

**367.4909 Operator to provide protection notification center access to excavators -- Kentucky Contact Center -- Report of excavation damage -- Duties of operators upon receiving requests -- Rejection of design information request -- Color coding for temporary underground facility markers -- Operator's inability to comply due to extraordinary circumstances -- Underground facilities installed after January 1, 2013.**

- (1) Each operator shall provide protection notification center access to excavators.
- (2) Voluntary operator membership in the Kentucky Contact Center shall satisfy the requirement of subsection (1) of this section.
- (3) Each operator member of the Kentucky Contact Center shall provide and update as needed to the Kentucky Contact Center the general location of its underground facilities, the operator identity and business address, and emergency notification telephone numbers.
- (4)
  - (a) Each operator shall report to the commission excavation damage to an underground facility used in the transportation of gas or hazardous liquid within thirty (30) calendar days of being informed of the damage. Each report of excavation damage shall be made by electronic mail or as otherwise prescribed by the commission.
  - (b) If the damage described in paragraph (a) of this subsection is caused by a communications service provider and no attempt to locate underground facilities was made, the operator shall include in its damage report to the commission the distance from the communications terminal that the damage occurred. The commission shall submit a report to the Legislative Research Commission on or before December 1, 2025, detailing the number of damage reports made under this subsection caused by communications service providers that occurred within the area in which nonintrusive excavation is allowed under KRS 367.4915(12).
- (5) An operator shall respond to facility locate requests and provide a positive response as follows:
  - (a) To a normal excavation locate request, within two (2) working days after receiving notification from an excavator or any time prior to the scheduled excavation start date if agreed upon as provided in KRS 367.4917(7), excluding large project requests, design information requests, emergency locate requests, and unmapped or untonable facilities;
  - (b) To an emergency locate request, as quickly as possible but not to exceed forty-eight (48) hours after receiving notification from an excavator;
  - (c) To a design information request, within ten (10) working days after receiving notification from the person making the request;
  - (d) To a large project request, within two (2) working days the operator shall notify the excavator that an excavation area has been determined to be a large project, and the operator shall respond to the request within five (5) working days from the later of receiving notification from an excavator or prior to the scheduled excavation start date for that location if agreed upon as provided in KRS 367.4917(7);

- (e) To an unmapped or untonable facility request, within two (2) working days the operator shall notify the excavator that an excavation area has been determined to be an unmapped or untonable project, and the operator shall respond to the request within five (5) working days for a normal locate request or eight (8) working days for a large project request from the later of receiving notification from an excavator or prior to the scheduled excavation start date if agreed upon as provided in KRS 367.4917(7); and
  - (f) To a fiber-to-the-premises broadband deployment excavation request, in locations not already served by fiber-to-the-premises, within four (4) working days.
- (6) Within one (1) working day after receiving a second notice request from an excavator pursuant to KRS 367.4911(12), an operator shall locate its facility and update the positive response system.
- (7) An operator shall, after receiving an emergency locate request, a normal excavation locate request, an unmapped or untonable locate request, or a large project request as provided in subsection (5) of this section:
- (a) Inform the excavator of the approximate location and description of any of the operator's underground facilities that may be damaged or pose a safety concern because of excavation or demolition;
  - (b) Unless permanent facility markers are provided, provide temporary markings to inform the excavator of the ownership and approximate location of the underground facility; and
  - (c) Provide a positive response to the requesting party.
- (8) Upon receiving a design information request, an operator shall contact the person making the request within the time period specified in subsection (5) of this section. The operator shall:
- (a) Designate with temporary underground facility markers the location of all underground facilities owned by the operator within the area of the design information request as defined in KRS 367.4903;
  - (b) Provide to the person making the design information request a description of all underground facilities owned by the operator in the area of the design information request and the location of the facilities, which may include drawings marked with a scale, dimensions, and reference points for underground utilities already built in the area or other facility records that are maintained by the operator; or
  - (c) Allow the person making the design information request or an authorized person to inspect the drawings or other records for all underground facilities with the proposed area of excavation at a location that is acceptable to the operator.
- (9) An operator may reject a design information request and not be held in violation of subsection (6) of this section based upon security considerations or if producing the information will place the operator at a competitive disadvantage, pending the operator obtaining additional information confirming the legitimacy of the notice. The operator shall notify the person making the design information request and may

request additional information.

- (10) Temporary underground facility markers shall consist of paint, chalk, flags, stakes, or any combination thereof and shall conform to the following standards of the American Public Works Association uniform color code:
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| (a) Electric power distribution and transmission       | Safety Red                    |
| (b) Municipal electric systems                         | Safety Red                    |
| (c) Gas distribution and transmission                  | High visibility safety yellow |
| (d) Oil distribution and transmission                  | High visibility safety yellow |
| (e) Dangerous materials, product lines                 | High visibility safety yellow |
| (f) Telecommunication systems and cable television     | Safety alert orange           |
| (g) Temporary survey markings                          | Safety pink                   |
| (h) Police and fire communications                     | Safety alert orange           |
| (i) Water systems                                      | Safety precaution blue        |
| (j) Sewer and storm drainage systems                   | Safety green                  |
| (k) Proposed excavation or construction boundaries     | White                         |
| (l) Reclaimed water, slurry, and irrigation facilities | Purple                        |
| (m) Fiber optic and critical telecommunication         | Safety alert orange           |
- (11) If extraordinary circumstances exist, an operator shall notify the excavator of the operator's inability to comply with this section. Notification under this subsection shall temporarily relieve the operator of complying with subsections (5) and (6) of this section until the operator can recover from the extraordinary circumstances. Extraordinary circumstances include weather that makes it impossible for any combination of facility markers identified in subsection (10) of this section to be used, extreme weather conditions, force majeure, disasters, or civil unrest that make timely response difficult or impossible.
- (12) All underground facilities installed after January 1, 2013, shall include a means to accurately identify and locate the underground facilities from the surface. This subsection does not apply to the repair of existing facilities.

**Effective:** July 15, 2024

**History:** Amended 2024 Ky. Acts ch. 21, sec. 2, effective July 15, 2024. -- Amended 2021 Ky. Acts ch. 80, sec. 2, effective January 1, 2022. -- Amended 2018 Ky. Acts ch. 70, sec. 3, effective July 14, 2018. -- Amended 2015 Ky. Acts ch. 31, sec. 2, effective June 24, 2015. -- Amended 2014 Ky. Acts ch. 100, sec. 2, effective July 15, 2014. -- Amended 2012 Ky. Acts ch. 137, sec. 3, effective July 12, 2012. -- Amended 2008 Ky. Acts ch. 180, sec. 2, effective July 15, 2008. -- Amended 2000 Ky. Acts ch. 222, sec. 2, effective July 14, 2000. -- Created 1994 Ky. Acts ch. 425, sec. 5, effective January 1, 1995.