

State of Connecticut
Regulation of
Public Utilities Regulatory Authority
Concerning
Amendments Relating to the Call Before You Dig Regulations

Section 1. Section 16-345-1 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-345-1. Definitions

As used in sections 16-345-1 to 16-345-9, inclusive, of the regulations of Connecticut state agencies:

(1) “Excavator” means a person, [partnership, corporation or association, including a public utility or a person engaged as a contractor by a] public utility or public agency, directly performing or engaged in the act of excavation[,] or demolition [or discharge of explosives];

(2) “Public agency” [means the state or any political subdivision thereof, including any governmental agency] has the same meaning as provided in section 16-345 of the Connecticut General Statutes;

(3) “Public utility” [means the owner or operator of underground facilities for furnishing electric distribution or transmission services, gas, telephone, telegraph, communications and pipeline (whether for hire or not), sewage (including storm sewers, sanitary sewers and drainage systems, or parts thereof), water, community television antenna, steam, traffic signal, fire signal or similar service, including a municipal or other public owner or operator, but excluding facilities owned by the owner of a private residence, for utility service solely for such residence, regardless of whether such owner or operator is otherwise subject to the jurisdiction of the Department of Public Utility Control. (An “excavator” or “public agency” may also be a “public utility”)] has the same meaning as provided in section 16-345 of the Connecticut General Statutes;

(4) “Central clearinghouse” [means the single organization established by the public utilities pursuant to section 16-348 of the Connecticut General Statutes for the purpose of receiving and giving notice of excavation activity within the state] has the same meaning as provided in section 16-345 of the Connecticut General Statutes;

(5) “Excavation” [means an operation for the purposes of movement or removal of earth, rock or other materials in or on the ground, or otherwise disturbing the subsurface of the earth, by the use of powered or mechanized equipment, including but not limited to digging, blasting, auguring, back filling, test boring, drilling, pile driving, grading, plowing in, hammering pulling in, trenching and tunneling. Reclamation processes, and milling; excluding the movement of earth by tools manipulated only by human or animal power and the tilling of soil for agricultural purposes] has the same meaning as provided in section 16-345 of the Connecticut General Statutes;

(6) “Demolition” [means the wrecking, razing, rending, moving or removing of any structure] has the same meaning as provided in section 16-345 of the Connecticut General Statutes;

(7) “Damage” [includes but is not limited to the substantial weakening of structural or lateral support of a utility line, penetration or destruction of any utility line protective coating, housing or other protective device or the severance, partial or complete, of any utility line and “contact” includes, without limitation, the striking, scraping or denting, however slight, of any underground

utility facility including any underground utility line protective coating, housing or other protective device, or any significant weakening or disturbance of the structural or lateral support of any underground utility facility] has the same meaning as provided in section 16-345 of the Connecticut General Statutes;

(8) “Approximate location of underground facilities” [means a strip of land not more than three feet wide or a strip of land extending not more than one and one half feet on either side of the underground facilities] has the same meaning as provided in section 16-345 of the Connecticut General Statutes;

(9) [“Department”] “Authority” means the [Department of Public Utility Control] Public Utilities Regulatory Authority or its successor;

(10) [“At or near” means within the same subsection of a section in the standard grid system established or to be established pursuant to sections 16-345-1 to 16-345-9, inclusive, of the regulations of Connecticut state agencies, when such term is used in connection with a proposed excavation, discharge of explosives or demolition] “Designated area” means the area of proposed excavation or demolition designated in accordance with subsection (e) of section 16-345-4 of the Regulations of Connecticut State Agencies;

(11) [“Standard grid system” means a grid system established or to be established by the central clearinghouse and approved by the Department] “Area of continual excavation” means a location where excavation is part of the normal business of that location, including, but not limited to, cemeteries, quarries, and farms;

(12) “Facilities” means any wire, cable, pipe, vault, storage tank, transformer, or other similar property or equipment owned by public utilities for furnishing electric [distribution or transmission services], gas, telephone, telegraph, communications [and], pipeline (whether for hire or not), sewage (including storm sewers, sanitary sewers and drainage systems, or parts thereof), water, community television antenna, steam, traffic signal, fire signal or similar service, regardless of whether such property or equipment is located on land owned by a person or public agency or whether it is located within an easement or right of way, but excluding such property or equipment owned by the owner of a private residence for utility service solely for such residence; [and]

(13) “Registered” when used in connection with a public utility’s facilities, includes such facilities known to the [Department and the] central clearinghouse to the extent that the central clearinghouse has sufficient information to provide notification service as required by [subsection (d) of] section [16 345] 16-349 of the Connecticut General Statutes[.];

(14) “Emergency excavation” means an excavation or demolition without explosives that is necessary to correct an emergency involving danger to life, health, or property, the interruption of operation of a major industrial plant, or to assure the continuity of public utility service;

(15) “Emergency blasting” means the use of explosives to correct an emergency involving an immediate and substantial danger of death or serious personal injury;

(16) “Soft digging” means a nonmechanical and nondestructive process used to excavate and evacuate soils at a controlled rate, using high pressure water or air jet to break up the soil, often in conjunction with a high power vacuum unit to extract the soil without damaging the facilities;

(17) “Person” has the same meaning as provided in section 16-345 of the Connecticut General Statutes;

(18) “Responsible party” is a person, public agency or public utility that has direct knowledge and oversight of an excavation that will be performed on its behalf;

(19) “Contact” means the striking, scraping or denting, however slight, of any underground utility facility, including any underground utility facility protective coating, housing or other protective device;

(20) “Notify the central clearinghouse” means to provide the information required by section 16-

345-4 of the Regulations of Connecticut State Agencies to the central clearinghouse about a proposed excavation or demolition by calling the designated telephone number, utilizing the designated website, or otherwise providing notice to the central clearinghouse in a manner established by the central clearinghouse; and

(21) “Ticket” means a notification provided by the excavator to the central clearinghouse.

Sec. 2. Section 16-345-2 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-345-2. Central clearinghouse

(a) The central clearinghouse shall be Call Before You Dig, Inc., a corporation established under the Connecticut Non stock Corporation Act, membership [in] which [corporation] is open to all public utilities which file with it the information required by sections 16-345-1 to 16-345-9, inclusive, of the [regulations] Regulations of Connecticut [state agencies, shall be the central clearinghouse] State Agencies.

(b) The certificate of incorporation, [and] Bylaws and written operating procedures of the central clearinghouse shall be subject to the approval of the [Department] Authority, and any changes to these shall be approved by the Authority prior to implementation of such changes.

(c) The central clearinghouse shall [establish and submit to the Department for its approval] maintain written operating procedures, which shall detail the days and hours during which the notification system will be in full operation, and which also shall include procedures for:

(1) receiving, handling and promptly dispatching [messages,] tickets to public utilities [and permit issuing public agencies described in sections 16-345-6 and 16-345-7 of the regulations of Connecticut state agencies];

(2) determining the size of the proposed excavation or demolition that may be included as one [notification] ticket;

(3) advising the caller to contact individual public utilities which the caller suspects might be affected by emergency excavations [, discharges of explosives or demolitions during non-operation hours] or emergency blasting, and making available the emergency contact telephone numbers for the affected utilities;

(4) retaining records of all [messages] tickets to the central clearinghouse for a reasonable time period;

(5) establishing and maintaining a standard [grid] mapping system;

(6) providing for the institution of advertisement and educational programs to advise [persons] excavators, public agencies and public utilities affected by [chapter] Chapter 293 of the Connecticut General Statutes, of the central clearinghouse’s terms and requirements; encouraging educational programs for the benefit of [persons, public agencies] excavators and public utilities [who excavate and the owners of underground utility facilities]; and encouraging public and private agencies planning or undertaking construction projects to require design engineers to obtain underground utility information, identify such data on drawings, resolve facility conflicts with public utilities, and design projects to minimize adverse effects on facilities; [and]

(7) [Such other provisions as the Department shall deem necessary to carry out the objectives of chapter 293 of the Connecticut General Statutes and the public safety.] confirming tickets as being processed by issuing a ticket number at the end of the excavator requesting a ticket from the central clearinghouse;

(8) providing for processing of emergency excavation or emergency blasting tickets during the hours when the central clearinghouse is not in operation;

(9) receiving, handling and dispatching tickets of areas of continual excavation; and
 (10) such other actions as the Authority shall deem necessary to carry out the objectives of Chapter 293 of the Connecticut General Statutes and to protect public safety.

(d) No less than two months prior to the beginning of each fiscal year, the central clearinghouse shall propose to the [Department] Authority for approval an annual budget which shall:

(1) include billing rates that shall equitably allocate the costs of operating the notification system to those public utilities whose facilities are registered with the [Department] central clearinghouse; and

(2) be calculated so that the central clearinghouse shall neither make a profit nor suffer a loss, but may include reasonable reserves in accordance with standard accounting practices to address unforeseen circumstances, provided that if such a profit or loss does occur during any year, the budget for the next year shall be adjusted accordingly.

(e) The central clearinghouse shall[, from time to time, as the Department may require, file with the Department] maintain a current list of public utilities that participate in the central clearinghouse's service, and from time to time, as the Authority may require, file with the Authority the list, which list shall include for each such public utility:

(1) the name and title of the public utility's employee or representative responsible for receiving [notice] tickets of proposed excavations[, discharges of explosives] or demolitions;

(2) the business address of such employee;

(3) the normal [hours and days of the week ("business hours[" during which such employee may be contacted at the public utility;

(4) the ["business hours[" telephone number where such employee or representative may be reached;

(5) [an emergency telephone number to be used to contact such employee or representative during a non-business hours emergency; and] an email address to be used to contact such employee or representative during normal business hours;

(6) [such other information about each such public utility as the Department shall deem necessary to carry out the objectives of chapter 293 of the Connecticut General Statutes and the public safety.] an emergency telephone number to be used to contact such employee or representative during a non-business hours emergency; and

(7) such other information about each such public utility as the Authority shall deem necessary to carry out the objectives of Chapter 293 of the Connecticut General Statutes and the public safety.

(f) [The central clearinghouse shall, from time to time, as the Department may require, file with the Department a list of the public utilities actually known to the central clearinghouse which have not filed with it the information required to be filed by the public utilities pursuant to sections 16-345-1 to 16-345-9, inclusive, of the regulations of Connecticut state agencies.] The central clearinghouse shall maintain a list of registered utilities, contact persons or departments, and telephone contact numbers, for the purpose of providing information about underground utility facility locations related to the design of new facilities, surveying, bid preparation and other activities where excavation or demolition is not planned to commence within 30 days or where final construction designs have not been completed such that it is premature to notify the central clearinghouse of a proposed excavation or demolition. Upon request by any parties engaged in design activities, the central clearinghouse shall determine which public utilities are registered in the area of a proposed project and make available the contact information of such public utilities.

(g) [The central clearinghouse shall, from time to time, as the Department may require, file with the Department, a summary list of all violations and damage reported to it pursuant to subdivisions (3) and (4) of subsection (a) of Section 16-345-3 of the regulations of Connecticut State Agencies.] The central clearinghouse shall, from time to time, as the Authority may require, file with the

Authority a list of the public utilities actually known to the central clearinghouse which have not filed with it the information required to be filed by the public utilities pursuant to sections 16-345-1 to 16-345-9, inclusive, of the Regulations of Connecticut State Agencies.

(h) The central clearinghouse shall, from time to time, file with the Authority, such information that the Authority may require.

Sec. 3. Section 16-345-3 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-345-3. Responsibilities of public utilities

(a) **[Each public utility shall:]** Each public utility shall:

(1) [Maintain a current file,] Register the geographic areas in which it owns or operates underground facilities within the State of Connecticut, including new facilities, [with the central clearinghouse] by reference to the central clearinghouse's standard mapping system and maintain a current file containing the information listed in subsection (e) of section 16-345-2 of the [regulations] Regulations of Connecticut [state agencies and containing the locations, related to the standard grid system, of all its underground facilities within the State of Connecticut] State Agencies with the central clearinghouse;

(2) Reimburse the central clearinghouse, in accordance with billing rates set by the [Department] Authority as part of the central clearinghouse's budget;

(3) [Notify the central clearinghouse monthly of] Report to the central clearinghouse, in accordance with the requirements established by the Authority, any excavation [, discharge of explosives] or demolition of which it is aware which has occurred at or near any of its facilities in violation of sections 16-345-1 to 16-345-9, inclusive, of the [regulations] Regulations of Connecticut [state agencies] State Agencies or [chapter] Chapter 293 of the Connecticut General Statutes[. Additionally, each public utility shall file a report in January of each year indicating the number of damage incidents, by month, or that no such damage incidents occurred to its facilities, for the prior calendar year];

(4) [Notify the central clearinghouse monthly of] Report to the central clearinghouse, in accordance with the requirements established by the Authority, any damage to [its] the utility's underground facilities which resulted from, or which the public utility suspects resulted from[, any excavation[, discharge of explosive] or demolition conducted by any [other person or public agency] excavator;

(5) File with the central clearinghouse such other information which the central clearinghouse or the [Department] Authority shall deem necessary to carry out the objectives of chapter 293 of the Connecticut General Statutes and the public safety;

(6) [Notify the central clearinghouse] Report to the Authority, as soon as possible [of], any [person or public agency] excavator whose actions or frequency of damage incidents indicates a situation that may require particular attention; [provided, however, that in deciding whether or not to make such a report, the public utility need not make or report any conclusion as to whether the reported condition or conditions represent a violation of any law or duty;]

(7) Upon the exposure of previously unrecorded or inaccurately recorded facilities in the course of excavation or demolition activities and of which it has knowledge of such exposure, verify and modify existing records as necessary, and promptly make all necessary modifications, if needed, within the standard [grid] mapping system maintained by the central clearinghouse. The record shall be sufficiently detailed in order to allow the central clearinghouse to identify such previously unrecorded or inaccurately recorded facilities within its standard [grid] mapping system; [and]

(8) Maintain records of all existing underground utility facility locations, including without limitation, facilities abandoned in place and interconnections to all utility users[.];

(9) Receive tickets from the central clearinghouse;

(10) Provide, and promptly update, all information required in subsections (e) and (f) of section 16-345-2 of the Regulations of Connecticut State Agencies to the central clearinghouse; and

(11) Provide, and promptly update a current listing of emergency contact telephone numbers with the central clearinghouse, for the purposes of the central clearinghouse making available the emergency contact phone number to those requesting tickets for emergency excavation or emergency blasting.

(b) **[Each public utility shall:]** Each public utility shall:

(1) By the end of the second full day, (excluding [Saturday] Saturdays, Sundays and holidays) after the day of notification to the central clearinghouse of a proposed excavation[, discharge of explosives] or demolition[at or near any of its facilities was received by the central clearinghouse], or by the date on which excavation or demolition is scheduled to commence as reported in the notification to the central clearinghouse, whichever is later:

(A) In the event that the public utility determines that it has underground facilities in the [immediate vicinity of the specific site] designated area, mark the approximate location of such facilities using commercially available advanced proven techniques, methods and equipment appropriate to the circumstances, in accordance with section 16-345-5 of the [regulations] Regulations of Connecticut [state agencies] State Agencies, in such a manner that will enable the [party giving such notice] excavator to establish the [precise] actual location of the underground facilities so marked, or if it is not practical to so mark the location of such facilities, identify the approximate location of such facilities in a manner mutually agreeable to the public utility and the [party giving such notice] excavator. Any interconnections between facilities of the public utility and others, such as tees connecting mains to customer owned facilities, shall be clearly marked and labeled by the utility providing service to the interconnection in accordance with section 16-345-5 of the Regulations of Connecticut State Agencies, provided, however, that such utility shall not be required to mark the location of customer owned facilities, except at the immediate location of the interconnection or tee. Whenever feasible, the public utility shall also provide information to the excavator as to any special requirements for excavation or demolition at or near its facilities including, without limitation, any special considerations regarding structural or lateral support or the use of heavy equipment over public utility facilities;

(B) Notwithstanding subparagraph [(a)] (A) of this subdivision, the public utility that has a standard and repeating layout and which is connected by facilities visible on the surface (such as certain storm sewers) need not mark [out] those standard and repeating facilities, provided that maps indicating the approximate location are supplied to the [person or public agency] excavator within the specified time limit. Facilities that are attached to a standard and repeating layout but do not conform to the standard and repeating layout shall be marked unless an alternate mutually agreeable location method is used;

(C) In the event that the public utility determines that it has no underground facilities in the [immediate vicinity of the specific site] designated area, make reasonable effort to so [notify] inform the excavator [giving such notice] and document such efforts, or mark this information in accordance with subsection (l) of section 16-345-5 of the regulations of Connecticut state agencies; and

(D) The requirements contained in subparagraph (A) of this subdivision do not apply to an area of continual excavation. Upon receipt of a ticket of an area of continual excavation, the public utility shall contact the party requesting the ticket, and provide it information and/or maps indicating the location of facilities in the area of continual excavation;

(2) Upon receipt of [notice] information that the excavator, after reasonable attempt to locate the

underground facilities, is unable [precisely] to locate the actual location of the underground facilities after the approximate location of [the] an underground [facilities] utility facility has been marked by the public utility, provide such further [on site] on-site assistance as may be needed to determine the [precise] actual location of the underground facilities. The assistance may be in the form of location detection equipment[,] or technical advice. Such technical advice may include, without limitation, the need for and advice concerning [placement] location or locations of test holes by the excavator [at the excavator's expense]. An excavator, who has failed to make a reasonable attempt to locate the facilities within the approximate [area] location as marked out by the [owner] public utility prior to calling the [owner] public utility for on-site assistance, shall reimburse the [facility owner] public utility for all costs incurred in the further location of such facilities. [The] If the actual location of the facility is found to be within the approximate [area] location as marked out by the [facility owner] public utility, it shall constitute a failure by the excavator to have [used] made a reasonable [efforts] attempt to locate;

(3) Immediately upon receipt of [notice that a proposed excavation or demolition without explosives is necessary to: (A) Correct an emergency involving danger to life, health or property or involving the interruption of the operation of a major industrial plant, or (B) assure the continuity of public utility service] a ticket of an emergency excavation, dispatch personnel [as soon as is reasonably possible] to determine the effect of the excavation or demolition on any facility it may have in the area[;] and [if] to mark the [excavation or demolition has not already occurred, to assist in establishing the] approximate location of [such] facilities in the designated area;

(4) [Upon] Immediately upon receipt of [notice that a proposed discharge of explosives is necessary immediately to correct an emergency involving an immediate and substantial danger of death or serious personal injury] a ticket of emergency blasting, dispatch personnel [as soon as is reasonably possible]to determine the effect of the [discharge] blasting on any facility it may have in the area[; and if the discharge has not already occurred, to assist in establishing the] and to mark the approximate location of [such] facilities in the designated area; and

(5) Upon receipt of [notice] information that contact or damage involving its underground facilities has occurred, dispatch qualified personnel as soon [thereafter]as is reasonably possible to effect temporary or permanent repairs and to protect the public from any potential danger resulting from the contact or damage to its facilities.

(c) A public utility may identify, in accordance with subsection (k) of section 16-345-5 of the [regulations] Regulations of Connecticut [state agencies] State Agencies, the location of a facility connected to its facilities beyond the point of the interconnection or tee, but not owned or operated by the public utility, as a helpful guide to an excavator. Said identification shall not be deemed to impose any liability upon the public utility for any inaccuracy in said identification.

(d) Each public utility, individually and through appropriate utility organizations, shall maintain a program designed to educate excavators in order to minimize the possibility of damage incidents to underground facilities and to minimize the potential detriment to public safety attendant with damage to underground facilities. Upon request by any excavator [or any person, public agency or public utility]planning an excavation[, discharge of explosive] or demolition, each public utility shall provide basic instruction concerning the hazards associated with its underground facilities and specific precautions necessary when working at or near those facilities.

(e) Each public utility shall attend all preconstruction meetings of which it has knowledge related to excavation[, discharge of explosives] or demolitions which might affect its facilities for the purpose of addressing special or particular issues related to public safety as well as other issues related to the proposed excavation[, discharge] or demolition.

(f) [For] Each public utility shall, where practicable, install a warning tape located above the facility, and keep appropriate records thereof for all new underground facilities [installed after

January 1, 1989 which is practicable and for]. For all repairs, replacements or modifications involving an exposure of existing underground facilities at least 100 feet [longitudinally after January 1, 1989, of] in length that does not already have warning tape installed and which the utility has knowledge of such exposure, the utility shall, where practicable, install a warning tape located above the facility, and keep appropriate records thereof. The minimum separation between the facility and the warning tape shall be 12 inches unless the depth, other underground facilities or other engineering considerations make the minimum separation unfeasible. The warning tape shall be durable, designed to withstand extended underground exposure, be of the color assigned to the type of facility for surface markings in subsection [(h)] (i) of section 16-345-5 of the regulations of Connecticut state agencies and durably imprinted with an appropriate warning or message.

(g) Each public utility shall, during the installation of new underground facilities, mark the approximate location of such new facilities in accordance with section 16-345-5 of the Regulations of Connecticut State Agencies for such newly installed facilities as they are backfilled or installed.

(h) For all new non-metallic utility facilities, the utility shall install a means of locating the facility using electronic locating equipment, such as tracing wire.

(i) Any person who locates and marks the location of underground facilities on behalf of a public utility shall be trained in applicable locating industry standards and practices equal or superior to the National Utility Locating Contractors Association's locator training standards and practices. Each person's training shall be documented, and such documents shall be maintained by the public utility.

Sec. 4. Section 16-345-4 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-345-4. Responsibilities of excavators and responsible parties

(a) Any excavator [responsible for excavating or discharging explosives at or near the location of public utility underground facilities or demolishing a structure containing any public utility facilities] performing excavation or demolition within the State of Connecticut, or the responsible party for the excavation or demolition, shall:

(1) Except as provided in [subdivisions] subdivision (2) [and (3)] of this subsection, at least two full days, excluding Saturdays, Sundays and holidays, but not more than thirty (30) days before commencing such excavation[, discharge of explosives] or demolition[at or near the location of such public utilities facilities, notify] obtain a ticket by notifying the central clearinghouse of:

(A) The specific location of the [site of the proposed excavation, discharge of explosives or demolition] designated area. Should field conditions or other circumstances require the excavation[, discharge of explosives] or demolition to be expanded outside the originally designated area established in accordance with subsection [(c)](e) of section 16-345-4 of the [regulations] Regulations of Connecticut [state agencies] State Agencies, a separate notification shall be made and said notification shall be in accordance with the time requirements as provided in this subdivision;

[(B)] [The name, address and telephone number of the entity giving the notice;]

[(C)](B) The name, address and telephone number of the excavator actually performing the proposed excavation[, discharge of explosives] or demolition[and the name, address and telephone number of the person, public agency or public utility for whom the activity is being performed, except where the work is being performed by a public or municipal utility for the benefit of a utility customer, the customer's name, address and telephone number does not have to be provided];

[(D)](C) The date on which such proposed excavation[, discharge of explosives] or demolition will [occur]commence. The date shall be at least two full days, excluding Saturdays, Sundays and holidays, after the [notice] ticket is provided to the central clearinghouse,[or after the area of

proposed excavation, demolition or discharge of explosives is designated in accordance with subsection (d) of this section whichever is later,] but not more than thirty (30) days after the [notice] ticket has been provided to the central clearinghouse[;]. If the excavator or responsible party reasonably expects that the scope of the project is such that it will involve excavation or demolition at multiple locations or over a period of time greater than thirty (30) days, the excavator or responsible party shall provide separate notifications for each separate location and only for such locations in which the excavation or demolition is expected to occur within the thirty (30) day period following the notification;

[~~(E)~~]~~(D)~~ The type of such proposed excavation[, discharge of explosives] or demolition;

[~~(F)~~]~~(E)~~ The method [to be] used to identify or designate the area of proposed excavation[, discharge of explosives] or demolition[and the date by which the designation will be made, where the designation is not already shown on preconstruction plans;]. The excavator or responsible party shall identify and mark the designated area prior to notifying the central clearinghouse;

[~~(G)~~]~~(F)~~ If it is an emergency, the [basis for the emergency] exact reason why the situation is an emergency as defined in subsections (14) and (15) of section 16-345-1 of the Regulations of Connecticut State Agencies; and

[~~(H)~~]~~(G)~~ Such other information as the central clearinghouse or the [Department]~~Authority~~ shall deem necessary to carry out the objectives of chapter 293 of the Connecticut General Statutes and [the] to protect public safety;

(2) In the event [that] of an emergency excavation or [demolition without explosives is necessary to correct an emergency involving danger to life, health, or property or the interruption of operation of a major industrial plant, or to assure the continuity of public utility service]~~an emergency blasting:~~

(A) immediately provide the notice required by subdivision (1) of this subsection to the central clearinghouse [if it is during hours when the central clearinghouse is open]for the purpose of determining the public utilities with facilities located at or near the site of the [demolition unless the public utilities whose facilities may be affected are already known from a prior notification for excavation] excavation or demolition;

(B) immediately provide the notice required by subdivision (1) of this subsection directly to the [involved]affected public utilities prior to the excavation or demolition; and

(C) notify the central clearinghouse by telephone of the emergency and response taken as soon as reasonably possible if such notice was not given immediately prior to the excavation or demolition[;].

[~~(3)~~] [In the event that the use of explosives is necessary to correct an emergency involving an immediate and substantial danger of death or serious personal injury, immediately;]

[~~(A)~~] [provide the notice required by subdivision (1) of this subsection to the central clearinghouse if it is during hours when the central clearinghouse is open for the purpose of determining the public utilities with facilities located at or near the site of the discharge unless the affected public utilities are already known from a prior notification for excavation;]

[~~(B)~~] [immediately provide the information required by subdivision (1) of this subsection directly to the affected public utilities prior to discharge of the explosives; and]

[~~(C)~~] [provide notice directly to the central clearinghouse as soon as possible after the discharge if such notice was not given immediately prior to the discharge;]

(b) In addition to the requirements of subsection (a) of this section, a responsible party shall:

(1) Provide the name and phone number of the excavator to any public utility requesting such information;

(2) provide the information contained in the ticket to the excavator prior to excavation; and

(3) in the event that any information or special conditions regarding the location of excavation is received by any responsible party, transmit such information to the excavator prior to the commencement of any excavation.

(c) Any excavator performing excavation or demolition within the State of Connecticut shall:

[(4)](1) Use prudent judgment in determining whether to proceed with the excavation [, discharge of explosives] or [demolishing] demolition prior to the identification of any or all of the facilities in the [events covered by subdivisions (2) and (3) of this subsection.] event of emergency excavation or emergency blasting. In exercising such judgment, the excavator shall consider, among other things, the potential hazard to life and property while awaiting public utility personnel to locate all the facilities, the need for public utility personnel to locate the facilities having the greatest potential for detriment to the public safety and the potential hazards that could result from proceeding without having located the facilities and potential damage to those facilities;

[(5)](2) Exercise reasonable care when working in proximity to the underground facilities of any public utility. Reasonable care shall include, without limitation, the use of construction methods appropriate to ensure the integrity of existing utility facilities and their man-made temporary and permanent support including but not limited to adequate and proper shoring and proper backfill methods and techniques; the selection of equipment and explosives capable of performing the work with the minimum reasonable likelihood of disturbance to underground facilities; adequate supervisory personnel to ensure proper actions; proper understanding by the personnel on the job site of the authority of all parties involved in the activity so that prompt action can be taken in the event of unanticipated contact with or damage to underground facilities; adequate training of employees in executing their assignments to ensure protection of utility facilities and the public; maintaining necessary liaison with [owners of underground facilities]public utilities; sponsoring preplanning and preconstruction meetings as necessary, and complying with all applicable laws and regulations[.];

(3) Use proper care when utilizing trenchless excavation. If the excavator is utilizing trenchless excavation, [the excavator shall, if] and such excavation is expected to cross or encroach within the approximate location of underground facilities either horizontally or vertically, [prior to the crossing or encroaching, determine] the excavator shall:

(A) Determine the [precise]actual location of such underground facilities expected to be so crossed or encroached prior to crossing or encroaching the underground facilities by:

(i) excavating and exposing the utility at the location of the crossing or encroachment; or

(ii) if the trenchless excavation is crossing a sanitary or storm drain, performing a visual inspection of adjacent manholes or catch basins to measure the depth of the facilities and determine the actual location of the facilities. The crossing or encroachment can be made without exposing the utility if the crossing or encroachment is expected to have a clearance of at least three (3) feet; and

(B) If the trenchless excavation has the possibility of crossing privately owned sanitary sewer laterals, take reasonable steps to identify the location of such laterals before proceeding with the trenchless excavation. Reasonable steps shall include, but not be limited to, inspecting the structure served by the lateral to identify the location of the sewer lateral connection, inspecting manholes to identify the discharge point of the lateral, or the use of locating sondes. The use of trenchless excavation around privately owned sewer laterals shall follow the same amount of care as required for public utilities in this subsection;

[(6)](4) In the event that underground facilities of a public utility are likely to be exposed by such [excavating, discharging of explosives or demolishing]excavation or demolition, provide such support or protection, or both, as may be necessary to protect such facilities from damage[.];

(5) Where underground facilities containing combustible or hazardous fluids or gases (such as natural gas, propane, jet fuel or chlorine) are likely to be exposed or where the proposed excavation[, discharge of explosives] or demolition is to occur within the approximate location of such facilities or affecting such facilities, except for excavations performed in connection with the need to expose such underground facilities by the owner of such facilities, [an excavator may]use mechanical equipment solely for the purpose of removing the bituminous and concrete road surface. In such circumstances,

other than for the removal of a bituminous or concrete road surface, an excavator, other than the [owner]public utility exposing its own underground facilities, shall employ hand digging or soft digging methods only;

[(7)](6) In the event that the excavator, after reasonable attempt, is unable to [precisely] locate the actual location of an underground [facilities] facility after the approximate location of [the] an underground [facilities have] facility has been marked, the excavator must [notify the public utility requesting] request such further assistance from the public utility as may be needed to determine the [precise] actual location of the underground facility; [and]

[(8)](7) Avoid the covering or removal of surface markings, flags or stakes indicating underground facilities during construction activity prior to [actually excavating, discharging explosives or demolishing]the actual excavation or demolition in the vicinity of the located facilities. If such surface markings, flags or stakes are to be covered or removed during the excavation or demolition activity, the excavator shall make all reasonable efforts to maintain the location of the underground facilities by use of offset marks and/or maps. If surface markings, flags or stakes are disturbed to the extent that the excavator cannot identify the approximate location of underground utility facilities, the excavator shall contact the utilities to request that the utilities re-mark the approximate location of the underground utility facilities; and

(8) In the event an excavator has reason to believe there are underground facilities of a public utility in the designated area that have not been marked by the public utility in accordance with section 16-345-5 of the regulations of Connecticut state agencies, provide a telephonic report directly to the public utility requesting immediate assistance.

[(b)] [When any contact is done to any underground facility of a public utility, the excavator responsible for the operations causing such contact shall immediately and directly notify the public utility which owns or operates such facility of the contact, but such person, public agency or public utility shall not tamper with or attempt to repair such facility except to repair protective coatings when authorized by the owner of the facility.]

[(c)](d) [An excavation notice] A ticket given pursuant to [subdivision (1) of]subsection (a) of this section shall expire at the end of thirty (30) days from the date such [notice] ticket is given to the clearinghouse. [Whether or not an excavation, demolition or discharge of explosives has commenced pursuant to a valid notification at any time within the prior thirty (30) days, if such activity has not been completed or is expected to last beyond the 30 day period, a renewal notice must be provided before the expiration of the thirty day period by the excavator. The renewal shall not be applicable for areas not designated in the prior notification. If excavation, demolition or discharge of explosives was not commenced pursuant to a valid notification at any time during the prior thirty day period following the date which the notice was originally given, notice shall be given again in accordance with subdivision (1) of subsection (a) of this section by the excavator. Where any excavation, discharge or demolition activity has remained dormant for a period of thirty (30) days from the date of the last notice given pursuant to said subdivision, an additional notice shall be given before commencing such activity by the excavator.]

[(d)](e) The [area of proposed excavation, discharge of explosives or demolition shall be designated]designated area shall be identified or marked by the excavator or responsible party prior to notifying the central clearinghouse in such a manner as to enable the public [utility or owner of underground facilities]utilities to know the [approximate boundaries of the proposed excavation] outer boundaries of the designated area. The [area shall be]designated area shall be identified or marked as follows:

(1) [if the area of proposed excavation is less than one thousand (1,000) feet longitudinally along an existing highway, only surface marking]Except as provided in subdivision (2) of this subsection, in accordance with section 16-345-5 of the [regulations] Regulations of Connecticut [state agencies

may be used;] State Agencies and shall clearly indicate the outer limits of where possible excavation or demolition activities may occur;

(2) [if] If the designated area is one thousand (1,000) feet or more longitudinally on or adjacent to an existing highway, surface markings pursuant to section 16-345-5 of the [regulations] Regulations of Connecticut [state agencies] State Agencies are not [used, designation must be]required if a preconstruction meeting is held by the excavator or responsible party and all affected public utilities are informed of such meeting, and the designated area is identified by clear and appropriate markings on a plan map which was originally prepared by a licensed surveyor or competent employee of a public utility [company or municipal utility]and delivered to the public [utility]utilities whose underground facilities may be affected[, if the area is 1000 feet or more longitudinally on or adjacent to an existing highway and a preconstruction meeting is held by the person or public agency performing the excavation, discharge or demolition activity and all affected public utilities are notified of such meeting]; and

(3) [the designation of the area shall include the maximum depth of excavation at a sufficient number of points to ensure an accurate profile unless detailed profile maps are provided. The depth information provided shall reasonably reflect the anticipated actual depth.] If the area of proposed excavation or demolition is designated by surface markings, flags or stakes which are not clearly visible from the public street, the excavator or responsible party shall include directions to the designated area from the nearest public street in the ticket to the central clearinghouse.

[(e)](f) When any contact is made with or damage is done to any underground facility of a public utility, the excavator responsible for the operations causing such contact or damage shall:

(1) Immediately and directly [notify the] report the contact or damage to the affected public utility [which owns or operates such facility of the contact], but such excavator shall not tamper with or attempt to repair such facility except [to repair protective coatings when] when and to the extent authorized by the [owner of the facility] public utility. The excavator performing the excavation[, discharge of explosives] or demolition shall use prudent judgment taking into account minimizing the potential detriment to public safety in determining whether to cease activities pending the arrival of qualified public utility personnel; and

(2) When such contact or damage includes the occurring of a serious electrical short circuit or the escaping of combustible or hazardous fluids or gases (such as natural gas, propane, jet fuel or chlorine) or any other event endangering the public, the excavator responsible for the excavation[,] or demolition [or discharge]involved in such damage shall also alert all persons within the danger area, shall alert police, fire, or other emergency personnel, and take all feasible steps, including, where applicable, [notifying police, fire and other emergency personnel,] eliminating sources of ignition and evacuating employees and the general public from the affected area, but excluding tampering with or attempting to repair the damaged facility, to insure the public safety pending arrival of the appropriate public utility personnel.

[(f)](g) At all times when excavation[, discharge of explosives] or demolition [are]is in progress there shall be a representative of the excavator present in overall charge of the operation who shall be knowledgeable regarding the operation being performed, sections 16-345-1 to 16-345-9, inclusive, of the Regulations of Connecticut State Agencies and the legal name and address of the entity that is directly responsible for the performance of the operation. This person shall have satisfactory evidence that the notification requirements of [these regulations]sections 16-345-1 to 16-345-9, inclusive, of the Regulations of Connecticut State Agencies have been met, such as the ticket number from the central clearinghouse on site at all times.

[(g)](h) Each [person, or public agency] excavator involved in excavation[, discharge of explosives and demolitions] or demolition shall post a summary of the requirements of sections 16-345-1 to 16-345-9, inclusive, of the [regulations] Regulations of Connecticut [state agencies] State

Agencies in construction workplaces. Construction workplaces shall include, without limitation, offices of the entity performing the work in a location where persons directly involved in excavation[, discharge of explosives and] or demolitions frequent, including field offices and similar locations.

[(h)](i) The representative of the excavator shall provide the legal name and address of the entity that is directly responsible for the performance of the excavation or demolition activity and shall provide satisfactory evidence to any entity, including a public agency or public utility requesting such information. Such representative shall also be an agent for service of notice or process in any matter related to compliance with [these regulations] sections 16-345-1 to 16-345-9, inclusive, of the Regulations of Connecticut State Agencies.

[(i)](j) [Except as provided in subdivision (3) of subsection (a) of this section, explosives may not be discharged unless such discharge was disclosed in the original notification or upon six hours notice to all public utilities which have facilities at or near the proposed discharge location, including those that were previously indicated to have facilities at or near the proposed discharge but not in the immediate vicinity, except that on Saturdays, Sundays and holidays, eight hours notice shall be provided.] Excavators performing excavation in areas of continual excavation, as defined in section 16-345-1(11) of the Regulations of Connecticut State Agencies, shall notify the central clearinghouse of their existence, and such notice shall be valid for a period of one calendar year. For excavation at areas of continual excavation, notification to the central clearinghouse in accordance with section 16-345-4(a)(1) of the Regulations of Connecticut State Agencies is not required. Excavators performing excavation in areas of continual excavation shall consult with any public utilities that own or operate facilities in such area regarding the location of the facilities, shall maintain records regarding the location of such facilities, and any excavation in proximity of the utility facilities shall be done with the same standard of care as required in this section.

(k) Any excavator shall file such other information which the central clearinghouse or the Authority shall deem necessary to carry out the objectives of Chapter 293 of the Connecticut General Statutes and to protect public safety.

Sec. 5. Section 16-345-5 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-345-5. Surface markings

(a) All surface markings, stakes and [public utility locations stakings] flags indicating the approximate location of an underground facility shall be made in accordance with this section.

(b) Surface markings shall consist of paint or equivalent material. The paint or material should have sufficient lasting properties so as to stand up to wear and tear of traffic; but should be sufficiently degradable so as not to be permanent, unless the marking is intended to be permanent.

(c) Stakes shall be made of wood or any other suitable material, and flags shall be a minimum of three inches on each side of the designated utility color in accordance with subsection (i) of this section, made of any suitable material.

[(c)](d) Surface markings for the identification of the approximate location of an underground [facilities] utility facility shall be located [preferably], where possible, at the [center line] centerline of the underground facility [and at the outer limits of the proposed excavation, discharge of explosives or demolition activity].

[(d)](e) Where center line marking is impractical, the approximate location of [the] an underground utility facility may be indicated by means of offset surface markings.

[(e)](f) [Staking shall consist of the use of stakes made of wood or any other suitable material. Such stakes] When marking via staking or flagging, stakes and flags shall be placed in an upright

position directly above the facility and [be exposed]:

(1) Exposed above the ground a minimum of eighteen (18) inches[. The top of the stake shall be clearly marked with both the designated utility color and identification abbreviation in accordance with subsections (h) and (i) of this section.] for stakes and a minimum of twelve (12) inches for flags; and

(2) Inserted below ground to adequately support the stake or flag in the upright position.

[(f)](g) In areas where surface markings cannot be utilized, or in areas where the use of flags or stakes would be superior to surface markings, flagging or staking [may] shall be employed for [locating facilities] identification of the approximate location of an underground utility facility or for designating areas of proposed excavation[,] or demolition [or discharge of explosives]. Flags and [Stakes] stakes shall normally be located above the center line of the underground facility [and at the outer limits of the proposed excavation, demolition or discharge of explosives activity]. Flags or [Stakes] stakes shall not be used for offset locations unless surface marking or center line flagging or staking is inadequate or inappropriate[.]:

(1) In areas of grass, dirt, or other non-durable surfaces, stakes or flags shall be used unless frost conditions prevent their installation.

(2) In active construction sites where there is continual movement of equipment and supplies, stakes and flags appropriate to withstand site conditions shall be used.

[(g)](h) Surface markings, flags or stakes shall be located at the outer limits of the designated area and at such appropriate intervals, not greater than ten feet between marks, as is necessary to clearly indicate the location and course of the underground facility.

[(h)](i) With the exception of normal traffic control markings, all markings on public streets, sidewalks and rights-of-way, and all surface [markings] marking, flagging and [stakings] staking of public utility locations and designated areas of [proposed] excavation [,] or demolition [or discharge of explosives] shall be in accordance with, and shall not conflict with, the following uniform color code[.]:

(1) Yellow—Gas, oil petroleum products, steam, compressed air, compressed gases and all other hazardous materials except water[.];

(2) Red—Electric power lines, electric power conduits and other electric power facilities[.];

(3) Orange—Communication lines or cables, including but not limited to telephone, telegraph, fire signals, cable television, civil defense, data systems, electronic controls and other instrumentation[.];

(4) Blue—Water[.];

(5) Green—Storm and sanitary sewers and drainage systems including force mains and other non-hazardous materials[.];

(6) Purple—[Radioactive materials.] Reclaimed water, irrigation and slurry lines;

(7) White—[Proposed working] Designated area of proposed excavation [, discharge of explosive or demolition; survey markings]; and

(8) [Brown—Other.] Pink—Survey markings.

[(9)] [Unpainted stakes with colored ribbon—survey markings.]

[(i)] [All surface marking and staking utilized for the location of underground facilities shall contain letter designations which clearly identify the type of facility so marked or staked. Such letters shall be legible and shall be used in accordance with the following:]

[(1)] [C—Communication facilities other than telephone company facilities.]

[(2)] [CH—Chemicals.]

[(3)] [CTV—Cable television.]

[(4)] [E—Electric power.]

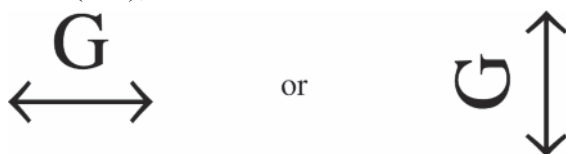
[(5)] [FS—Fire signals.]

[(6)] [G—Gas.]

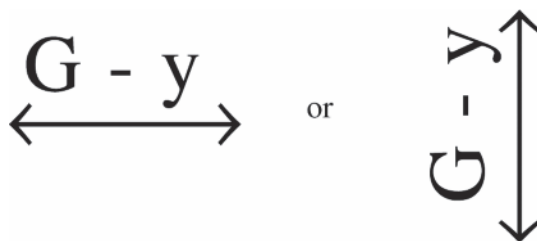
- [(7)] [HPW—High-pressure water over 125 PSIG.]
- [(8)] [P—Petroleum.]
- [(9)] [PP—Petroleum products (naphtha, gasoline, kerosene and similar products).]
- [(10)] [S—Sewer.]
- [(11)] [ST—Steam.]
- [(12)] [T—Telephone company facilities.]
- [(13)] [TC—Traffic control signals.]
- [(14)] [W—Water.]
- [(15)] [O—All other facilities.]

[(j)] [All surface markings and stakings shall be in accordance with the following. (“G” is represented below, but specific product identification use shall be in accordance with subsection (i) of this section.)]

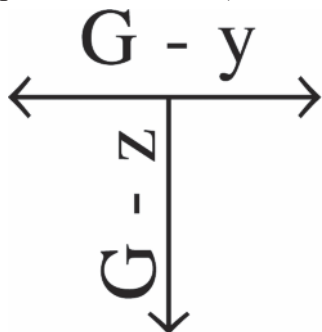
[(1)] [Approximate location is a strip of land extending not more than one and one-half feet on either side of the markout line. The arrow indicates the direction of run. The length of the mark shall be approximately eighteen inches (18”);



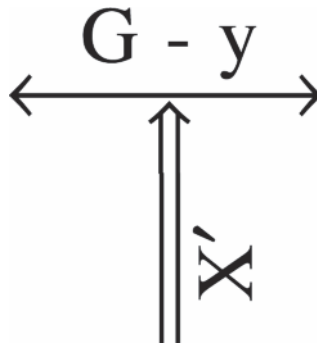
[(2)] [Approximate location is a strip of land extending not more than one and one-half feet plus y/2 inches on either side of the markout line, where y is the size of the facility (e.g., y inch pipe, y inch conduit). The arrow indicates the direction of run. The length of the mark shall be approximately eighteen inches (18”);



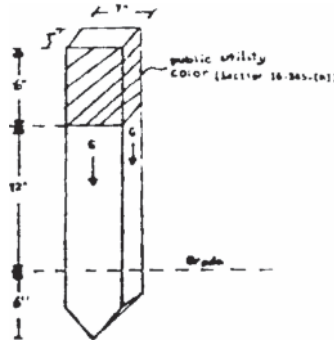
[(3)] [A point where a facility tees off. y and z may or may not be present. y and z are the size of the respective facilities (e.g., y inch pipe, z inch conduit);



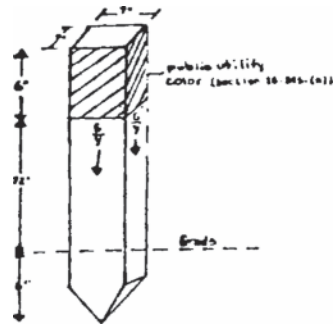
[(4)] [Offset mark for run of pipe where X' represents the distance, in feet, from the reference line to the underground facility. y may or may not be present. y is the size of the facility (e.g., y inch pipe, y inch conduit);



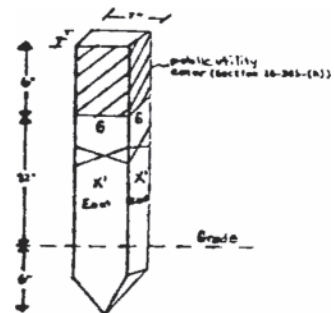
[(5)] [Approximate location is a strip of land extending not more than one and one-half feet on either side of the line established by the series of stakes;



[(6)] [Approximate location is a strip of land extending not more than one and one-half feet plus $y/2$ inches on either side of the line established by the series of stakes, where y is the size of the facility (e.g., y inch pipe, y inch conduit);

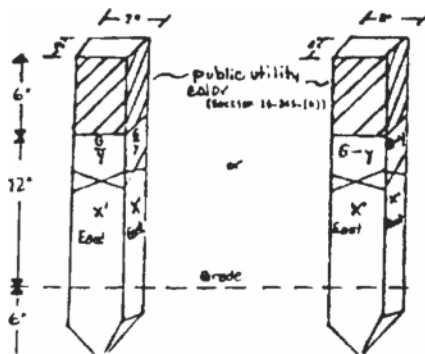


[(7)] [Approximate location is a strip of land extending not more than one and one-half feet on either side of, and X' in the direction indicated from the line established by the series of stakes; and



[(8)] [Approximate location is a strip of land extending not more than one and one-half feet plus $y/2$ inches on either side of, and X' in the direction (i.e., approximate compass direction) indicated

from, the line established by the series of stakes, where y is the size of the facility (e.g., y inch pipe, y inch conduit).



(j) All surface marking, flagging and staking utilized for the location of underground facilities shall contain:

- (1) The name of the public utility or a commonly recognized abbreviation;
- (2) The material of the facility in accordance with the following (where applicable):
 - (A) CI – Cast Iron
 - (B) CU – Copper
 - (C) PL – Plastic
 - (D) ST – Steel
 - (E) WI – Wrought Iron
 - (F) RCP – Reinforced Concrete Pipe; and
 - (G) TD – Tile Duct; and

(3) Special descriptors of the facilities (where applicable):

- (A) CDT – Conduit
- (B) INS – Inserted
- (C) DB – Direct buried
- (D) HH – Hand hole
- (E) MH – Manhole
- (F) VLT – Vault.

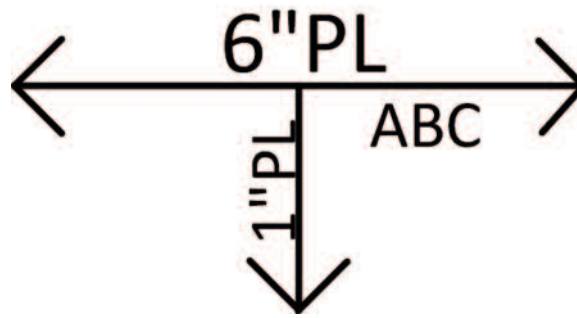
(k) All surface marking, flagging and staking shall be in accordance with the following:

(1) Markings for pipes shall appear as follows (“ABC” represents the name of the public utility or commonly recognized abbreviation; pipe size, material type and any special descriptors shall also be shown):

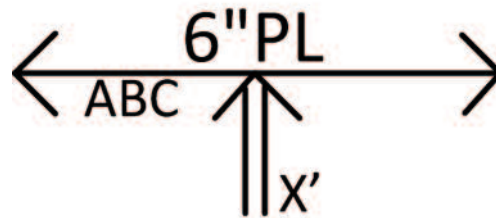
(A) Surface marking for a run of pipe;



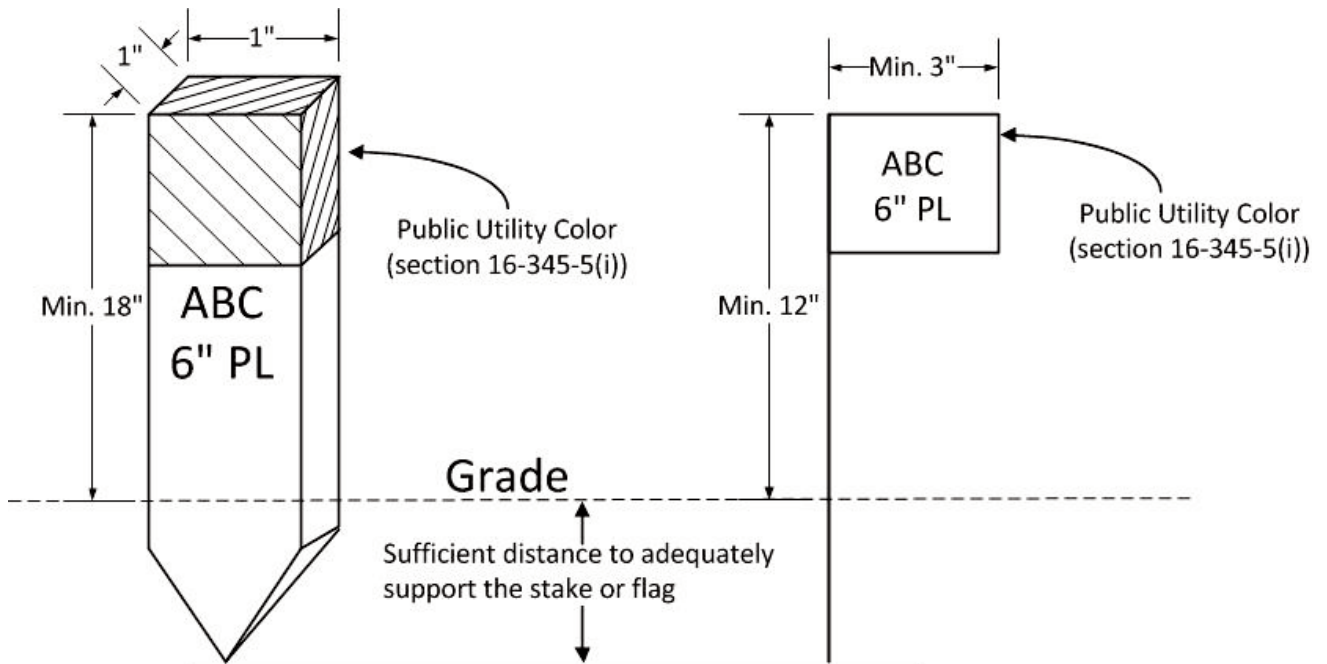
(B) Surface markings for a point where a pipe tees off;



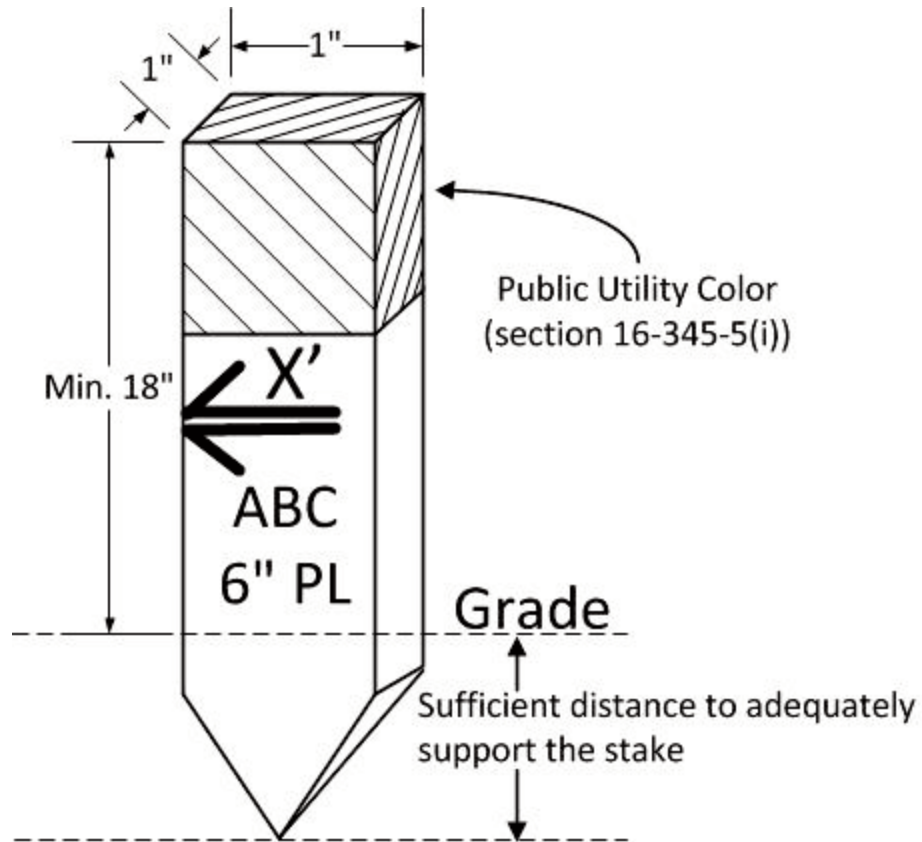
(C) Surface markings for an offset mark for run of pipe where X' represents the distance, in feet, from the reference line to the underground facility;



(D) Staking or flagging for a run of pipe; and



(E) Staking for an offset mark for a run of pipe where X' represents the distance, in feet, from the reference stake to the underground facility;

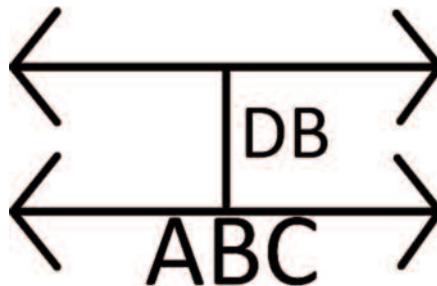


(2) Markings for cable or wire shall be as follows (“ABC” represents the name of the public utility or commonly recognized abbreviation; any applicable special descriptors shall also be shown):

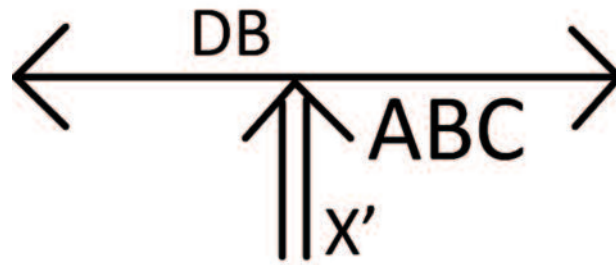
(A) Surface markings for a single run of cable or wire;



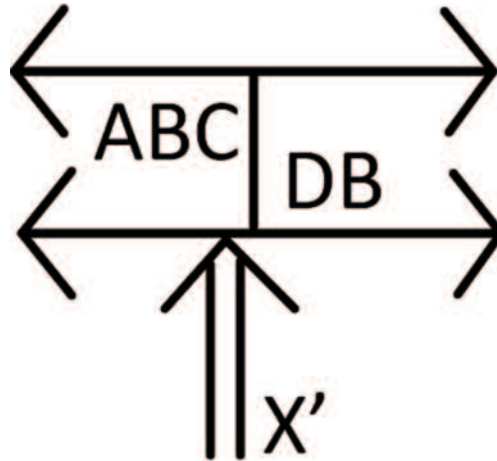
(B) Surface markings for multiple buried cables or wires;



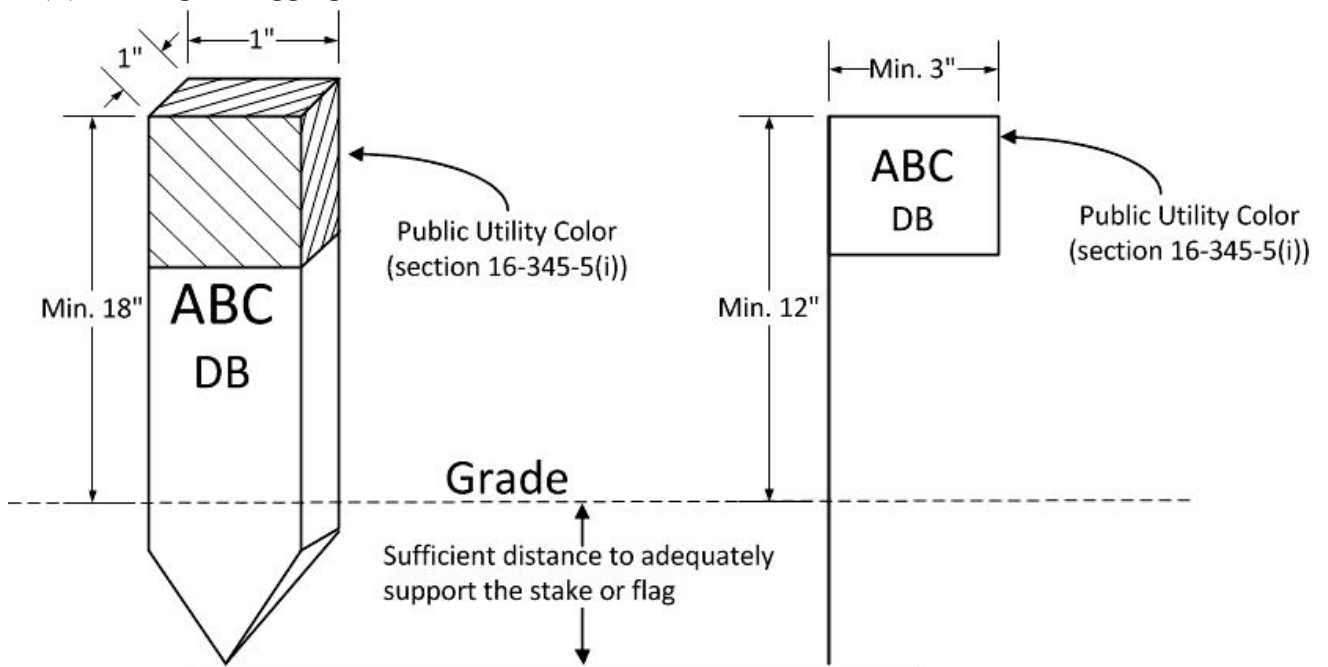
(C) Surface markings for an offset mark for single run of cable or wire where X’ represents the distance, in feet, from the reference line to the underground facility;



(D) Surface markings for an offset mark for multiple buried wires or cables where X' represents the distance, in feet, from the reference line to the underground facility;



(E) Staking or flagging for cable or wire; and

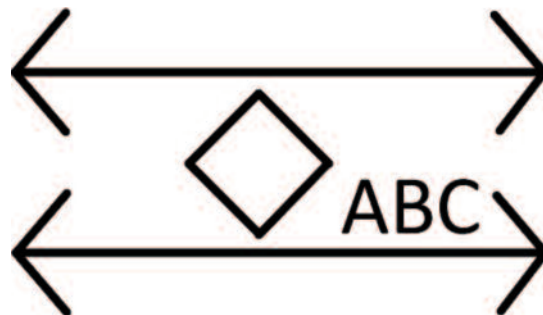


(F) Staking for an offset for cable or wire where X' represents the distance, in feet, from the reference stake to the underground facility;

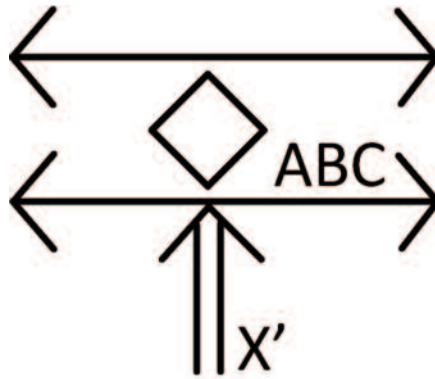


(3) Markings for a duct bank (multiple duct structure) shall be as follows (“ABC” represents the name of the public utility or commonly recognized abbreviation; any applicable special descriptors shall also be shown):

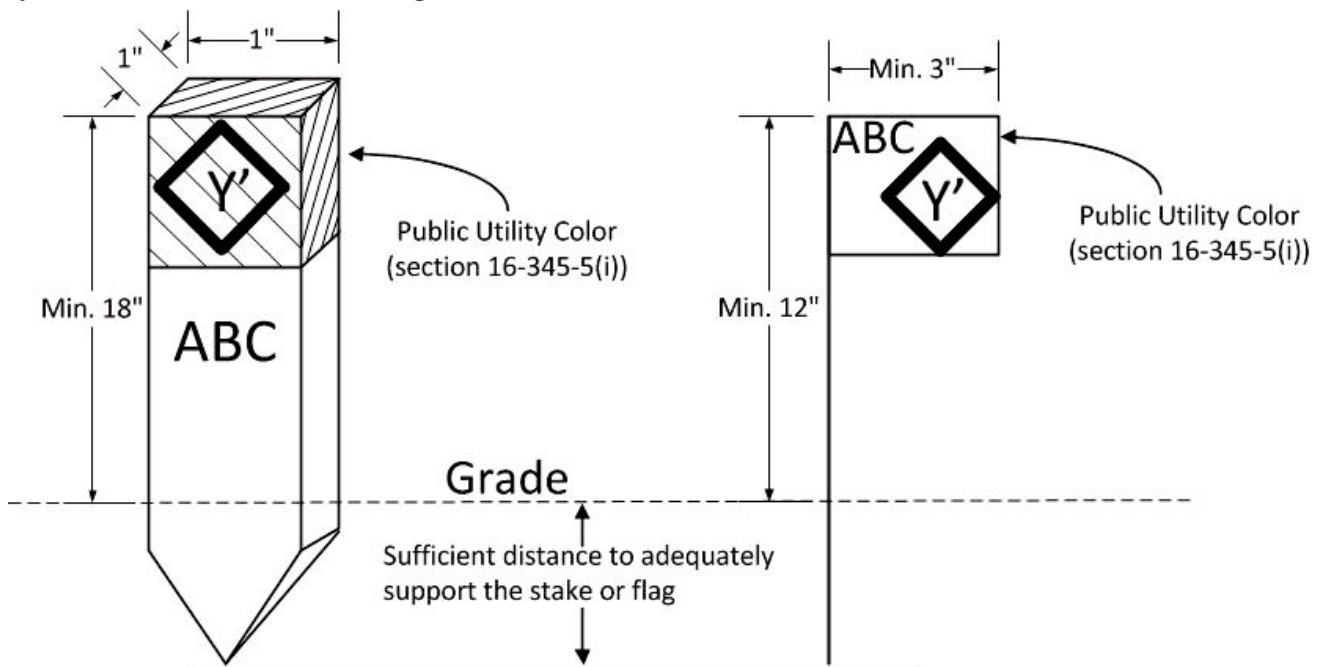
(A) Surface markings for a duct bank, where the width of the markings shall be the width of the duct bank;



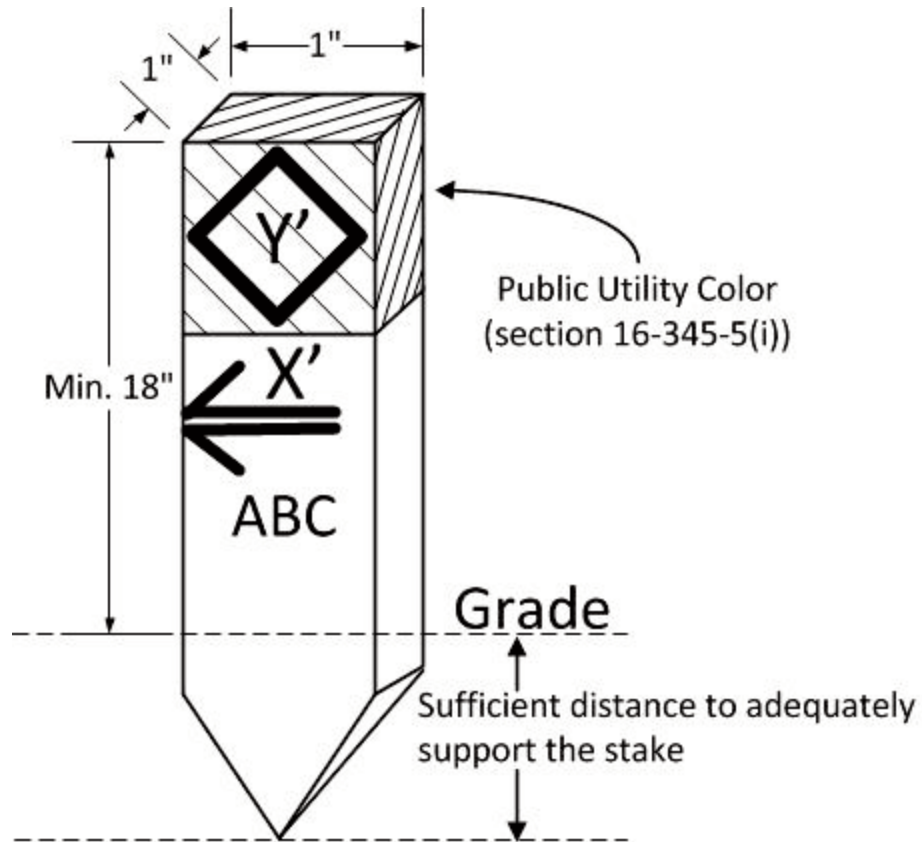
(B) Surface markings for an offset mark for a duct bank, where the width of the markings shall be the width of the duct bank;



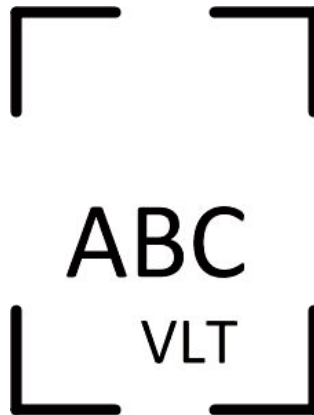
(C) Staking or flagging for a duct bank where either the diamond symbol with the width of the duct bank shall be shown (Y' represented here), or where sets of stakes or flags, without the diamond symbol, shall show the outer edges of the duct bank; and



(D) Staking for an offset mark for a duct bank where X' represents the distance, in feet, from the reference stake to the centerline of the duct bank, and Y' represents the width of the duct bank;



(4) Surface markings for underground structures such as manholes, vaults and handholes shall be as follows ("ABC" represents the name of the public utility or commonly recognized abbreviation; any applicable special descriptors shall also be shown):



(5) Markings for special features of utility facilities shall be as follows ("ABC" represents the name of the public utility or commonly recognized abbreviation; any applicable special descriptors shall also be shown):

(A) End point of facility, such as a stub or facility that has been cut off; and

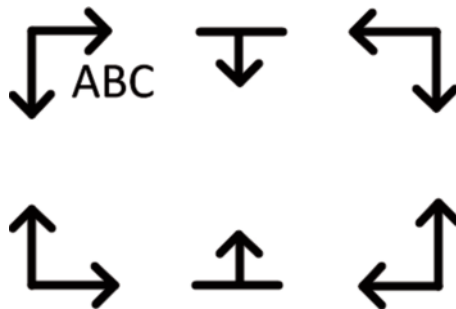


(B) Utility feature that extends to surface, such as a gas drip riser, purge riser, or blow-off.

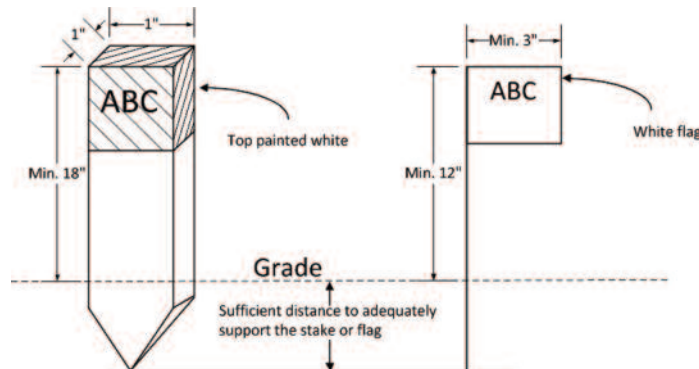


(6) Except as provided in section 16-345-4(e)(2) of the Regulations of Connecticut State Agencies, the excavator shall identify the designated area of excavation in one of the methods as follows ('ABC' is represented here, but initials identifying the excavator should be used):

(A) Surface markings consisting of brackets identifying the outer limits of the excavation;



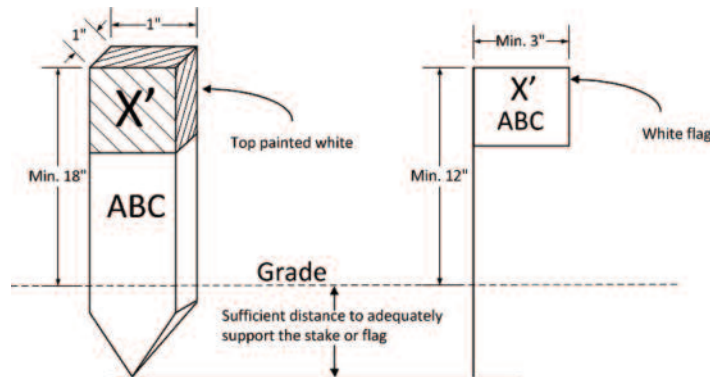
(B) Stakes or flags identifying the outer corners and boundaries of the designated area;



(C) A single point with a radius can be identified with the following surface marking, where 'X' represents the radius of the circle around the surface marking; and



(D) A single point with a radius can be identified with a white stake or flag, where 'X' represents the radius of the circle around the stake or flag.



[(k)](l) A public utility may, in accordance with the provisions of subsection (c) of section 16-345-3 of the [regulations] Regulations of Connecticut [state agencies] State Agencies, identify the approximate location of a facility connected to its facility beyond the point of the interconnection or tee, but not owned or operated by the public utility as a helpful guide to an excavator in a similar manner to subsections (a) to (j), inclusive, of this section, except that surface markings shall be dotted or broken line instead of a solid line.

[(l)](m) A public utility may signify that it has no facilities in the [immediate] designated area [of a proposed excavation, demolition or discharge of explosives] by writing [“no” “NO” plus the name of public utility or commonly recognized abbreviation [”] in letters at least [twelve] six inches high using the uniform color code as described in subsection [(h)] (i) of this section.

Sec. 6. Section 16-345-6 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-345-6. Permits to require compliance

Any permit[, except for advance construction permits,] issued by a public agency for excavation[, or demolition[or discharge of explosives]] shall require satisfactory evidence of compliance with chapter 293 of the Connecticut General Statutes and sections 16-345-1 to 16-345-9, inclusive, of the [regulations] Regulations of Connecticut [state agencies] State Agencies such as the central clearinghouse ticket number. Satisfactory evidence shall not be required when the permit is requested by a public utility that will not be performing the actual excavation nor shall it be required when the permitting agency determines that the permit approval process will take longer than thirty (30) days. The central clearinghouse may provide notification of each [underground location request] ticket to each municipality’s permit issuing department for proposed excavations and demolitions within the municipality’s jurisdiction.

Sec. 7. Section 16-345-7 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-345-7. Compliance with local permit requirements

Except as provided in section 16-345-6 of the [regulations] Regulations of Connecticut [state agencies] State Agencies, sections 16-345-1 to 16-345-9, inclusive, of the [regulations] Regulations of Connecticut [state agencies] State Agencies shall not be construed to affect or impair local ordinances, charter or other provisions of law requiring permits to be obtained before excavating in a public highway or to demolish structures on private property, nor shall they be construed to grant to any person, excavator, or public agency any rights not specifically provided by chapter 293 of the

Connecticut General Statutes and said sections. A permit from a public agency shall not relieve any person from responsibility for complying with the provisions of chapter 293 of the Connecticut General Statutes and said sections. The failure of any person who has been granted a permit to comply with the provisions of Chapter 293 of the Connecticut General Statutes and said sections shall not be deemed to impose any liability upon the public agency issuing the permit.

Sec. 8. Section 16-345-8 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-345-8. Enforcement proceedings

(a) If the [Department]Authority has reason to believe that a violation has occurred for which a civil penalty has been established for violations of chapter 293 of the Connecticut General Statutes, as provided in section 16-356 of the Connecticut General Statutes, or of any provisions of sections 16-345-1 to [16-456-9] 16-345-9, inclusive, of the [regulations] Regulations of Connecticut [state agencies] State Agencies, the [department]Authority may send to the alleged violator by certified mail, return receipt requested, or by personal service, a notice which shall include:

- (1) A reference to the section of the statute, regulation or order involved;
- (2) A short and plain statement of the matters asserted or charged;
- (3) A statement of the amount of the civil penalties proposed to be imposed after notice and opportunity for a hearing; and
- (4) A statement of the [party's] alleged violator's right to a hearing.

(b) [The person, public agency or public utility]The alleged violator to whom the notice is addressed may, no later than thirty (30) days from the date of receipt of the notice, deliver to the [department] Authority a written application for a hearing. If a hearing is requested then, after a hearing, and upon a finding that a violation has occurred, the [department] Authority may issue a final order assessing a civil penalty under this section which is not greater than the maximum penalty allowed by law and shall be so stated in the notice. If such a hearing is not so requested, or if such a request is later withdrawn, then the notice shall, on the first day after the expiration of such thirty day period or on the first day after the withdrawal of such request for hearing whichever is later, become a final order of the [department] Authority and the matters asserted or charged in the notice shall be deemed admitted.

(c) All hearings under this section shall be conducted pursuant to sections 4-177 to 4-184, inclusive, of the Connecticut General Statutes. The final order of the [department] Authority assessing a civil penalty shall be subject to appeal under section 4-183 of the Connecticut General Statutes. No challenge to a final order of the [department] Authority assessing a civil penalty pursuant to section 16-345-9 of the [regulations] Regulations of Connecticut [state agencies] State Agencies shall be allowed as to any issue which could have been raised by a timely request for a hearing pursuant to subsection (b) of this section. Any civil penalty authorized by this section shall become due and payable upon the final decision becoming a final order pursuant to subsection (b) of this section.

(d) A civil penalty assessed in a final order of the [department] Authority under this section may be enforced in the same manner as a judgment of the superior court. The final order shall be delivered to the respondent by personal service or by certified mail, return receipt requested.

Sec. 9. Section 16-345-9 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-345-9. Assessment of civil penalties

(a) Any person, excavator, public agency [or], public utility or the central clearinghouse which the [department] Authority finds to have violated any provision of Chapter 293 of the Connecticut General Statutes, or any regulations promulgated thereunder, may be fined, after notice and opportunity for a hearing as provided in section 16-345-8 of the Regulations of Connecticut State Agencies. In such case, such person, excavator, public agency[or], public utility or the central clearinghouse shall[, except as provided in subsection (b) of this section,] forfeit and pay to the state a civil penalty in accordance with the following schedule of penalties:

(1) For violations which do not involve personal injury, death or property damage:

(A) A minimum civil penalty of two hundred dollars (\$200) for a first violation; and

(B) A civil penalty of not more than five thousand dollars (\$5,000) for a second violation and up to the statutory maximum thereafter;

(2) For violations which result in property damage:

(A) Where the amount of property damage sustained is not greater than three thousand dollars (\$3,000), a civil penalty not to exceed twelve thousand dollars (\$12,000);

(B) Where the amount of property damage sustained is greater than three thousand dollars (\$3,000), but not more than twenty thousand dollars (\$20,000), a civil penalty not to exceed twenty thousand dollars (\$20,000); and

(C) Where the amount of property damage sustained is greater than twenty thousand dollars (\$20,000), a civil penalty not to exceed [forty thousand dollars (\$40,000).] the maximum civil penalty allowed under Chapter 293 of the Connecticut General Statutes;

(3) For a violation which results in personal injury or death, a civil penalty not to exceed [forty thousand dollars (\$40,000).] the maximum civil penalty allowed under Chapter 293 of the Connecticut General Statutes;

(4) For any violation where a person, excavator, public agency or public utility knowingly comes in contact with an underground public utility facility during the course of an excavation[,] or demolition [or discharge activity,] and fails to notify the owner of the public utility facility as soon as possible thereafter, or tampers with or attempts an unauthorized repair of a damaged utility facility, a civil penalty not to exceed [forty thousand dollars (\$40,000).] the maximum civil penalty allowed under Chapter 293 of the Connecticut General Statutes; and

(5) Notwithstanding subdivisions (1) to (4), inclusive, of this subsection, the [department] Authority may assess a civil penalty of up to [forty thousand dollars (\$40,000)] the maximum civil penalty allowed under Chapter 293 of the Connecticut General Statutes based upon the degree of threat to the public safety, [and]the degree of public inconvenience caused as a result of the violation, or the past history of the violator.

[(b)] [Any violation involving the failure of a public utility to mark the approximate location of underground facilities correctly or within the timeframes prescribed in section 16-345-3(b) of the Regulations of Connecticut State Agencies, which violation did not result in any property damage or personal injury and was not the result of an act of gross negligence on the part of the public utility, shall result in a civil penalty of not more than one thousand dollars (\$1,000).]

[(c)](b) In determining whether to assess a civil penalty and the amount of civil penalty to be assessed, the [department] Authority shall take into account the following criteria by way of aggravating and mitigating factors:

(1) The number and nature of past violations as well as any previous decisions of the [department] Authority regarding prior violations;

(2) The degree of compliance with other requirements of Chapter 293 of the Connecticut General Statutes, and any regulations promulgated thereunder, especially notification to the utility in the event of damage. In particular, the [department] Authority shall consider whether or not the violator has

notified the utility pursuant to the provisions of sections 16-345-4(a)(1) to 16-345-4(a)[(3)](2), inclusive, and section 16-345-4[(e)](f) of the Regulations of Connecticut State Agencies;

(3) The good faith efforts of the violator to have complied with the statutes and regulations;

(4) The plans and procedures to [insure] ensure compliance with the statutes and regulations in the future;

(5) The amount of damage caused to underground facilities;

(6) The nature and severity of the violation, the degree of threat to the public safety, and degree of public inconvenience caused as a result of the violation;

(7) Whether the activity was performed in the course of business by a person, excavator, public agency or public utility regularly engaged in such activity;

(8) Circumstances beyond the control of the violator, including, but not limited to, weather and, for violations based on the failure to timely mark the approximate location of an underground [facilities] utility facility, lack of timely access to the site; and

(9) Such other factors as are in the public interest.

[(d)](c) Where the [department] Authority has issued a penalty after a hearing, the [department] Authority shall specify the factors used in determining the penalty by way of mitigation or aggravation.

Statement of Purpose

The proposed amendments to the regulations above will serve to update rules to the “Call Before You Dig” procedures. More particularly, the regulations address proper techniques and protocol for the excavation of underground utility facilities. These regulatory changes are necessary to reflect the statutory amendments made in Connecticut General Statutes §§16-345 through 16-359. In addition, the proposed amendments incorporate technical drafting changes adopted by the Legislative Regulation Review Committee of the General Assembly.