

MISS DIG System, Inc.  
3285 Lapeer West Road  
Auburn Hills, MI 48326



**Know what's below.  
Call before you dig.**

[www.missdig.org](http://www.missdig.org)

# One Call Excavation Handbook



**Three full working days before you dig,  
call the MISS DIG System.  
Our member utilities will mark the approximate location  
of their underground public utility facilities at no charge.**



## **NOTICE OF DISCLAIMER**

THIS GUIDE IS FOR INFORMATIONAL PURPOSES ONLY. THE MISS DIG SYSTEM INFORMATION IS INCLUDED FOR YOUR CONVENIENCE. WE HAVE HIGHLIGHTED SOME AREAS OF PUBLIC ACT 174. IT IS YOUR RESPONSIBILITY TO KNOW AND COMPLY WITH THE CURRENT PROVISIONS OF PUBLIC ACT 174 IN ITS ENTIRETY, INCLUDING MODIFICATIONS MADE SUBSEQUENT TO THIS WRITING.

SOME OR ALL OF THE METHODS OR PROCEDURES DESCRIBED MAY NOT BE APPLICABLE OR APPROPRIATE FOR USE BY YOUR ORGANIZATION, IN ANY EVENT, AND REGARDLESS OF ERRORS, INACCURACIES, OR OMISSIONS IN ANY INFORMATION IN THIS GUIDE, MISS DIG SYSTEM, INC. ASSUMES NO LIABILITY OF ANY KIND ARISING IN ANY MANNER OUT OF ANY USE OF OR RELIANCE UPON THIS INFORMATION BY YOU OR ANYONE IN YOUR ORGANIZATION, INCLUDING, BUT NOT LIMITED TO, ANY LIABILITY FOR ANY INJURY TO PERSONS OR ANY DAMAGE TO PROPERTY.

Published by MISS DIG System, Inc.  
2014

MISS DIG System, Inc.  
3285 Lapeer West Road  
Auburn Hills, Michigan 48326  
(248) 370-6400 Administration Office



## **TABLE OF CONTENTS**

PREFACE

FREQUENTLY ASKED QUESTIONS

TYPES OF CALLS HANDLED BY MISS DIG

- Three (3) Full Working Day Notice
- Emergency Notice
- Additional Assistance
- Re-Marking Requests

PREPARING A LOCATION REQUEST FOR MISS DIG

WHAT HAPPENS AFTER A REQUEST IS MADE?

RESPONSIBILITIES OF THE EXCAVATOR

PERMANENT UTILITY MARKERS

HOW TO RECOGNIZE A GAS LEAK

IF YOU MAKE CONTACT WITH A FACILITY

WHAT TO DO IF YOU DAMAGE A PIPELINE

EVACUATION

DAMAGE REPAIRS

ONLINE TOOLS

ENFORCEMENT

PUBLIC ACT 174

## PREFACE

This publication has been prepared for Michigan's excavators as a reference tool for interacting with the MISS DIG System, Inc. We recommend that you give a copy of this manual to all employees who regularly contact MISS DIG. Familiarity with its content is essential to successful communication between operator and caller. We suggest that you keep this manual on hand for future reference when questions or problems arise.

We do not have a copyright on the material in this booklet. We encourage you to copy part or all of it for fellow employees. If you need extra copies, contact MISS DIG System, Inc.

(NOTE: The contents of this manual are subject to change without notice.)

## FREQUENTLY ASKED QUESTIONS (FAQ's)

**Q:** *What is MISS DIG?*

**A:** MISS DIG is Michigan's statewide one-call notification system that was developed in order to provide excavators and the general public the ability to inform multiple owners of underground facilities of excavation with a single call.

MISS DIG is a not-for-profit independent company that processes information from excavators and passes that information on to affected utilities. MISS DIG does not locate buried facilities in the field.

**Q:** *Do I have to call before I dig?*

**A:** Michigan's statute, Public Act 174 of 2013, requires anyone who engages in or is responsible for the planning or performance of any type of excavation e.g.: grading, demolition, cultivating, augering, blasting, or boring (See state statute in back of manual) to provide advance notice of at least three full working days to MISS DIG at **800-482-7171, 811 or by using on of MISS DIG's online ticket creation programs, which can be found at [www.missdig.org](http://www.missdig.org)**. The call center is open 24 hours a day, 365 days a year to take ticket requests. MISS DIG must be contacted prior to excavation in order to comply with the state statute. You must, however, contact the utility company directly in the event of a utility line damage. MISS DIG does not process that type of information.

**Q:** *How soon can I dig once the locate request has been placed?*

**A:** It is very important to wait until the legal start date and time assigned. Beginning work earlier can result in forfeiture of your rights and protections granted under Michigan statute, Public Act 174 of 2013. MISS DIG will issue the earliest legal start date possible, usually three business days after you contact MISS DIG.

**Q:** *How long is a locate request valid?*

**A:** A ticket remains valid for 21 calendar days after the legal dig start date requested on the MISS DIG ticket. It is, however, the excavator's responsibility to get the marks refreshed when needed. A ticket becomes invalid only if the work continues past 21 calendar days, *or* the locate marks are missing or need refreshing.

In certain situations, MISS DIG may issue a project ticket that will remain valid for 180 calendar days.

## FAQ's (cont.)

**Q:** *When should I request a re-mark?*

**A:** You may request a re-mark after an original locate request ticket has been placed and one of the following conditions exists:

- Missing or disturbed locate markings.
- Work did not begin on the legal start date.
- Work was interrupted for several days.

The original ticket number is required to obtain a re-mark. If the original ticket is invalid, it will take three more business days for the re-mark request to be filled. For valid tickets, the facility owners & operators must respond within 24 hours.

**Q:** *What about the depth of underground facilities?*

**A:** Utility owners have no control over depth variation caused by human interference, weather, or other circumstances. As a result, utilities will only mark the approximate location, not the depth of buried facilities.

**Q:** *Why do I have to hand dig around a marked facility?*

**A:** Locating is not an exact science, and, therefore, the actual location of the facility could vary from the position of the marks. Also, state law mandates hand exposure of marked lines prior to the use of power equipment when the work will take place within 48 inches of a marked facility.

**Q:** *What is Positive Response?*

**A:** Positive Response is a system housed at the MISS DIG center that will allow any participating member or their authorized locating contractor to provide status of dig tickets sent to them by MISS DIG. Once the member or the locating contractor determines the status of the ticket, such as clear or marked, they can then post that response to the system. The posted status is then attached to the ticket and stored on the Positive Response server. The posted status can then be retrieved by the requester of the ticket at [response.missdig.org](http://response.missdig.org), or by using the interactive voice response system at **800-763-3888**.

## FAQ's (cont.)

**Q:** *If a homeowner hires a contractor to do excavation work, who is responsible for calling MISS DIG?*

**A:** According to the state law, the excavator must contact the notification center, not the homeowner for whom the work is being done. If you are a contractor, it is your legal duty to call MISS DIG; it is not the responsibility of your customer.

**Q:** *What happens to the flags that marked underground facilities once excavation work is completed?*

**A:** Once you are done with the job, be sure to remove the flag markers. Utilities or their contract locators will not return to your job site to remove marks or flags.

**Q:** *What is a private facility?*

**A:** A private facility is a facility that is not owned by a utility or other member of MISS DIG. Privately owned line located on private property for the property owner's private use qualify. They are owned by homeowners and private businesses who are not required to be members of MISS DIG and therefore will not be notified of your intent to dig. As a result, these lines will not be marked after a locate request is processed. Examples of private facilities include electric, gas and/or communications facilities owned by a business or homeowner-owned electricity to a detached garage, underground sprinkler systems, or invisible dog fences. Lines that leave private property and reside in the public right of way require protection and notification through MISS DIG participation.

***It is the excavator's duty to notify the owners of private facilities of their intent to dig.***

## TYPES OF REQUESTS HANDLED BY MISS DIG

There are several types of requests handled by MISS DIG: Three (3) Full Working Day Notice, Emergency Notice, and Re-marking Requests

### THREE (3) FULL WORKING DAY NOTICE

This is the most common request processed through the MISS DIG System. This request is made in compliance with state law, which requires three full working day notice. It involves a request for utility locates at a specific address or area for a specified dig start date.



A MISS DIG locate request begins with the following information:

- \* The name of the caller who is placing the staking request.
- \* The phone number where the excavator can be reached during the day.
- \* The name of the contractor who will be doing the work.
- \* The party that the work is being done for.
- \* The type of work being performed.
- \* The county where the work will take place.
- \* The township, city, or village where the work will take place.
- \* The location. Know the instructions of where markings of underground facilities will be needed (Street address, lot number, subdivision) and exact location where digging will be done (The front, back, or sides, and the north, south, east, or west side of the location).
- \* The date and time when the contractor will begin work.
- \* The overhead clearance. Know if you will be able to maintain a minimum of ten feet clearance from overhead electric lines with equipment you will be using on the job.
- \* The use of directional boring equipment.
- \* The proximity to railroad easements.

#### LOCATION ACCURACY IS IMPORTANT

One of the most common mistakes an excavator makes is to identify an excavation location as within a village or city when actually they are digging in a township. Often this happens because the mailing address includes the name of the nearest village or city. Please find out whether your excavation site is in the city or the township area before you call in your request.

#### RURAL LOCATION REQUESTS

When making a request in a rural locate, provide as much information as possible for example, on what side of the road will you be digging, the name of the road, the name of the nearest cross road to the address, and the name of the owner and/or renter at the location where you will be digging. Give the direction of this address to the nearest town including the name of the road(s) and distance(s). Additional information helps, such as rural fire department numbers, pedestal numbers, transformer numbers, mileage markers, or any other landmarks that may be helpful in identifying the location.

#### SCOPE OF WORK

Scope of Work is a MISS DIG System Inc. procedure regarding the extent of work on a single ticket. This procedure, to limit work on a single ticket, exists to create reasonable requests that can be responded to within a 3-day time frame. On existing tickets, no additional work, footage or addresses can be added. This would require a new ticket. The following applies:

*Addresses:* 10 individual addresses / lots on a single street per ticket, in the same city township or village. The total distance between addresses is not to exceed one mile.

*Apartment/condo complexes:* 5 buildings maximum per ticket

*Pole jobs:* Locations on a continuous road, “point A to point B on C Street” total distance covered not to exceed 1 mile in urban area and 2 miles in rural area. Locations at specific address no more than 10 addresses per street.

*Intersections:* No more than 200 feet in any direction at intersection, per ticket

*Unnamed streets in subdivisions:*

*Option 1:* Subdivisions to be called in by individual streets. If street names are not posted then the contractor should post identifying names and signs. Ex: Street A. *Option 2:* Call MISS DIG to schedule a joint meet.

*Road Projects:* Work along a continuous road with no named intersections in the same city, township or village, may include up to two miles per ticket.

*NOTE:* Working along a road, with named multiple intersections in the same city, township or village, may include up to one mile per ticket. List all intersections in staking information. (*No more than 200 ft down any direction at these intersections.*)

## WHAT HAPPENS AFTER THE REQUEST IS MADE?

After the request is completed, the ticket is processed by a computer at MISS DIG. The computer analyzes the county name, place name and road name on the ticket to identify which members have elected to receive the information. The computer transmits the message to the members via a private line, direct dial communication links, or email. Members receive the information on either a printer, FAX, or directly into their own computer or email account. After the information is received by the members, trained personnel review the locate request.

Once it is determined that markings are required, the request is assigned to a field locator, who will locate and mark the excavation site with paint, stakes and/or flags. Members mark facilities according to specific guidelines and color codes, with YELLOW being used for natural gas, oil, steam, petroleum, or other gaseous materials; ORANGE being used for phone and cable television; RED being used for electric; BLUE being used for water; GREEN being used for storm drains and sewer; PURPLE for reclaimed water and irrigation; and PINK being used for survey monumentation. WHITE may be used by an excavator to signify where excavation will take place in conjunction with a MISS DIG locate request.

Members will mark the approximate location using either flags, paint, or other suitable materials in varying combinations, depending upon the type of surface to be marked. Exact location and depths of the facilities will be determined by the excavator's hand dug test holes. The marks will identify the approximate routes of the facility. The marks may include the logo or name of the facility owner. In some instances, where high pressure lines are involved, the facility owner may wish to be present.

MISS DIG members are only responsible for marking portions of their facilities that they operate and/or maintain. MISS DIG members do not locate privately installed facilities, such as the gas line from the house to garage and/or out building, gas lights, gas grills, etc.

Emergency locates are given top priority. Members will mark facilities within the emergency excavation area within three business hours.

Members will, upon receiving a valid request through MISS DIG, re-mark a job site. If the re-mark request refers to the original request, members will re-mark facilities within 24 hours.

When evidence of unmarked facilities exists, an excavator cannot locate a marked line via hand exposing, or a utility owner has not provided a response through the Positive Response program. An excavator can request additional assistance by contacting MISS DIG. Members will respond to that request within three business hours.

When an appointment is set up, either through MISS DIG, or directly with members, locating representatives shall make every attempt to meet the excavator at the time and place agreed upon.

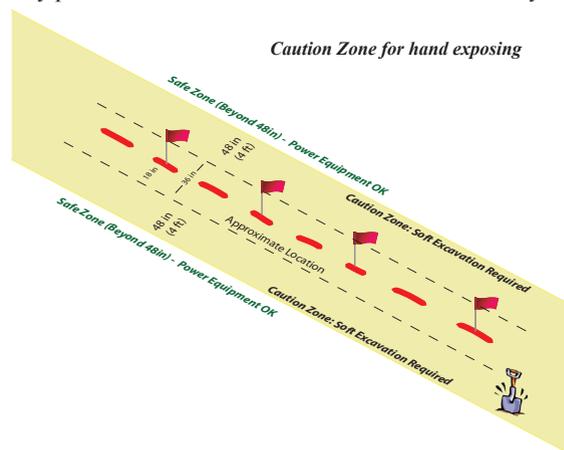
## RESPONSIBILITY OF THE EXCAVATOR (AFTER THE REQUEST HAS BEEN MADE)

Notifying MISS DIG is only the first step for the excavator in fulfilling his or her responsibilities in the locating process. Locating underground facilities is not an exact science, therefore the actual location of the facility could vary from the position of the marks. To avoid damaging underground utility facilities and ensure public and employee safety, excavators must comply with all sections of Public Act 174 and MIOSHA. (See copies in back of guide.)

Follow the steps listed below for a safe construction site:

Contact MISS DIG at least three (3) full working days, except holidays recognized by MISS DIG, but not more than 14 calendar days, prior to planned excavating, digging, augering, boring, cultivating, grading, discharging of explosives, tunneling, or demolishing a building.

Owners of underground utility lines will mark the approximate location of their facilities with flags, paint, or both. For the purposes of Public Act 174, the approximate location is defined as a strip of land 3 feet wide, but not wider than the width of the facility plus 18 inch clearance on either side of the facility.



If power equipment will be used within 48 inches of the facility marks, excavators must verify the precise location of the utility line through hand exposing or other soft excavation means.

If you are unable to determine the precise location of the marked facility, you must contact the facility owner through MISS DIG again and the utility will provide additional assistance as needed.

Occasionally, multiple underground utility facilities will be located at a job site. MISS DIG does not know how many facilities each utility company may have in the area of the proposed excavation. If there are indications of unmarked facilities you must call MISS DIG regardless of whether or not you have received an “All Clear” from the facility owners.

If marks at the construction site are knocked down or obliterated, or become faded due to time, weather, or any other cause, the excavator must call MISS DIG so the requests can be retransmitted due to destroyed markings.

Excavators must exercise reasonable care while working around exposed utility lines or in close proximity to unexposed facilities.

Excavators shall support exposed facilities to prevent damage in the area of excavation from cave-ins, pipe movement, settlements and washouts.

Excavators boring or augering under, over, or in close proximity to underground facilities must hand expose the facility to ensure that the bore shot will not come in contact with the facility. This includes hand exposing facilities under roads. In such situations, it will be necessary to make a window in the road to ensure there will be no contact.

Prior to backfilling, notify the facility owner if there has been damage to the coating of their facilities, including nicks, dents, gouges, cuts, scrapes, or scratches so a proper repair can be made. Failure to notify the facility owner of these occurrences could result in future corrosion and/or pipe failure. In addition, failure to notify facility owners of damage to a line may result in the excavator being found guilty of a misdemeanor under Public Act 174.

## **DEPTH OF FACILITIES**

MISS DIG does not have information on the specific location or depth of buried facilities. Sometimes, excavators ask MISS DIG operators how deep lines are buried under the work site. These excavators are often disappointed when the operator cannot offer depth information.

In fact, the facility owners themselves generally will not provide depth information to the excavator. While it is true that the facility owners follow certain depth requirements or guidelines when installing lines, they have no control over depth variations caused by human intervention.

In addition to human intervention, the effects of weather (i.e. erosion, changes in the frost line, etc.) can affect the depth of underground facilities. Locating equipment depth readout information is not accurate enough to rely on. Therefore, the facility owner will not provide depth information.

## **PERMANENT UTILITY MARKERS**

Facility owners and operators use permanent markers to indicate the presence of utility facilities in the area. These markers usually are not set over the facility, but are used to indicate facilities are in the area. Please rely on the paint and/or flag markings put on the ground by the facility owner.

Facility owners and operators must be notified prior to any excavation or demolition activity regardless of the presence of established line markers.

## HOW TO RECOGNIZE A GAS LEAK

During construction, when working in or near an area containing underground natural gas facilities, be alert to the following signs of a potential hazard:

Natural gas odor in or near your excavation site. To make it easier to recognize natural gas, a rotten egg odor is added. However, some natural gas pipelines in Michigan do not carry odorized gas.

Apparent or non-apparent damage to pipes that have been broken, pulled, dislodged, or gouged.

Brown patches in vegetation on or near a right-of-way.

Dry spots in moist earth.

Evidence of blowing (gas) noise, blowing dirt or bubbling mud or water.

Fire coming from the ground or burning above the ground.

## IF YOU MAKE CONTACT WITH A FACILITY

If your equipment makes contact with the facility line, stop your excavation and contact the facility owner immediately. This includes if you nick, dent, gouge, cut, scrape, or scratch the pipeline coating. Contacting the facility owner not only allows that company the opportunity to investigate, it is also required by state law.

Don't assume that damage can occur only at the point of contact. A facility that is pulled or bumped could break at a location away from the actual excavation site. Failure to notify the facility owner of these occurrences could result in future corrosion and/or failure, and is a violation of state law.

## WHAT TO DO IF YOU DAMAGE A PIPELINE

In the event an underground gas facility is damaged, the excavator (machine operator) should take immediate action to minimize the hazard:

If you can do so safely, without risking the ignition of any leaking gas, move your machine away from the damage.

If the motor stalls, DO NOT attempt to restart it. If you can do so safely, turn off the motor to prevent possible ignition of any gas and abandon the equipment.

DO NOT cover the damaged pipe with dirt as a means of stopping the leak. DO NOT crimp plastic gas facilities. DO NOT attempt to plug damaged pipes. Allow the gas to vent into the atmosphere.

If natural gas ignites, let it burn. DO NOT put out the flame - burning gas will NOT explode.

Notify the owner of the gas pipeline.

Call 9-1-1 to seek the aid of local law enforcement officers and fire departments.

## EVACUATION

In an emergency, when gas is escaping from a broken pipe, the area may need to be evacuated. This is the responsibility of the excavator. Refer to Public Act 174, Section 5.12

If you, the excavator, have damaged a gas line and suspect leaking gas may be entering or blowing into a building, you should take immediate action:

- \* Be certain the facility owner has been notified.
- \* Evacuate the occupants and leave the doors open.
- \* Tell people they must not return to the building for any reason.
- \* DO NOT operate light switches, door bells, or use telephones in the building.
- \* PROHIBIT smoking in the area.
- \* Keep people away from the leak area.
- \* PROHIBIT the operation of machinery.

Prompt action by you may save lives or prevent serious injury or property damage. DO NOT leave a potentially hazardous situation to chance.

## DAMAGE REPAIRS

Once notified that a facility has been damaged, an experienced crew will be dispatched to make repairs. Only utility company personnel, using proper safety equipment and materials, shall repair or replace damaged facilities.

Most facility owners bill for damage repairs if it is determined the excavator has not complied with Public Act 174. To encourage the reporting of nicked coatings, facility owners generally will not bill for this repair.

## ONLINE TOOLS

MISS DIG has developed a number of tools to assist those in the excavation and design fields to communicate with the call-center, and its member facility owners.

**Remote Ticket Entry:** A free service that allows frequent MISS DIG users to create their tickets from their home or office computer rather than through the call-center.

[www.missdig.net/index.php/excavators/remote-ticket-entry](http://www.missdig.net/index.php/excavators/remote-ticket-entry)

**E-Locate:** A free and easy program available to create single address tickets. This program is ideal for do-it-yourselfers, landscapers, and other small volume ticket creators.

[elocate.missdig.org](http://elocate.missdig.org)

**Design Ticket:** An online process which allows designers and engineers to initiate contact with participating utility personnel for the purpose of project planning.

[www.missdig.net/index.php/excavators/design-survey-ticket](http://www.missdig.net/index.php/excavators/design-survey-ticket)

**Positive Response:** A program where MISS DIG member facility owners post status responses to the tickets they receive. Responses such as “clear” or “marked” is available for each facility owner per MISS DIG ticket. Responses can be checked at: [response.missdig.org](http://response.missdig.org)

Additional information about these programs can be found at [www.missdig.org](http://www.missdig.org)

## ENFORCEMENT

Enforcement of Public Act 174 will be conducted by The Michigan Public Service Commission. Complaints of noncompliance may be submitted online to the Commission. Upon receipt of a complaint, the Commission will conduct an investigation and may levy fines or require additional safety training based on their findings.

Complaints may be filed by excavators, municipalities, utility owners, and all effected stakeholders. Penalties assessed by the Public Service Commission will not effect a person’s right to bring a civil action to recover damages that a person incurred arising out of a violation of the requirements of this act.

More information can be found on the Michigan Public Service Commission website:

[www.michigan.gov/mpsc](http://www.michigan.gov/mpsc)

Act No. 174  
Public Acts of 2013  
Approved by the Governor  
November 26, 2013  
Filed with the Secretary of State  
November 26, 2013

EFFECTIVE DATE: April 1, 2014 STATE OF MICHIGAN  
97TH LEGISLATURE  
REGULAR SESSION OF 2013  
Introduced by Senator Nofs  
ENROLLED SENATE BILL No. 540

AN ACT to enhance public safety, protect the environment, and prevent the disruption of vital public services by reducing the incidences of damage to underground facilities caused by excavation or blasting activity by providing notices to facility owners and facility operators before excavation or blasting; to provide for certain notices to affected parties when underground facilities are damaged; to provide for the powers and duties of certain state governmental officers and entities; to allow the promulgation of rules; to prescribe penalties; to allow the imposition of a fee; to provide for immunity for certain individuals; to allow claims for damages against certain governmental entities in certain circumstances; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "MISS DIG underground facility damage prevention and safety act".

Sec. 3. As used in this act:

- (a) "Additional assistance" means a response by a facility owner or facility operator to a request made by an excavator during business hours, for help in locating a facility.
- (b) "Approximate location" means a strip of land at least 36 inches wide, but not wider than the width of the marked facility plus 18 inches on either side of the facility marks.
- (c) "Blasting" means changing the level or grade of land or rendering, tearing, demolishing, moving, or removing earth, rock, buildings, structures, or other masses or materials by seismic blasting or the detonation of dynamite or any other explosive agent.
- (d) "Business day" means Monday through Friday, excluding holidays observed by the notification system and posted on the notification system website.
- (e) "Business hours" means from 7 a.m. to 5 p.m., eastern standard time, on business days.

(f) "Caution zone" means the area within 48 inches of either side of the facility marks provided by a facility owner or facility operator.

(g) "Commission" means the Michigan public service commission created in section 1 of 1939 PA 3, MCL 460.1.

(h) "Damage" means any impact upon or exposure of an underground facility requiring its repair or replacement due to weakening, partial destruction, or complete destruction of the facility, including, but not limited to, the protective coating, lateral support, cathodic protection, or housing of the facility.

(i) "Design ticket" means a communication to the notification system in which a request for information regarding underground facilities for predesign, design, or advance planning purposes, but not marking for excavation or blasting, is made under the procedures described in section 6a.

(j) "Dig notice" means a communication to the notification system by an excavator providing notice of intended excavation or blasting activity as required by this act.

(k) "Emergency" means a sudden or unforeseen occurrence, including a government-declared emergency, involving a clear and imminent danger to life, health, or property, or imminent danger to the environment, that requires immediate correction in order to restore or to prevent the interruption of essential governmental services, utility services, or the blockage of public transportation and that requires immediate excavation or blasting.

(l) "Emergency notice" means a communication to the notification system to alert the facility owners or facility operators of the urgent need for marking the location of a facility due to an emergency.

(m) "Excavation" means moving, removing, or otherwise displacing earth, rock, or other material below existing surface grade with power tools or power equipment, including, but not limited to, grading, trenching, tiling, digging, drilling, boring, augering, tunneling, scraping, cable or pipe plowing, and pile driving; and wrecking, razing, rendering, moving, or removing a structure or mass of materials.

Excavation does not include any of the following:

(i) Any of the following activities performed in the course of farming operations:

(A) Any farming operation performed in the public right-of-way to a depth of not more than 12 inches below the existing surface grade if the farming operation is not performed within 6 feet of any above ground structure that is part of a facility.

(B) Any farming operation performed outside a public right-of-way and within 25 yards of an existing petroleum or natural gas pipeline to a depth of not more than 18 inches below the existing surface grade if the farming operation is not performed within 6 feet of any aboveground structure that is part of a facility.

(C) Any farming operation performed outside a public right-of-way and not within 25 yards of an existing petroleum or natural gas pipeline if the farming operation is not performed within 6 feet of any aboveground structure that is part of a facility.

(ii) Replacing a fence post, sign post, or guardrail in its existing location.

(iii) Any excavation performed at a grave site in a cemetery.

(iv) Any excavation performed within a landfill unit as defined in R 299.4103 of the Michigan administrative code during its active life as defined in R 299.4101 of the Michigan administrative code or during its postclosure period as set forth in R 299.4101 to R 299.4922 of the Michigan administrative code.

(v) Any of the following activities if those activities are conducted by railroad employees or railroad contractors and are carried out with reasonable care to protect any installed facilities placed in the railroad right-of-way by agreement with the railroad:

(A) Any routine railroad maintenance activities performed in the public right-of-way as follows:

(I) Within the track area, either to the bottom of the ballast or to a depth of not more than 12 inches below the bottom of the railroad tie, whichever is deeper, if the routine railroad maintenance activity is not performed within 6 feet of any aboveground structure that is part of a facility that is not owned or operated by that railroad.

(II) Outside the track area, not more than 12 inches below the ground surface, if the routine railroad maintenance activity is not performed within 6 feet of any aboveground structure that is part of a facility that is not owned or operated by that railroad.

(B) Any routine railroad maintenance activities performed to a depth of not more than 18 inches below the flow line of a ditch or the ground surface in the railroad right-of-way, excluding the public right-of-way, if the routine railroad maintenance activity is not performed within 6 feet of any aboveground structure that is part of a facility that is not owned or operated by that railroad.

(vi) Routine maintenance or preventative maintenance as those terms are defined in section 10c of 1951 PA 51, MCL 247.660c, to a depth of not more than 12 inches below the roadway and any shoulder of a street, county road, or highway.

(n) "Excavator" means any person performing excavation or blasting.

(o) "Facility" or "underground facility" means an underground or submerged conductor, pipe, or structure, including, but not limited to, a conduit, duct, line, pipe, wire, or other device and its appurtenances used to produce, store, transmit, or distribute a utility service, including communications, data, cable television, electricity, heat, natural or manufactured gas, oil, petroleum products, steam, sewage, video, water, and other similar substances, including environmental contaminants or hazardous waste.

(p) "Facility operator" means a person that controls the operation of a facility.

(q) "Facility owner" means a person that owns a facility.

(r) "Farm" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(s) "Farming operations" means plowing, cultivating, planting, harvesting, and similar operations routine to most farms and that are performed on a farm. Farming operations do not include installation of drainage tile, underground irrigation lines, or the drilling of a well.

(t) "Governmental agency" means the state and its political subdivisions, including counties, townships, cities, villages, or any other governmental entity.

(u) "Mark", "marks", or "marking" means the temporary identification on the surface grade of the location of a facility in response to a ticket as described in section 7.

(v) "Notification system" means MISS DIG System, Inc., a Michigan nonprofit corporation formed and operated by each facility owner and facility operator to administer a 1-call system for the location of facilities, or any successor to this corporation.

(w) "Person" means an individual, firm, joint venture, partnership, corporation, association, governmental agency, department or agency, utility cooperative, or joint stock association, including any trustee, receiver, assignee, or personal representative thereof.

(x) "Positive response" means the procedure administered by the notification system to allow excavators to determine whether all facility owners or facility operators contacted under a ticket have responded in accordance with this act.

(y) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, alley, easement, or waterway.

(z) "Railroad" means that term as defined in section 109 of the railroad code of 1993, 1993 PA 354, MCL 462.109.

- (aa) “Safe zone” means an area 48 inches or more from either side of the facility marks provided by a facility owner or facility operator.
- (bb) “Soft excavation” means a method and technique designed to prevent contact damage to underground facilities, including, but not limited to, hand-digging, cautious digging with nonmechanical tools, vacuum excavation methods, or use of pneumatic hand tools.
- (cc) “Start date” means the date that a proposed excavation or blasting is expected to begin as indicated on a ticket.
- (dd) “Ticket” means a communication from the notification system to a facility owner or facility operator requesting the marking of underground facilities, based on information provided by an excavator in a dig notice.
- (ee) “White lining” means marking by an excavator of the area of a proposed excavation or blasting, with white paint or flags, or both, before giving notice to the notification system.

Sec. 4. (1) Facility owners and facility operators shall continue to operate and be members of MISS DIG Systems, Inc., a Michigan nonprofit corporation, that shall have the duties and undertake the responsibilities of the notification system under this act on and after the effective date of this act. The notification system responsibilities and duties do not include the physical marking of facilities, which is the responsibility of a facility owner or facility operator upon notification under this act.

(2) The notification system and its procedures shall be governed by its board of directors and in accordance with its current articles of incorporation and bylaws as of the effective date of this act, with any future changes made in accordance with the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, and the notification system’s articles, bylaws, and board procedures. The notification system shall request input regarding its policies from all interested persons, including facility owners and facility operators, excavators, marking service providers, and governmental agencies.

(3) Funding for the notification system operations shall be established by the notification system, including through fees based on a reasonable assessment of operating costs among facility owners or facility operators. A facility owner or facility operator shall not charge a fee to excavators for marking facilities under this act.

(4) Facility owners and facility operators shall be members of and participate in the notification system and pay the fees levied by the notification system under this section. This obligation and the requirements of this act for facility owners and facility operators do not apply to persons owning or operating a facility located on real property the person owns or occupies if the facility is operated solely for the benefit of that person.

- (5) Owners of real property on which there is a farm operation, as that term is defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472, may become a nonvoting member of the notification system, known as a farm member, upon providing the notification system with the information necessary to send the farm member a ticket for purposes of notification under section 6(1). A farm member is not subject to any fees levied under subsection (3).
- (6) The notification system is exempt from taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

Sec. 5. (1) An excavator shall provide a dig notice to the notification system at least 72 hours, but not more than 14 calendar days, before the start of any blasting or excavation. If the dig notice is given during business hours, the 72-hour period shall be measured from the time the dig notice is made to the notification system. If a dig notice is given before 7 a.m. on a business day, the 72-hour period begins at 7 a.m. on that day. If a dig notice is given on a nonbusiness day or after 5 p.m. on a business day, the 72-hour period begins at 7 a.m. on the next business day. All hours of nonbusiness days are excluded in counting the 72-hour period. If there are multiple excavators on the same site, each excavator shall provide its own dig notice.

(2) A dig notice shall contain at least all of the following:

- (a) The name, address, and telephone number of the excavator.
- (b) A description of the proposed area of blasting or excavation, including the street address and a property description.
- (c) The specific type of work to be performed.
- (d) The start date and time of blasting or excavation.
- (e) Whether the proposed blasting or excavation will be completed within 21 days after the start date.

(3) A ticket is valid for 21 days from the start date of the excavation or blasting on the ticket as identified by the excavator, except that a ticket is valid for 180 days from the start date if the dig notice indicates that the proposed excavation or blasting will not be completed within 21 days from the start date.

(4) An excavator shall comply with the notification system procedures and all requirements of this act.

(5) Except as otherwise provided in this subsection, before blasting or excavating in a caution zone, an excavator shall expose all marked facilities in the caution zone by soft excavation. If conditions make complete exposure of the facility impractical, an excavator shall consult with the facility owner or facility operator to reach agreement on how to protect the facility. For excavations in a caution zone parallel to a facility, an excavator shall use soft excavation at intervals as often as reasonably necessary to establish the precise location of the facility. An excavator may use power tools and power equipment in a caution zone only after the facilities are exposed or the precise location of the facilities is established.

(6) An excavator shall provide support or bracing of facilities or excavation walls in an excavation or blasting area that are reasonably necessary for protection of the facilities.

(7) An excavator shall provide notification to the notification system if facility markings are destroyed or covered by excavation or blasting activities or if a ticket expires before the commencement of excavation. If a ticket expires before the commencement of excavation, an excavator shall provide a new dig notice to the notification system, and comply with subsection (1).

(8) An excavator shall provide notification to the notification system requesting additional assistance if the location of a marked facility within the approximate location cannot be determined.

(9) An excavator shall provide immediate additional notice to the notification system and stop excavation in the immediate vicinity if the excavator has reason to suspect the presence of an unmarked facility due to any 1 of the following:

- (a) Visible evidence of a facility with no marks visible.
- (b) Lack of a positive response to a ticket.
- (c) A positive response from a facility owner or facility operator indicating the presence of a facility with no marks visible.

(10) If an excavator contacts or damages a facility, the excavator shall provide immediate notice to the facility owner or facility operator.

(11) If an excavator damages a facility resulting in the escape of any flammable, toxic, or corrosive gas or liquid, or endangering life, health, or property, the excavator shall call 9-1-1 and provide immediate notice to the facility owner or facility operator. The excavator shall also take reasonable measures to protect the excavator, those in immediate danger, the general public, and the environment until the facility owner or facility operator, or emergency first responders, have arrived and taken control of the site.

(12) An excavator shall provide prompt emergency notice to the notification system for any proposed excavation or blasting in an emergency. In an emergency, blasting or excavation required to address the conditions of the emergency may be performed as the emergency conditions reasonably require, subject to the provisions in this act for emergency notice and marking facilities in response to an emergency notice.

(13) If the location of a proposed excavation or blasting cannot be described in a manner sufficient to enable the facility owner or facility operator to ascertain the precise tract or parcel involved, an excavator shall provide white lining in advance of submitting a ticket or additional assistance to the facility owner or facility operator on reasonable request to identify the area of the proposed excavation or blasting.

(14) For purposes of this section, notice to the notification system constitutes notice to all facility owners or facility operators regarding facilities located in the area of the proposed excavation or blasting.

(15) Except as otherwise provided in this act, an excavator may conduct excavation in a safe zone using power equipment without establishing the precise location of any facilities.

Sec. 6. (1) The notification system shall receive dig notice notification of proposed excavation and blasting activities and promptly transmit a ticket to facility owners or facility operators of facilities in the area of the proposed excavation or blasting. The notification system shall provide alternative means of access and notification to the system. Except for shutdowns caused by acts of nature, war, or terrorism, the notification system shall be available 24 hours per day, 7 days per week.

(2) The notification system shall publicize the availability and use of the notification system and educate the public, governmental agencies, excavators, farm operators, facility owners, and facility operators regarding the practices and procedures of the notification system, the requirements of this act, and practices to protect underground facilities from damage.

(3) The response to a design ticket is to provide general information regarding the location of underground facilities, not to mark any facilities. However, if a facility owner or operator does not have drawings or records that show the location of a facility, the facility owner or operator shall mark that facility under the procedures described in section 7. A design ticket or information provided in response to a design ticket does not satisfy the requirement under this act for excavation or blasting notice to the notification system or marking the approximate location of facilities for blasting or excavation.

Sec. 7. (1) A facility owner or facility operator shall respond to a ticket by the start date and time for the excavation or blasting under section 5(1) by marking its facilities in the area of the proposed excavation or blasting in a manner that permits the excavator to employ soft excavation to establish the precise location of the facilities.

(2) A facility owner or facility operator shall mark the location of each facility with paint, stakes, flags, or other customary methods using the uniform color code of the American national standards institute as follows:

- (a) White - used by excavators to mark a proposed excavation or blasting area.
- (b) Pink - temporary survey markings.
- (c) Red - electric power lines, cables, conduit, and lighting cables.
- (d) Yellow - gas, oil, steam, petroleum, or gaseous materials.
- (e) Orange - communication, cable television, alarm or signal lines, cables, or conduit.
- (f) Blue - potable water.
- (g) Purple - reclaimed water, irrigation, and slurry lines.
- (h) Green - sewers and drain lines.

(3) A facility owner or facility operator shall provide notification to the notification system using positive response.

(4) Upon receiving a notification during business hours from an excavator through the notification system of previous marks being covered or destroyed, a facility owner or facility operator shall mark the location of a facility within 24 hours, excluding all hours on nonbusiness days.

(5) If a facility owner or facility operator receives a request under section 5(8) or (9), that facility owner or facility operator shall provide additional assistance to an excavator within 3 hours of a request made by the excavator during business hours. An excavator and a facility owner or facility operator may agree to an extension of the time for additional assistance. If a request for additional assistance is made at a time when the additional assistance cannot be provided during normal business hours or assistance is required at a remote rural location, the response time shall be no later than 3 hours after the start of the next business day or a time based on mutual agreement.

(6) If a facility owner or facility operator receives notice that a facility has been damaged, that facility owner or facility operator shall promptly dispatch personnel to the area.

(7) A facility owner or facility operator shall respond within 3 hours to an emergency notice, or before the start day and time provided in an emergency notice if that start day and time is more than 3 hours from the time of notice.

(8) New facilities built after the effective date of this act shall be constructed in a manner that allows their detection when in use.

(9) This section does not apply to the state transportation department or to the marking of a county or intercounty drain by a county drain commissioner's office or drainage board.

Sec. 8. This act does not limit the right of an excavator, facility owner, or facility operator to seek legal relief and recovery of actual damages incurred and equitable relief in a civil action arising out of a violation of the requirements of this act, or to enforce the provisions of this act, nor shall this act determine the level of damages or injunctive relief in any such civil action. This section does not affect or limit the availability of any contractual or legal remedy that may be available to an excavator, facility owner, or facility operator arising under any contract to which they may be a party.

Sec. 9. (1) The notification system and its officers, agents, or employees are not liable for any damages, including damages for injuries or death to persons or damage to property, caused by its acts or omissions in carrying out the provisions of this act. The notification system is not responsible for assuring performance by a facility owner or facility operator of its obligation to participate in the notification system under section 4(4).

(2) An excavator or a farmer engaged in farming operations that complies with this act is not responsible for damages that occur to a facility that is improperly marked, not marked, or determined to be within the safe zone.

(3) An owner of a farm who complies with this act is not liable for any damages to a facility if the damage occurred in the course of farming operations, except in those lands within the public right-of-way, unless the owner intentionally damaged the underground facility or acted with wanton disregard or recklessness in damaging the facility. As used in this subsection, "owner" includes a family member, employee, or tenant of the owner.

Sec. 10. This act does not authorize, affect, or impair local ordinances, charters, or other provisions of law requiring permits to be obtained before excavating or tunneling in a public street or highway or to construct or demolish buildings or other structures on private property. A permit issued by a governmental agency does not relieve a person from the responsibility of complying with this act. The failure of any person who has been granted a permit to comply with this act does not impose any liability upon the governmental agency issuing the permit.

Sec. 11. (1) A person who engages in any of the following conduct is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both:

- (a) Knowingly damages an underground facility and fails to promptly notify the facility owner or facility operator.
- (b) Knowingly damages an underground facility and backfills the excavation or otherwise acts to conceal the damage.
- (c) Willfully removes or otherwise destroys stakes or other physical markings used to mark the approximate location of underground facilities unless that removal or destruction occurs after the excavation or blasting is completed or as an expected consequence of the excavation or blasting activity.

(2) Upon complaint filed with the commission or upon the commission's own motion, following notice and hearing, a person, other than a governmental agency, who violates any of the provisions of this act may be ordered to pay a civil fine of not more than \$5,000.00 for each violation. In addition to or as an alternative to any fine, the commission may require the person to obtain reasonable training to assure future compliance with this act. Before filing a complaint under this subsection, a person shall attempt to settle the dispute with the adverse party or parties using any reasonable means of attempted resolution acceptable to the involved parties. In determining the amount of any fine, the commission shall consider all of the following:

- (a) The ability of the person charged to pay or continue in business.
- (b) The nature, circumstances, and gravity of the violation.
- (c) Good-faith efforts by the person charged to comply with this act.
- (d) The degree of culpability of the person charged and of the complainant.
- (e) The history of prior violations of the person charged.

(3) A commission determination under subsection (2) shall not be used against a party in any action or proceeding before any court. A complaint filed under subsection (2) does not limit a person's right to bring a civil action to recover damages that person incurred arising out of a violation of the requirements of this act.

(4) The commission shall develop forms with instructions and may promulgate administrative rules for processing complaints under this act, pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) Not later than October 1, 2014, the commission shall establish requirements for reporting incidents involving damage to underground facilities.

(6) Beginning April 1, 2015, the commission shall maintain information on damaged facilities reported under subsection (5), including, but not limited to, any damage that occurs during excavation, digging, or blasting that is excluded from the definition of excavation under section 3(m). The commission shall make any information maintained under this subsection publicly available on its website.

Sec. 12. (1) Except as provided in this section, this act does not affect the liability of a governmental agency for damages for tort or the application of 1964 PA 170, MCL 691.1401 to 691.1419.

(2) A facility owner or a facility operator may file a complaint with the commission seeking a civil fine and, if applicable, damages from a governmental agency under this section for any violation of this act.

(3) After notice and a hearing on a complaint under subsection (2), the commission may order the following, as applicable:

(a) If the commission has not issued an order against the governmental agency under this section within the preceding 12 months, a civil fine of not more than \$5,000.00. In determining the amount of the fine, the commission shall consider the factors in section 11(2).

(b) If the commission has issued an order under subdivision (a) against the governmental agency within the preceding 12 months, both of the following:

(i) A civil fine of not more than \$10,000.00. In determining the amount of the fine, the commission shall consider the factors in section 11(2).

(ii) That the governmental agency provide at its expense underground facility safety training to all its personnel involved in underground utility work or excavating.

(c) If the commission has issued an order under subdivision (b) against the governmental agency within the preceding 12 months, both of the following:

(i) A civil fine of not more than \$15,000.00. In determining the amount of the fine, the commission shall consider the factors in section 11(2).

(ii) If the violation of this act by the governmental agency caused damage to the facilities of the facility owner or facility operator, that the governmental agency pay to the owner or operator the cost of repair of the facilities.

(4) A party to a complaint filed under this section or section 11 may file an appeal of a commission order issued under this section or section 11 in the Ingham county circuit court.

- (5) This section does not apply if the violation of this act was a result of action taken in response to an emergency.
- (6) A finding by the commission under this section is not admissible in any other proceeding or action.
- (7) A civil fine ordered under this act shall be paid to the commission and used for underground facilities safety education and training.
- (8) Each day upon which a violation described in this act occurs is a separate offense.

Sec. 13. An individual engaged in a farming operation on a farm shall comply with this act beginning May 1, 2014.

Enacting section 1. 1974 PA 53, MCL 460.701 to 460.718, is repealed.

Enacting section 2. This act takes effect April 1, 2014.

Enacting section 3. This act does not take effect unless Senate Bill No. 539 of the 97th Legislature is enacted into law.

This act is ordered to take immediate effect.