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Sub. H. B. No. 227

Representatives Robb Blasdel, Johnson

Cosponsors: Representatives Daniels, Abrams, Barhorst, Brennan, Claggett, Click, Deeter, Dovilla, Fischer, Ghanbari, Hiner, Holmes, Hoops, Kishman, Klopfenstein, LaRe, Mathews, A., Mathews, T., Miller, J., Newman, Odioso, Peterson, Plummer, Rader, Sigrist, Swearingen, Williams, Willis, Young

Senators Blackshear, Cirino, DeMora, Hicks-Hudson, Ingram, Patton, Reynolds, Roegner, Schaffer, Weinstein, Wilkin

To amend sections 153.64, 3781.25, 3781.26, 1
3781.261, 3781.27, 3781.271, 3781.28, 3781.29, 2
3781.30, and 4913.01 of the Revised Code to 3
modify excavation requirements. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 153.64, 3781.25, 3781.26, 5
3781.261, 3781.27, 3781.271, 3781.28, 3781.29, 3781.30, and 6
4913.01 of the Revised Code be amended to read as follows: 7

Sec. 153.64. (A) As used in this section: 8

(1) "Public improvement" means any construction, 9
reconstruction, improvement, enlargement, alteration, or repair 10
of a building, highway, drainage system, water system, road, 11
street, alley, sewer, ditch, sewage disposal plant, water works, 12
and all other structures or works of any nature by a public 13
authority. 14

(2) "Public authority" includes the following: 15

(a) The state, or a county, township, municipal corporation, school district, or other political subdivision;	16 17
(b) Any public agency, authority, board, commission, instrumentality, or special district of or in the state or a county, township, municipal corporation, school district, or other political subdivision;	18 19 20 21
(c) A designer as defined in section 3781.25 of the Revised Code who is acting on behalf of any entity described in division (A)(2)(a) or (b) of this section.	22 23 24
(3) "Underground utility facilities" includes any item buried or placed below ground or submerged under water for use in connection with the storage or conveyance of water or sewage; or electronic, telephonic, or telegraphic communications; electricity; petroleum products; manufactured, mixed, or natural gas; synthetic or liquified natural gas; propane gas; or other substances. "Underground utility facilities" includes, but is not limited to, all operational underground pipes, sewers, tubing, conduits, cables, valves, lines, wires, manholes, and attachments, whether owned by any public or private or profit or nonprofit person, firm, partnership, company, corporation, joint stock association, joint venture, or voluntary association, wherever organized or incorporated, except for a private septic system in a single- or multi-family dwelling utilized only for that dwelling and not connected to any other system.	25 26 27 28 29 30 31 32 33 34 35 36 37 38 39
(4) "Protection service" means a notification center not an owner of an underground utility facility that complies with the following:	40 41 42
(a) It exists for the purpose of receiving notice from public authorities and from other persons that plan to prepare	43 44

plans and specifications for, or engage in, public improvements 45
involving digging, blasting, excavating, or other underground 46
construction activities; 47

(b) It distributes the information described in division 48
(A) (4) (a) of this section to its members and participants; 49

(c) It has registered by March 14, 1989, with the 50
secretary of state and the public utilities commission under 51
former division (F) of this section as it existed on that date. 52

(5) "Construction area" means the area delineated on the 53
plans and specifications for the public improvement within which 54
the work provided for in the contract will be performed. 55

(6) "Interstate gas pipeline" means an interstate gas 56
pipeline subject to the "Natural Gas Pipeline Safety Act of 57
1968," 49 U.S.C. 1671, as amended. 58

(7) "Interstate hazardous liquids pipeline" means an 59
interstate hazardous liquids pipeline subject to the "Hazardous 60
Liquid Pipeline Safety Act of 1979," 49 U.S.C. 2002, as amended. 61

(B) (1) In any public improvement which may involve 62
underground utility facilities, the public authority, prior to 63
preparing plans and specifications, shall contact a protection 64
service ~~and any owners of underground utility facilities that~~ 65
~~are not members of a protection service~~ for the existence and 66
location of all underground utility facilities within the 67
construction area. 68

(2) If requested by the public authority, each owner of 69
underground utility facilities within the construction area, 70
other than real property owners listed in divisions (C) (1) to 71
(4) of section 3781.25 of the Revised Code, shall do one of the 72
following within ten days of receiving notice from the public 73

authority or a protection service:	74
(a) Mark the location of the underground utility facilities, other than those facilities serving single-family or two-, three-, or four-unit dwellings, within the construction area in accordance with the marking standards described in division (C) of section 3781.29 of the Revised Code;	75 76 77 78 79
(b) Provide digital or paper drawings, or both, that meet both of the following requirements:	80 81
(i) They are drawn to scale and include locatable items. Locatable items may include poles, pedestals, back of curb, sidewalk, edge of pavement, centerline of ditch, property lines, and other similar items.	82 83 84 85
(ii) They depict the location of the underground utility facilities.	86 87
(3) If the public improvement is within six hundred sixty feet of the center point of any interstate hazardous liquid pipeline or interstate gas pipeline, the pipeline operator shall provide to the public authority all of the following:	88 89 90 91
(a) A written notice of any special notification requirements;	92 93
(b) The location and description of any right-of-way associated with the pipeline as well as pipeline location information, such as providing documents reflecting the actual location of the pipeline, marking facilities on design drawings, and providing maps;	94 95 96 97 98
(c) Contact information for the primary contact person for the project area.	99 100
Compliance with divisions (B) (2) and (3) of this section	101

does not relieve an owner of underground utility facilities from 102
compliance with the marking requirements of section 3781.29 of 103
the Revised Code. 104

(4) The public authority shall include, in the plans and 105
specifications for such improvement, the identity and location 106
of the existing underground utility facilities located in the 107
construction area as provided to the public authority by the 108
owner of the underground utility facility and the name, address, 109
and telephone number of each owner of any underground utility 110
facilities in the construction area ~~that does not subscribe to a~~ 111
~~protection service.~~ 112

(a) If the public authority is notified that the 113
improvement is within six hundred sixty feet of the center point 114
of any interstate hazardous liquid pipeline or interstate gas 115
pipeline, the public authority shall also include in the plans 116
and specifications for the project all of the following: 117

(i) Any special notification requirements; 118

(ii) The name and contact information of the primary 119
contact person for each pipeline operator who has provided 120
notice to the public authority under division (B) (3) of this 121
section; 122

(iii) Notice stating that the public authority has 123
utilized reasonable means to contact the pipeline operator to 124
verify the location of the pipeline and pipeline right-of-way; 125

(iv) Notice that the public authority has reviewed, or has 126
attempted to review, preliminary information about the public 127
improvement with the pipeline operator and incorporated the 128
requested adjustments into the plans. 129

(b) For purposes of division (B) (4) (a) (iii) of this 130

section, a public authority who provides notice to the 131
protection service in accordance with division (B) (1) of this 132
section is deemed to have utilized reasonable means to contact 133
the operator of the pipeline. 134

(5) Any anticipated temporary or permanent relocation of 135
underground utility facilities deemed necessary by the public 136
authority shall be negotiated or arranged by the public 137
authority with the owners of the underground utility facilities 138
prior to the start of construction. If a temporary or permanent 139
relocation of utility facilities is necessary, the owner of the 140
underground utility facility shall be given a reasonable time to 141
move such utility facilities unless the contractor to whom the 142
contract for a public improvement is awarded or its 143
subcontractor agrees with the owner of the underground utility 144
facility to coordinate relocation with construction operations. 145

(6) The public authority, within ten calendar days after 146
award of a contract for a public improvement, shall notify in 147
writing all owners of underground utility facilities known to be 148
located in the construction area of the public improvement of 149
the name and address of the contractor to whom the contract for 150
the public improvement was awarded. Where notice is given in 151
writing by certified mail, the return receipt, signed by any 152
person to whom the notice is delivered, shall be conclusive 153
proof of notice. 154

(C) The contractor to whom a contract for a public 155
improvement is awarded or its subcontractor, at least two 156
working days, ~~excluding Saturdays, Sundays, and legal holidays,~~ 157
~~but no more than ten working days,~~ not including the day of the 158
notification, but not more than sixteen calendar days prior to 159
commencing construction operations in the construction area 160

which may involve underground utility facilities, shall cause 161
notice to be given to ~~a the protection service and the owners of~~ 162
~~underground utility facilities shown on the plans and~~ 163
~~specifications who are not members of a protection service.~~ The 164
owner of the underground utility facility, within ~~forty-eight~~ 165
~~hours, excluding Saturdays, Sundays, and legal holidays, after~~ 166
~~notice is received~~ at least two working days, not including the 167
day of the notification, shall stake, mark, or otherwise 168
designate the location of the underground utility facilities in 169
the construction area in such a manner as to indicate their 170
course together with the approximate depth at which they were 171
installed. 172

(D) If the public authority fails to comply with the 173
requirements of division (B) of this section, the contractor to 174
whom the work is awarded or its subcontractor complies with the 175
requirements of division (C) of this section, and the contractor 176
or its subcontractor encounters underground utility facilities 177
in the construction area that would have been shown on the plans 178
and specifications for such improvement had a protection service 179
~~or owner of the underground utility facility who is not a member~~ 180
~~of a protection service whose name, address, and telephone~~ 181
~~number is provided by the public authority~~ been contacted, then 182
the contractor, upon notification to the public authority, is 183
entitled to an increase to the contract price for itself or its 184
subcontractor for any additional work that must be undertaken or 185
additional time that will be required and is entitled to an 186
extension of the completion date of the contract for the period 187
of time of any delays to the construction of the public 188
improvement. 189

In the event of a dispute as to the application of this 190
section, procedures may be commenced under the applicable terms 191

of the construction contract, or if the contract contains no 192
provision for final resolution of the dispute, pursuant to the 193
procedures for arbitration in Chapter 2711. of the Revised Code. 194

This section does not affect rights between the 195
contractors and the public authority for any increase in 196
contract price or additional time to perform the contract when 197
the public authority complies with division (B) of this section. 198

Any public authority who complies with the requirements of 199
division (B) of this section and any contractor or its 200
subcontractor who complies with the requirements of division (C) 201
of this section shall not be responsible to the owner of the 202
underground utility facility if underground utility lines are 203
encountered not as marked in accordance with the provisions of 204
division (C) of this section by the owner of the underground 205
utility facility, unless the contractor or its subcontractor has 206
actual notice of the underground utility facility. Except as 207
noted in this division, this section does not affect rights 208
between the contractor or its subcontractor and the owner of the 209
underground utility facility for failure to mark or erroneously 210
marking utility lines. The public authority shall not make as a 211
requirement of any contract for public improvement any change in 212
responsibilities between the public authority and the owners of 213
the underground utility facilities in connection with damage, 214
injury, or loss to any property in connection with underground 215
utility facilities. 216

The contractor or its subcontractor shall alert 217
immediately the occupants of nearby premises as to any emergency 218
that the contractor or subcontractor may create or discover at 219
or near such premises. The contractor or its subcontractor shall 220
report immediately to the owner or operator of the underground 221

facility any break or leak on its lines or any dent, gouge, 222
groove, or other damage to such lines or to their coating or 223
cathodic protection, made or discovered in the course of their 224
excavation. 225

(E) This section does not affect rights between the public 226
authority and the owners of the underground utility facilities 227
for responsibility for costs involving removal, relocation, or 228
protection of existing underground utility facilities, or for 229
costs for delays occasioned thereby. 230

Sec. 3781.25. As used in sections 3781.25 to 3781.38 of 231
the Revised Code: 232

(A) "Protection service" means a notification center, but 233
not an owner of an individual utility, that exists for the 234
purpose of receiving notice from persons that prepare plans and 235
specifications for or that engage in excavation work, that 236
distributes this information to its members and participants, 237
and that has registered by March 14, 1989, with the secretary of 238
state and the public utilities commission of Ohio under former 239
division (F) of section 153.64 of the Revised Code as it existed 240
on that date. 241

(B) "Underground utility facility" includes any item 242
buried or placed below ground or submerged under water for use 243
in connection with the storage or conveyance of water or sewage; 244
electronic, or telephonic communications; television signals; 245
electricity; crude oil; petroleum products; artificial or 246
liquefied petroleum; manufactured, mixed, or natural gas; 247
synthetic or liquefied natural gas; propane gas; coal; steam; 248
hot water; or other substances. "Underground utility facility" 249
includes all operational underground pipes, sewers, tubing, 250
conduits, cables, valves, lines, wires, worker access holes, and 251

attachments, owned by any person, firm, or company. "Underground utility facility" does not include a private septic system in a one-family or multi-family dwelling utilized only for that dwelling and not connected to any other system.

(C) "Utility" means any owner or operator, or an agent of an owner or operator, of an underground utility facility, including any public authority, that owns or operates an underground utility facility. "Utility" does not include the owners of the following types of real property with respect to any underground utility facility located on that property:

(1) The owner of a single-family or two-, three-, or four-unit residential dwelling;

(2) The owner of an apartment complex;

(3) The owner of a commercial or industrial building or complex of buildings, including but not limited to, factories and shopping centers;

(4) The owner of a farm;

(5) The owner of an exempt domestic well as defined in section 1509.01 of the Revised Code.

(D) "Approximate location" means the immediate area within the perimeter of a proposed excavation site where the underground utility facilities are located.

(E) "Tolerance zone" means the site of the underground utility facility including the width of the underground utility facility plus eighteen inches on each side of the facility.

(F) "Working days" excludes Saturdays, Sundays, begin at midnight, end at eleven fifty-nine p.m. on the same date, and exclude weekends and legal holidays as defined in section 1.14

of the Revised Code and "hours" excludes hours on ~~Saturdays,~~ 280
~~Sundays,~~ weekends and legal holidays. 281

(G) "Designer" means an engineer, architect, landscape 282
architect, contractor, surveyor, or other person who develops 283
plans or designs for real property improvement or any other 284
activity that will involve excavation. 285

(H) "Developer" means the person for whom the excavation 286
is made and who will own or be the lessee of any improvement 287
that is the object of the excavation. 288

(I) "Excavation" means the use of hand tools, powered 289
equipment, or explosives to move earth, rock, or other materials 290
in order to penetrate or bore or drill into the earth, or to 291
demolish any structure whether or not it is intended that the 292
demolition will disturb the earth. "Excavation" includes such 293
agricultural operations as the installation of drain tile, but 294
excludes agricultural operations such as tilling that do not 295
penetrate the earth to a depth of more than twelve inches. 296
~~"Excavation" excludes any activity by a governmental entity~~ 297
~~which does not penetrate the earth to a depth of more than~~ 298
~~twelve inches.~~ "Excavation" excludes coal-mining and reclamation 299
operations regulated under ~~Chapter~~ Chapters 1513. and 1514. of 300
the Revised Code and rules adopted under it. "Excavation" 301
excludes all of the following activities when performed in the 302
public or utility right-of-way: 303

(1) Milling and grinding of road surfaces up to the 304
following depths without penetrating the earth or sub-base: 305

(a) For interstate routes, twelve inches; 306

(b) For multi-lane routes outside of municipal 307
corporations, whether divided or undivided, six inches; 308

<u>(c) For multi-lane divided routes inside municipal</u>	309
<u>corporations, six inches;</u>	310
<u>(d) For all other roadways, six inches.</u>	311
<u>(2) Utility wood pole inspection utilizing hand tools to</u>	312
<u>excavate to a depth that does not penetrate the earth more than</u>	313
<u>twelve inches and working on the clear side of poles, greater</u>	314
<u>than ninety degrees from any risers;</u>	315
<u>(3) Tilling for sowing of grass and wildflower coverings</u>	316
<u>to a depth that does not penetrate the earth more than four</u>	317
<u>inches for erosion control or beautification purposes;</u>	318
<u>(4) Placement of temporary signage, without penetrating</u>	319
<u>the earth more than four inches;</u>	320
<u>(5) Localized pavement repairs on all areas outside</u>	321
<u>municipal corporations, without penetrating the earth or sub-</u>	322
<u>base, to a depth not greater than twelve inches;</u>	323
<u>(6) Any activity conducted solely in response to a valid</u>	324
<u>notification, provided that such activity is performed</u>	325
<u>exclusively by means of hand tools. This exemption shall apply</u>	326
<u>irrespective of whether the activity occurs within or outside</u>	327
<u>the boundaries of a road right-of-way. If a transmission</u>	328
<u>facility is within the scope of the notification, coordination</u>	329
<u>between the responding party and the transmission facility owner</u>	330
<u>must take place for this exemption to exist.</u>	331
<u>(7) Activities conducted entirely within twelve inches in</u>	332
<u>any horizontal direction and twelve inches in any vertical</u>	333
<u>direction from an existing, exposed, or visible utility</u>	334
<u>appurtenances, as defined in division (Z) of this section,</u>	335
<u>provided such activities are performed exclusively with hand</u>	336
<u>tools and do not otherwise disturb the surrounding subsurface</u>	337

area. This exemption shall apply irrespective of whether the 338
activity occurs within or outside the boundaries of the road 339
right-of-way. 340

(J) "Excavation site" means the area within which 341
excavation will be performed. 342

(K) "Excavator" means the person or persons responsible 343
for making the actual excavation. 344

(L) "Interstate gas pipeline" means an interstate gas 345
pipeline subject to the "Natural Gas Pipeline Safety Act of 346
1968," 82 Stat. 720, 49 U.S.C. 1671, as amended. 347

(M) "Interstate hazardous liquids pipeline" means an 348
interstate hazardous liquids pipeline subject to the "Hazardous 349
Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C. 350
2002, as amended. 351

(N) "Special notification requirements" means requirements 352
for notice to an owner of an interstate hazardous liquids 353
pipeline or an interstate gas pipeline that must be made prior 354
to commencing excavation and pursuant to the owner's public 355
safety program adopted under federal law. 356

(O) "Commercial excavator" means any excavator, excluding 357
a utility as defined in this section, that satisfies both of the 358
following: 359

(1) For compensation, performs, directs, supervises, or is 360
responsible for the excavation, construction, improvement, 361
renovation, repair, or maintenance on a construction project and 362
holds out or represents oneself as qualified or permitted to act 363
as such; 364

(2) Employs tradespersons who actually perform excavation, 365

construction, improvement, renovation, repair, or maintenance on a construction project.	366 367
(P) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes a public authority.	368 369
(Q) "Positive response system" means an automated system facilitated by a protection service allowing a utility to communicate to an excavator the presence or absence of any conflict between the existing underground utility facilities and the proposed excavation site.	370 371 372 373 374
(R) "One-call notification system" means the software or communications system used by a protection system to notify its membership of proposed excavation sites.	375 376 377
(S) "Project" means any undertaking by a private party of an improvement requiring excavation.	378 379
(T) "Public authority" has the same meaning as in section 153.64 of the Revised Code.	380 381
(U) "Improvement" means any construction, reconstruction, improvement, enlargement, alteration, or repair of a building, highway, drainage system, water system, road, street, alley, sewer, ditch, sewage disposal plant, water works, and all other structures or works of any nature.	382 383 384 385 386
(V) "Emergency" means an unexpected occurrence causing a disruption or damage to an underground utility facility that requires immediate repair or a situation that creates a clear and imminent danger that demands immediate action to prevent or mitigate loss of or damage to life, health, property, or essential public services.	387 388 389 390 391 392
(W) "Nondestructive manner" means using low-impact, low-	393

risk technologies such as hand tools, or hydro or air vacuum excavation equipment. 394
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(X) "Cable service provider" has the same meaning as in section 1332.01 of the Revised Code. 396
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(Y) "Electric cooperative" and "electric utility" have the same meanings as in section 4928.01 of the Revised Code. 398
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(Z) "Utility appurtenances" means the physical components and legal rights attached to a property that are necessary for providing utility services such as water, electricity, gas, communications, and sewage. These include items like, but not limited to, utility poles, meters, valves, and electrical boxes, as well as easements that allow utility companies to access the property for installation, maintenance, and repair. They are essential for the property's use and typically transfer with ownership. 400
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(AA) "Localized pavement repair" means repair of areas of pavement requiring deeper removal in order to correct a pavement deficiency that is not common or cannot be sufficiently repaired in the overall pavement milling area of work. 409
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Sec. 3781.26. (A) Each utility that owns or operates underground utility facilities shall participate in and register the location of its underground utility facilities with a protection service that serves the area where the facilities are located. ~~A utility may elect to participate in the service on a limited basis and if it does so, it shall register the location of its underground utility facilities by identifying the municipal corporations, and outside the limits of a municipal corporation, the townships by county and, where applicable, the immediate geographic area in which it has facilities. The~~ 413
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~~service shall establish reasonable fees for limited basis-~~ 423
~~participants.~~ 424

(B) Protection services, utilities, commercial excavators, 425
excavation equipment dealers, the public utilities commission of 426
Ohio, the board of building standards, local law enforcement 427
agencies, and fire departments should publicize the importance 428
of ascertaining the location of underground utility facilities 429
before excavating and the use of protection services to 430
ascertain that information. 431

(C) A protection service shall maintain records of 432
notifications received from developers, designers, and 433
excavators, and of its notifications made to utilities, 434
developers, designers, and excavators, under sections 3781.27 435
and 3781.28 of the Revised Code. The records of a protection 436
service shall identify by reference number, the notifications it 437
received regarding a proposed excavation site, the notifications 438
it provided regarding a proposed excavation site, and the date 439
and time of each notification. 440

(D) Each utility fully participating in a protection 441
service pursuant to this section shall also participate in its 442
affiliated positive response system. ~~Each utility participating-~~ 443
~~in a protection service on a limited basis shall directly-~~ 444
~~communicate to the excavator the presence or absence of any-~~ 445
~~conflict between the existing underground utility facilities and~~ 446
~~the proposed excavation site.~~ 447

Sec. 3781.261. (A) An excavator, contractor, utility, 448
designer, engineer, developer, or utility locator that utilizes- 449
a protection service who has responsibility to the 811 450
notification process shall obtain training in the protection of 451
underground utility facilities. ~~An excavator, contractor, or-~~ 452

~~utility shall be deemed to have obtained that training if the 453
excavator, contractor, or utility is a member of a protection 454
service or a statewide association representing excavators, 455
contractors, or utilities and the service or association 456
provides that training. An excavator, contractor, or utility 457
also may obtain the training from such a service or association 458
without becoming a member. 459~~

(B) Employers shall provide training at the time of 460
initial assignment. Retraining of each employee shall occur 461
every five years thereafter, or whenever changes occur to 462
Chapters 3781. or 4913. of the Revised Code. 463

(C) Employee training provided and training successfully 464
completed shall be documented and retained by the employer. 465
Employee training requirements shall include the following 466
topics: 467

(1) The one-call OHIO811 notification process; 468

(2) Responsibilities of utilities and excavators; 469

(3) Positive response system; 470

(4) The Ohio universal marking standards; 471

(5) The laws and regulations described in sections 153.64 472
and 3781.25 to 3781.34 of the Revised Code. 473

Sec. 3781.27. (A) In order to ascertain the name of each 474
utility with underground utility facilities located at the 475
proposed excavation site and the types and tolerance zones of 476
those facilities based on current records of the utility, any 477
developer who is planning a project that will require excavation 478
or the designer employed by the developer for the project shall 479
notify a protection service of the location of the proposed 480

excavation site. 481

~~(B) Except in the case of limited basis participants, the~~ 482
~~The protection service shall provide notice of the proposed~~ 483
~~excavation to each participant in the service that has~~ 484
~~underground utility facilities in the area of the proposed~~ 485
~~excavation site. Except as provided in section 3781.271 of the~~ 486
~~Revised Code, in the case of limited basis participants, the~~ 487
~~protection service shall notify the developer or the designer~~ 488
~~employed by the developer of the name of each limited basis~~ 489
~~participant with underground utility facilities within the~~ 490
~~municipal corporation or township and county of the proposed~~ 491
~~excavation site, and the developer or designer shall contact~~ 492
~~that utility.~~ 493

(C) (1) Each utility that has any underground utility 494
facilities in the area of the proposed excavation site shall 495
notify the developer or the designer employed by the developer 496
of the locations and description of the utility's underground 497
utility facilities located at the proposed excavation site in 498
accordance with division (C) (2) of this section. The utility 499
shall make this notification within ten working days of 500
receiving a notice under division (B) of this section or by a 501
later date acceptable to the developer or designer and utility. 502
If the proposed project is within six hundred sixty feet of the 503
center point of an interstate hazardous liquid pipeline or an 504
interstate gas pipeline, the utility shall provide written 505
notice to the developer or designer of any special notification 506
requirements and identify its primary contact person for the 507
project area. 508

(2) If requested by the developer or the designer employed 509
by the developer, each utility shall do one of the following in 510

order to comply with the notification requirements of division	511
(C) (1) of this section:	512
(a) Mark the location of the underground utility	513
facilities, other than those facilities serving single-family or	514
two-, three-, or four-unit dwellings, at the proposed excavation	515
site in accordance with the marking standards described in	516
division (C) of section 3781.29 of the Revised Code;	517
(b) Provide digital or paper drawings, or both, that meet	518
both of the following requirements:	519
(i) They are drawn to scale and include locatable items.	520
Locatable items may include poles, pedestals, back of curb,	521
sidewalk, edge of pavement, centerline of ditch, property lines,	522
and other similar items.	523
(ii) They depict the location of the underground utility	524
facilities.	525
(3) In the case of an interstate hazardous pipeline and an	526
interstate gas pipeline, the utility shall also provide the	527
location and description of any right-of-way associated with the	528
underground utility facilities as well as pipeline location	529
information, such as providing documents reflecting the actual	530
location of the pipeline, marking facilities on design drawings,	531
and providing maps.	532
Compliance with divisions (C) (2) and (3) of this section	533
does not relieve a utility from compliance with the marking	534
requirements of section 3781.29 of the Revised Code.	535
(D) The utility shall determine if any relocation,	536
support, or removal, or protective steps beyond those described	537
in divisions (A) (1) to (5) of section 3781.30 of the Revised	538
Code are required in order to prevent disturbance or	539

interference with the underground utility facilities during 540
excavation. The utility shall determine whether it will permit 541
the developer or the designer employed by the developer to make 542
those adjustments, and, if the adjustments are to be made by the 543
utility, a reasonable amount of time necessary to make those 544
adjustments. 545

(E) (1) Based on the information provided pursuant to 546
division (C) of this section, the developer or the designer 547
employed by the developer shall indicate the approximate 548
locations of underground utility facilities either on or with 549
the plans prepared for the project. The developer or designer 550
shall include with the plans the names, addresses, and telephone 551
numbers of utilities with underground facilities at the 552
excavation site, ~~indicating which utilities are limited basis-~~ 553
~~participants~~; the name and telephone number of any appropriate 554
protection service; and any required adjustments as described in 555
division (D) of this section, including the reasonable time 556
necessary for the utility to make those adjustments. In the case 557
of an interstate hazardous liquid pipeline or an interstate gas 558
pipeline, the developer or designer also shall include all of 559
the following: 560

(a) Any special notification requirements; 561

(b) The name and contact information of the primary 562
contact person for each pipeline operator who has provided 563
notice to the developer or designer under division (C) (1) of 564
this section; 565

(c) Notice stating that the developer or designer has 566
utilized reasonable means to contact the pipeline operator to 567
verify the location of the pipeline and pipeline rights-of-way. 568
Developers and designers who provide notice to the protection 569

service in accordance with division (A) of this section are 570
deemed to have complied with the notification requirement under 571
this division. 572

(d) Notice that the developer or designer has reviewed, or 573
attempted to review, preliminary information about the proposed 574
development with the pipeline operator and incorporated 575
requested adjustments into the plans. 576

(2) (a) Except as otherwise provided in division (E) (2) (b) 577
of this section, the developer or designer shall provide the 578
plans to the commercial excavator prior to entering into a 579
contract that involves such excavation. If the developer does 580
not prepare written plans or have any written plans prepared, 581
the developer shall otherwise provide the approximate locations, 582
identifying information on the utilities, information on 583
required adjustments, and any special notification requirements 584
to the commercial excavator before excavation begins. 585

(b) When the developer is a utility, the utility shall 586
provide either the plans or the approximate locations, 587
identifying information on the utilities, information on 588
required adjustments, and any special notification requirements 589
to the excavator before excavation begins. 590

(3) The developer or designer shall design the project 591
taking into account the approximate location of existing 592
underground utility facilities in order to prevent, as far as is 593
practicable, disturbance or interference with those facilities. 594

(4) When a project includes installation of new 595
underground utility facilities, the developer or designer shall 596
attempt to design the installation so that at least a twelve- 597
inch clearance is provided between the facilities. No facility 598

shall be installed with less than a twelve-inch clearance unless 599
the owners of existing facilities are notified, in writing, 600
prior to installation. 601

(F) (1) This section does not apply in the case of a 602
utility making emergency repair to its own underground utility 603
facility. 604

(2) This section does not apply in the case of the owner 605
of the types of real property identified in divisions (C) (1) to 606
(4) of section 3781.25 of the Revised Code, unless the owner 607
employs a designer to make written plans for work that will 608
involve excavation. If the owner employs a designer, the 609
designer shall contact a protection service ~~and utilities that~~ 610
~~are limited basis participants~~ in accordance with divisions (A) 611
and (B) of this section, and shall include in or with the plans 612
the information required under division (E) of this section. The 613
owner shall provide that information to the excavator. 614

(G) A public authority, as defined in section 153.64 of 615
the Revised Code, may withhold approval to a project until the 616
requirements of this section have been satisfied by the 617
developer and utility, as applicable. A public authority may 618
rely solely upon the notice submitted under division (E) of this 619
section when determining whether the requirements of this 620
section have been satisfied for purposes of granting final 621
approval of such development. A public authority is immune from 622
liability related to the approval or construction of such 623
development when the approval is based upon information as 624
provided in this division. 625

Sec. 3781.271. (A) Beginning on July 1, 2013, each 626
protection service shall reasonably modify its one-call 627
notification system so as to permit the reasonable 628

identification of the location of a proposed excavation site ~~in~~ 629
~~a manner in which the protection service may then notify any~~ 630
~~potentially affected limited basis participants.~~ Each member of 631
a protection service, ~~including limited basis participants,~~ 632
shall be responsible for providing current contact information 633
to the protection service. 634

(B) The protection service shall create and maintain a 635
centralized database for the purpose of collecting and tracking 636
underground facility damage notifications made in accordance 637
with divisions (A) (6), (7), and (8) of section 3781.30 of the 638
Revised Code. 639

(C) Compiled, nonconfidential damage data shall be made 640
publicly available on the protection service's web site for the 641
purpose of improving excavation safety, damage prevention 642
education, and transparency. 643

(D) (1) All reports made pursuant to divisions (A) (6) and 644
(8) of section 3781.30 of the Revised Code shall be made 645
available to the public utilities commission upon request. 646

(2) Information contained in such reports provided to the 647
commission shall be held as confidential, except when disclosed 648
under section 4901.16 of the Revised Code or when requested by 649
the underground technical committee as part of a report prepared 650
pursuant to section 4913.13 of the Revised Code. 651

Sec. 3781.28. (A) Except as otherwise provided in 652
divisions (C), (D), (E), and (F) of this section, ~~at least~~ 653
~~forty-eight hours but not more than ten working days before~~ 654
~~commencing excavation,~~ at least two working days, not including 655
the day of the notification, but not more than sixteen calendar 656
days before commencing excavation, the excavator shall notify a 657

the protection service of the location of the excavation site 658
and the date on which excavation is planned to commence. 659

(B) On receipt of notice under division (A) of this 660
section, the protection service shall provide to each utility 661
with underground utility facilities located at the excavation 662
site, notice of the proposed excavation. 663

(C) In the case of an interstate hazardous liquids 664
pipeline or interstate gas pipeline, the excavator shall comply 665
with the special notice requirements of the public safety 666
program of the owner of the pipeline as indicated in the plans 667
or otherwise provided to the excavator in accordance with 668
division (E) or (F) (2) of section 3781.27 of the Revised Code. 669

(D) If it has been determined pursuant to division (D) of 670
section 3781.27 of the Revised Code that relocation, support, 671
removal, or protective steps are necessary, the excavator shall 672
provide earlier notice to the utility in order to provide the 673
utility with reasonable time to coordinate making the 674
adjustments with actual excavation. 675

(E) If an excavation will cover a large area and will 676
progress from one area to the next over a period of time, the 677
excavator shall provide written notice of excavation with 678
projected timelines for segments of the excavation as the 679
excavation progresses in order to coordinate the marking of 680
underground utility facilities with actual excavation schedules. 681
Under such circumstances, the utility and excavator shall 682
determine a mutually agreed upon marking schedule based on the 683
project schedule. Once such a schedule is established, the 684
marking and notification requirements set forth in division (A) 685
(1) of section 3781.29 of the Revised Code shall not apply. 686

(F) (1) In the case of a utility that is making an emergency repair to its own underground utility system or a governmental entity making an underground emergency repair to traffic control devices, as defined in section 4511.01 of the Revised Code, used on any street or highway under the entity's jurisdiction, the utility or governmental entity shall notify a protection service ~~and each limited basis participant~~ of the excavation site. This notice need not occur before commencing excavation.

(2) In the case of an excavation at the site of real property of the type described in divisions (C) (1) to (4) of section 3781.25 of the Revised Code:

(a) If the owner of the property is the excavator, this section does not apply unless the excavation is planned for an area where a utility easement is located, a public right-of-way, or where utility facilities are known to serve the property.

(b) If the owner of the property employs an excavator, the excavator shall comply with the requirements of this section. If the owner did not employ a designer to make written plans, the excavator shall provide the notice required under this section to a protection service ~~and to each utility that is a limited-basis participant in a protection service that has underground utility facilities within the municipal corporation or township and county of the excavation site, as indicated by the protection service.~~

Sec. 3781.29. (A) (1) Except as otherwise provided in division (A) (2) of this section, within ~~forty-eight hours at~~ least two working days, not including the day of the notification, of receiving notice under section 3781.28 of the Revised Code, each utility shall review the status of its

facilities within the excavation site, locate and mark its 717
underground utility facilities at the excavation site in such a 718
manner as to indicate their course, and report the appropriate 719
information to the protection service for its positive response 720
system. If a utility does not mark its underground utility 721
facilities or contact the excavator within that time, the 722
utility is deemed to have given notice that it does not have any 723
facilities at the excavation site. If the utility cannot 724
accurately mark the facilities, the utility shall mark them to 725
the best of its ability, notify the excavator using the positive 726
response system that the markings may not be accurate, and 727
provide additional guidance to the excavator in locating the 728
facilities as needed during the excavation. 729

(2) In the case of an interstate hazardous liquids 730
pipeline or an interstate gas pipeline, the owner of the 731
pipeline shall locate and mark its pipeline within the time 732
frame established in the public safety program of the owner. 733

(B) Unless a facility actually is uncovered or probed by 734
the utility or excavator, any indications of the depth of the 735
facility shall be treated as estimates only. (C) (1) Except as 736
provided in division (C) (2) of this section, a utility shall 737
mark its underground facilities using the following color codes: 738
739

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A	Type of Underground Utility Facility	Color
B	Electric power transmission and distribution	Safety red

C	Gas transmission and distribution	High visibility safety yellow
D	Oil transmission and distribution	High visibility safety yellow
E	Dangerous materials, product lines, and steam lines	High visibility safety yellow
F	Telephone systems	Safety alert orange
G	Police and fire communications	Safety alert orange
H	Cable television	Safety alert orange
I	Water systems	Safety precaution blue
J	Slurry systems	Safety precaution purple
K	Sewer lines	Safety green.

(2) All underground facilities shall be marked in 740
accordance with the Ohio universal marking standards that are on 741
file with the Ohio utilities protection service. Industry 742
representatives serving on Ohio damage prevention councils shall 743
review the marking standards every two years. 744

(D) Except as otherwise provided in divisions (E) and (F) 745
of this section, prior to notifying a protection service of the 746
proposed excavation, an excavator shall define and premark the 747
approximate location. Proposed construction or excavation 748
markings shall be made in white through the use of an industry- 749
recognized method such as chalk-based paint, flags, stakes, or 750

other method applicable to the specific site and when possible 751
shall indicate the excavator's identity by name, abbreviation, 752
or initial. 753

(E) (1) Before beginning an emergency excavation, or as 754
soon as possible thereafter, an excavator shall make every 755
effort to notify a protection service of the excavation. In 756
providing notification, the excavator shall provide, at a 757
minimum: 758

(a) The name of the individual notifying the protection 759
service; 760

(b) The name, address, any electronic mail address, and 761
telephone numbers of the excavator; 762

(c) The specific location of the excavation site; 763

(d) A description of the excavation. 764

(2) Upon receiving the information set forth in division 765
(E) (1) of this section, the protection service shall provide the 766
excavator with a reference number and a list of utilities that 767
the protection service intends to notify. The protection service 768
shall immediately notify each utility that according to the 769
registration information provided under section 3781.26 of the 770
Revised Code has facilities located within the designated area 771
of the emergency excavation. 772

(3) Any utility notified of an emergency excavation may 773
inspect all of its underground utility facilities located at the 774
emergency excavation site and may take any otherwise lawful 775
action it considers necessary to prevent disturbance to or 776
interference with its facilities during excavation. 777

(F) An excavator is not required to premark the 778

approximate location of an excavation as provided in division	779
(D) of this section in any of the following situations:	780
(1) The utility can determine the precise location,	781
direction, size, and length of the proposed excavation site by	782
referring to the notification provided by the protection service	783
pursuant to sections 3781.27 and 3781.28 of the Revised Code.	784
(2) The excavator and the affected utility have had an on-	785
site, preconstruction meeting for the purpose of premarking the	786
excavation site.	787
(3) The excavation involves replacing a pole that is	788
within five feet of the location of an existing pole.	789
(4) Premarking by the excavator would clearly interfere	790
with pedestrian or vehicular traffic control.	791
Sec. 3781.30. (A) When making excavations using	792
traditional or trenchless technologies, the excavator shall do	793
all of the following:	794
(1) Maintain reasonable clearance between any underground	795
facility and the cutting edge or point of powered equipment;	796
(2) Protect and preserve the markings of tolerance zones	797
of underground utility facilities until those markings are no	798
longer required for proper and safe excavations;	799
(3) When approaching and excavating within the tolerance	800
zone of underground utility facilities with powered equipment,	801
require an individual other than the equipment operator, to	802
visually monitor the excavation activity for any indication of	803
the underground utility facility;	804
(4) Conduct the excavation within the tolerance zone of	805
underground utility facilities in a careful, prudent, and	806

nondestructive manner, when necessary, in order to prevent 807
damage; 808

(5) Excavate up to the total depth of the excavation to 809
either determine the precise location of underground utility 810
facilities or verify that the total depth of excavation is free 811
of such facilities; 812

(6) As soon as any damage is discovered, including gouges, 813
dents, or breaks to coatings, cable sheathes, and cathodic 814
protection anodes or wiring, report the type and location of the 815
damage to the utility and the protection service and permit the 816
utility a reasonable amount of time to make necessary repairs. 7. 817
If the owner or operator of the utility facility is unknown, 818
notification to the protection service satisfies the excavator's 819
reporting requirement to the utility under this section. 820

(7) Immediately report to the utility, the protection 821
service, and, if necessary, to the appropriate ~~law enforcement~~ 822
~~agencies and fire departments~~ emergency response agencies by 823
calling 9-1-1, any damage to an underground utility facility 824
that results in escaping flammable, corrosive, explosive, or 825
toxic liquids or gas, and take reasonable appropriate actions 826
needed to protect persons and property and to minimize safety 827
hazards until those agencies and departments and the utility 828
arrive at the scene. If the owner or operator of the utility 829
facility is unknown, notification to the protection service 830
satisfies the excavator's reporting requirement to the utility 831
under this section. 832

(8) In complying with divisions (A) (6) and (7) of this 833
section, damage information reporting shall, at a minimum, 834
include all of the following: 835

<u>(a) The location or address where the damaged underground facility is located;</u>	836
	837
<u>(b) The type of underground utility facility damaged, including the approximate size, material type and color, if available;</u>	838
	839
	840
<u>(c) The approximate depth at which the damaged underground utility facility was encountered.</u>	841
	842
(B) When utilizing trenchless excavation methods, the excavator must comply with the following requirements, in a manner consistent with division (A) of this section:	843
	844
	845
(1) Expose and confirm all underground utility facilities at each crossing point by the proposed excavation in a nondestructive manner to the installation depth of the new facility;	846
	847
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	849
(2) Expose all parallel underground utility facilities in a nondestructive manner at the beginning and end of each trenchless excavation to the installation depth of the new facility. If the proposed alignment is within the tolerance zone of any parallel underground utility facility, the underground utility facility shall be exposed every one hundred feet.	850
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(3) Ensure that the final product installation maintains the proper clearances of existing underground utility facilities as determined pursuant to division (E) (4) of section 3781.27 of the Revised Code.	856
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Sec. 4913.01. As used in this chapter:	860
(A) "Aggrieved person" means a person with duties and obligations under sections 153.64, 3781.27, and 3781.28 and <u>3781.25</u> to 3781.32 of the Revised Code and divisions (A) and (B)	861
	862
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of section 3781.26 of the Revised Code and who is directly 864
involved with or impacted by the alleged compliance failure, as 865
identified in the request for inquiry, of another person with 866
duties and obligations under sections 153.64, ~~3781.27, and~~ 867
~~3781.28~~ and 3781.25 to 3781.32 of the Revised Code and 868
~~divisions (A) and (B) of section 3781.26 of the Revised Code.~~ 869
"Aggrieved person" includes any person when the alleged 870
compliance failure is a failure to comply with the reporting 871
requirements prescribed in divisions (A) (6) and (8) of section 872
3781.30 of the Revised Code. 873

(B) "Compliance failure" means a failure to comply with 874
any provision of sections 153.64, ~~3781.27, and 3781.28~~ and 875
~~3781.25~~ to 3781.32 of the Revised Code and ~~divisions (A) and (B)~~ 876
~~of section 3781.26 of the Revised Code.~~ 877

(C) "Designer," "developer," "excavation," "excavator," 878
"one-call notification system," "person," "protection service," 879
"underground utility facility", and "utility" have the same 880
meanings as in section 3781.25 of the Revised Code. 881

Section 2. That existing sections 153.64, 3781.25, 882
3781.26, 3781.261, 3781.27, 3781.271, 3781.28, 3781.29, 3781.30, 883
and 4913.01 of the Revised Code are hereby repealed. 884