WEST VIRGINIA CODE: §24C-1-2

§24C-1-2. Definitions.

As used in this article, unless the context clearly requires a different meaning:

"Board" or "Underground Facilities Damage Prevention Board" means the Underground Facilities Damage Prevention Board created in this article.

"Commission" or "Public Service Commission" means the Public Service Commission of West Virginia.

"Damage" means any impact or contact with or weakening of the support for, or the partial or complete destruction of, an underground facility, its appurtenances, protective casing, coating, or housing, which, according to the operation practices of the operator or state or federal regulation, requires repair or replacement.

"Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by means of any tools, equipment or discharge of explosives which could damage underground facilities: *Provided*, That "demolish", and "demolition" do not include earth-disturbing activities authorized pursuant to the provisions of §22-3-1 *et seq.* or §22A-2-1 *et seq.* of this code.

"Emergency" means:

(1) A condition constituting a clear and present danger to life, health, or property by reason of escaping toxic, corrosive, or explosive product, oil or oil-gas, or natural gas hydrocarbon product, exposed wires, or other breaks or defects in an underground facility; or

(2) A condition that requires immediate correction to assure continuity of service provided by or through an underground facility or to assure the safety of the general public or operator personnel.

"Equipment operator" means any individual in physical control of powered equipment or explosives when being used to perform excavation work or demolition work.

"Excavate" or "excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosives, and includes, without limitation, boring, backfilling, grading, trenching, trenchless technology, digging, ditching, dredging, drilling, auguring, tunneling, moleing, scraping, cable or pipe plowing and driving, wrecking, razing, rendering, moving, or removing any structure or mass of material, but does not include underground or surface mining operations or related activities or the tilling of soil for agricultural purposes or for domestic gardening. Further, for purposes of this article, the terms "excavate", and "excavation" do not include routine maintenance of paved public roads or highways, where

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all work is confined to the traveled portion of the paved public way and does not exceed a depth greater than 12 inches measured from the top of the paved road surface.

"Excavator" means any person intending to engage or engaged in excavation or demolition work.

"Fund" or "Underground Damage Prevention Fund" means the fund created in §24C-1-2b of this code.

"Member" means a member of the one-call system as authorized by this article.

"One-call system" means a communication system that receives notification from excavators of intended excavation work and prepares and transmits such notification to operators of underground facilities in accordance with this article.

"Operator" means any person who operates an underground facility.

"Person" means any individual, firm, joint venture, partnership, corporation, association, state agency, county, municipality, cooperative association, or joint stock association, and any trustee, receiver, assignee, agency, or personal representative thereof.

"Powered equipment" means any equipment energized by an engine, motor or hydraulic, pneumatic, or electrical device and used in excavation or demolition work.

"Underground facility" means any underground pipeline facility owned by a utility and regulated by the Public Service Commission, which is used in the transportation or distribution of gas, oil, or a hazardous liquid; any underground pipeline facility, owned by a company subject to the jurisdiction of the federal energy regulatory commission, which is used in the gathering, transportation, or distribution of gas, oil, or a hazardous liquid; any underground production or gathering pipeline for gas, oil, or any hazardous substance with a nominal inside diameter in excess of four inches and that is not otherwise subject to one-call reporting requirements under federal or state law; any underground facility used as a water main, storm sewer, sanitary sewer, or steam line; any underground facility used for electrical power transmission or distribution; any underground cable, conductor, waveguide, glass fiber, or facility used to transport telecommunications, optical, radio, telemetry, television, or other similar transmissions; and any facility used in connection with any of the foregoing facilities on a bridge, a pole or other span, or on the surface of the ground, any appurtenance, device, cathodic protection system, conduit, protective casing, or housing used in connection with any of the foregoing facilities: *Provided*, That "underground facility" does not include underground or surface coal mine operations.

"Workday" means any day except Saturday, Sunday, or a federal or state legal holiday.

"Work site" means the location of excavation or demolition work as described by an excavator, operator, or person or persons performing the work.

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