease or unit and which are operated by a person:
 - (A) Who owns, in whole or in part, the mineral lease rights to that production lease or unit; and
 - (B) Who operates the underground facility only for their own use.
- (b) An underground facility which extends beyond the boundaries of a production lease or unit is exempt only for that portion of the facility which is located within the boundaries of the lease or unit.
- (c) An underground facility which contains gas or hazardous liquid shall not be exempted under the provisions of this act as provided by paragraph (a)(iv) of this section if the facility is located within the boundaries of, or within one-eighth (1/8) of a mile of, an incorporated or unincorporated city or town, or any residential or commercial area, subdivision, business or shopping area, community development or any similarly populated area, or on an established surface or underground easement, or if it contains

more than one hundred (100) parts per million of hydrogen sulfide.

(d) Underground facilities located on private property owned by and existing for the exclusive use of that private property owner are exempt from the provisions of this act.

(e) Private domestic water and sewer lines located outside any incorporated area and serving five (5) or fewer service hook-ups private irrigation and drainage lines and ditches, irrigation district and drainage district lines and ditches, and private livestock water pipelines and facilities are exempt from the provisions of this act

(f) Nothing in this section shall prohibit an operator of an underground facility which is exempted under this section to voluntarily register that facility under this act.

(g) Underground facilities operated by the owner of a secured facility which are located entirely within the secured facility are exempt from the provisions of this act.