WEST VIRGINIA CODE: §24C-1-3

§24C-1-3. Duties and responsibilities of operators of underground facilities; failure of operator to comply.

(a) Each operator of an underground facility in this state shall be a member of a one-call system for the area in which the underground facility is located.

(b) Each member shall provide the following information to the one-call system on forms developed and provided for that purpose by the one-call system:

(1) The name of the member;

(2) The geographic location of the member's underground facilities as prescribed by the one-call system; and

(3) The member's office address and telephone number to which inquiries may be directed as to the locations of the operator's underground facilities.

(c) Each member shall revise in writing the information required by §24C-1-3(b) of this code as soon as reasonably practicable, but not to exceed 180 days, after any change.

(d) After the one-call system receives notification from an excavator of a specific area where excavation or demolition will be performed, the one-call system shall notify the operators of underground facilities who shall do the following within 48 hours, excluding Saturdays, Sundays, and legal federal or state holidays (such 48 hour period beginning at 12:00 a.m. of the day following receipt of the notification by the one call system):

(1) Respond to such notification by providing to the excavator the approximate location, within two feet horizontally from the outside walls of such facilities, and type of underground facilities at the site, using;

The color code prescribed in §24C-1-6 of this code when providing temporary marking of the approximate location of underground facilities; or

(2) Notify the excavator that the operator did not leave a temporary marking of the location of underground facilities because there are no lines in the area of the proposed excavation or demolition.

(3) Notwithstanding the provisions of §24C-1-3(d) of this code, the 48-hour period for required action may be waived if the excavator and operator mutually agree to an extended response time, which mutual agreement shall be confirmed in writing or by electronic record.

(e) Failure of an operator who is required to be a member to comply with the provisions of

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this article may not prevent the excavator from proceeding but shall bar the operator from recovery of any costs associated with damage to its underground facilities resulting from such failure, except for damage caused by the willful or intentional act of the excavator.

(f) Notwithstanding the provisions of §24C-1-3(e) of this code, a member is not barred from recovery under §24C-1-3(e) of this code for failure to comply with §24C-1-3(d)(1) of this code, but shall have his or her right to recover, if any, determined by common law, if the operator responded to one-call notification in a timely manner, but was unable to accurately locate lines because such lines were nonmetallic and had no locating wire or other marker.

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