

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Oregon Utility Notification Center

952

Agency and Division

Administrative Rules Chapter Number

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RULE CAPTION

In the Matter of a Rulemaking to Clarify OAR 952-001-0070.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

ADOPT:

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:

952-001-0070

REPEAL:

Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority: ORS

ORS Ch. 183 and 757 and Chapter 691, OL 1995

Other Authority:

Statutes Implemented: ORS

ORS 757.542 and 757.552

Continued on next page

Continuation of ... NOTICE OF PROPOSED RULEMAKING***RULE SUMMARY**

The proposed amendments to OAR 952-001-0070 clarify the wording of paragraph (1)(c) regarding acceptable notifications and in particular the repeat option. The proposed amendment clarifies that if an Automatic Voice Response is used, it must have a repeat option and a call back number to hear the information again. The amendment reflects current industry practice.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the *Oregon Bulletin* or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

ORS 183.335(2)(b)(G) requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

5/23/2008	Close of Business	Diane Davis	diane.davis@state.or.us	03/31/2008
Last Day (m/d/yyyy) and Time for Public Comment		Printed Name	Email Address	Date Filed

Please enter date as m/d/yyyy or mm/dd/yyyy

*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday.

ARC 923-2003

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Utility Notification Center

952

Agency and Division

Administrative Rules Chapter Number

In the Matter of a Rulemaking to Clarify OAR 952-001-0070.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

a Rulemaking to Clarify OAR 952-001-0070.

Statutory Authority: ORS

ORS Ch. 183 and 757 and Chapter 691, OL 1995

Other Authority:

Stats. Implemented: ORS

ORS 757.542 and 757.552

Need for the Rule(s):

The rule amendments are necessary to stay current with practices in the field and to provide clarity to the rule.

Documents Relied Upon, and where they are available:

1. Oregon Revised Statutes (ORS) 757.542 and 757.552 available online at <http://www.leg.state.or.us/ors/757.html>
2. Oregon Administrative Rules (OAR) Chapter 952, available online at http://arcweb.sos.state.or.us/rules/OARS_900/OAR_952/952_tofc.html

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Continuation of ... STATEMENT OF NEED AND FISCAL IMPACT

Fiscal and Economic Impact:

These amendments are not expected to have a real fiscal or economic impact on any user of the one call system because the amendments reflect the best practices that are already in use in the field. The OUNC wants the best practices put into rules.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The amendments to the rule are not expected to have an economic impact on any state agency, unit of local government, or user of the one call notification system because the amendments do not require change to the processes currently in practice and necessary for compliance.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

The facility operators/locators, some of which are small businesses, will see no increase in demand for locates or in the cost of the notification services provided by the OUNC. The excavators or other users of the one call system, some of which are small businesses, will see no economic impact from the amendments of these rules because the notification services and locating services provided through the OUNC are free.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The rule amendments reflect current industry practice and therefore there is no additional reporting, recordkeeping or other administrative activity required for compliance.

c. Equipment, supplies, labor and increased administration required for compliance:

The rule amendments reflect current industry practice and therefore there is no additional equipment, supplies, labor or other increased administration required for compliance.

How were small businesses involved in the development of this rule?

Small businesses were involved in the development of these rule amendments through the representatives from 21 entities participating in the Oregon Utility Notification Center Board of Directors. The entities represented include excavators, utility (gas, electric, telephone, cable television) operators, cities (water and sewer), railroads, locators, municipalities, cooperatives, and others (See ORS 757.547 for a complete list of the represented entities).

Administrative Rule Advisory Committee consulted?: Yes No

If not, why?:

Stakeholders are invited to participate in the rulemaking. The amendments reflect the best practices that are already in use in the field. Industry representatives from 21 entities participate in the Oregon Utility Notification Center Board of Directors, the initiator of these amendments.

5/23/2008	Close of Business	Diane Davis	diane.davis@state.or.us	03/31/2008
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952-001-0070

Operators to Mark Underground Facilities or Notify Excavator that None Exist

(1) Except as provided in section (3) of the rule, within two business days (48 hours) after the excavator notifies the Oregon Utility Notification Center of a proposed excavation, the operator or its designated agent shall:

(a) Mark with reasonable accuracy all of its locatable underground facilities within the area of proposed excavation. All marks shall indicate the name, initials or logo of the operator of the underground facilities, and the width of the facility if it is greater than two (2) inches;

(b) Provide marks to the excavator of the unlocatable underground facilities in the area of proposed excavation, using the best information available including as-constructed drawings or other facility records that are maintained by the facility operator; or

(c) Notify the excavator that the operator does not have any underground facilities in the area of the proposed excavation. Acceptable notifications ~~are to~~ **must** include locate request call back information and **if done using an AVR (Automatic Voice Response) must have a** repeat option **and call back number to hear the information again.**

(2) Operators of abandoned facilities shall mark said facilities to the standards of locatable facilities or unlocatable facilities.

(3) An operator shall mark any abandoned underground facility that is known to it with a capital letter "A" inside of a circle, using the appropriate operator color and identification.

(4) An operator of any out-of-service underground facility shall mark such facility in the same way it marks an underground facility that is in service.

(5) If an excavator uses offset marking, the excavator shall correctly measure the amount of offset, so that the excavator can reestablish the location of underground facilities where originally marked.

(6) If the excavator notifies the operator of underground facilities discovered during an excavation in response to an emergency, the operator of underground facilities shall comply with section (1) of this rule as soon as possible.

(7) Underground facilities shall be marked in accordance with the following designated color code:

(a) RED -- Electric power lines, cables or conduit, and lighting cables.

(b) YELLOW -- Gas, oil, steam, petroleum, or other hazardous liquid or gaseous materials.

(c) ORANGE -- Communications, cable TV, alarm or signal lines, cables or conduits.

(d) BLUE -- Water, irrigation, and slurry lines.

(e) GREEN -- Sewers, drainage facilities or other drain lines.

(f) WHITE -- Pre-marking of the outer limits of the proposed excavation or marking the centerline and width of proposed lineal installations of buried facilities.

(g) PINK -- Temporary Survey Markings.

(h) PURPLE -- Slurry and reclaimed.

(8) In areas of ongoing excavation or construction operators shall mark newly installed underground facilities immediately upon placement.

(9) Except while making minor repairs to existing non-conductive, unlocatable facilities, an operator burying non-conductive, unlocatable facilities within the public rights-of-way or utility easements shall place a tracer wire or other similar conductive marking tape or device with the facility to allow for later location and marking.

(10) An operator of underground drainage lines is not required to indicate the presence of those facilities if the existence and route of those facilities can be determined from the presence of other visible facilities, such as manholes, catch basins, inlets, outlets, junction boxes, storm drains or permanent marking devices.

Stat. Auth.: ORS 183 & 757

Stats. Implemented: ORS 757.552

Hist.: OUNC 1-1997, f. & cert. ef. 4-17-97; Administrative Reformatting 1-19-98;

OUNC 1-2000, f. & cert. ef. 8-28-00; OUNC 1-2006, f. & cert. ef. 10-13-06