

By: Representative Powell

To: Public Utilities

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1191

1 AN ACT TO AMEND SECTION 77-13-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE CERTAIN DEFINITIONS AND DEFINE ADDITIONAL TERMS USED IN
3 THOSE STATUTES REGULATING EXCAVATIONS NEAR UNDERGROUND UTILITIES;
4 TO AMEND SECTION 77-13-5, MISSISSIPPI CODE OF 1972, TO REVISE THE
5 NOTICE REQUIREMENTS FOR EXCAVATORS BEFORE BEGINNING AN EXCAVATION
6 AND TO ESTABLISH SPECIFIC NOTICE REQUIREMENTS FOR SUBMERGED
7 EXCAVATIONS; TO AMEND SECTION 77-13-9, MISSISSIPPI CODE OF 1972,
8 TO ESTABLISH DIFFERENT TIMEFRAMES THAT VARY ACCORDING TO THE TYPE
9 OF EXCAVATION FOR UTILITY OPERATORS TO LOCATE AND MARK UNDERGROUND
10 LINES AND FACILITIES AND SUBMERGED FACILITIES AFTER RECEIVING
11 NOTICE OF AN EXCAVATION; TO AMEND SECTION 77-13-11, MISSISSIPPI
12 CODE OF 1972, TO REQUIRE AN EXCAVATOR MAKING AN EMERGENCY
13 EXCAVATION TO PROVIDE THE CONTACT INFORMATION OF THE PERSON AT THE
14 SITE WHO IS AVAILABLE TO DISCUSS THE EXCAVATION WITH OPERATORS; TO
15 CREATE NEW SECTION 77-13-12, MISSISSIPPI CODE OF 1972, TO
16 AUTHORIZE AN EXCAVATOR THAT IS PLANNING A LARGE PROJECT TO REQUEST
17 A PRECONSTRUCTION MEETING WITH OPERATORS AND OTHER INTERESTED
18 PARTIES; TO AUTHORIZE PARTIES PARTICIPATING IN THE MEETING TO
19 EXECUTE AN AGREEMENT ESTABLISHING TERMS AND TIMEFRAMES FOR THE
20 PROJECT; TO AMEND SECTION 77-13-17, MISSISSIPPI CODE OF 1972, IN
21 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
22 PURPOSES.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

24 **SECTION 1.** Section 77-13-3, Mississippi Code of 1972, is
25 amended as follows:

26 77-13-3. The words defined in this section shall have the
27 following meanings when found in this chapter:



28 (a) "Abandoned facility" means any underground utility
29 line or underground utility facilities no longer used in the
30 conduct of the owner/operator's business and are not intended to
31 be used in the future.

32 (b) "Approximate location of underground utility lines
33 or underground facilities" means information about an operator's
34 underground utility lines or underground facilities which is
35 provided to a person by an operator and must be accurate within
36 eighteen (18) inches measured horizontally from the outside edge
37 of each side of such operator's facility, or a strip of land
38 eighteen (18) inches either side of the operator's field mark, or
39 the marked width of the facility or line plus eighteen (18) inches
40 on each side of the marked width of the facility or line.

41 "Approximate location of submerged facilities" means information
42 about an operator's submerged facilities which is provided to a
43 person by an operator and must be accurate within fifteen (15)
44 feet of the submerged facility marks.

45 (c) "Board" means the Underground Facilities Damage
46 Prevention Board, created by Section 77-13-29.

47 (d) "Calendar day" means a twenty-four-hour period.

48 (e) "Commission" means the Mississippi Public Service
49 Commission.

50 (f) "Damage" means the substantial weakening of
51 structural or lateral support of underground utility lines * * *,
52 underground facilities or submerged facilities, penetration or



53 destruction of any protective coating, housing or other protective
54 devices of an underground utility line * * *, underground facility
55 or submerged facility, and the partial or complete severance of
56 any underground utility line * * *, underground facility or
57 submerged facility, but does not include any operator's abandoned
58 facility.

59 (g) "Design Information Request" means a notification
60 made to Mississippi 811, Incorporated, by a person providing
61 professional services and making a request in preparation for
62 bidding, preconstruction engineering, or other advance planning
63 efforts that do not involve excavation. A design information
64 services request may not be used for excavation purposes.

65 (h) "Emergency excavation" means excavation at times of
66 emergency involving imminent danger to life, health or property or
67 a customer service outage.

68 (i) "Excavate or excavation" means any operation in
69 which earth, rock or other material or mass of material on or
70 below the ground or submerged is moved or otherwise displaced by
71 any means, except: (i) the tilling of the soil less than
72 twenty-four (24) inches in depth for agricultural purposes; or
73 (ii) an operation in which earth, rock or other material or mass
74 of material on or below the ground is moved or otherwise displaced
75 to a depth of less than twelve (12) inches on private property by
76 the property owner without the use of mechanical excavating
77 equipment; or (iii) an operation in which earth, rock or other



78 material or mass of material on or below the ground is moved or
79 otherwise displaced without the use of mechanical excavating
80 equipment to a depth of less than twelve (12) inches on private
81 property by an excavator who is not the property owner, except
82 when such excavation is in a clearly marked underground facility
83 right-of-way; or (iv) routine railroad maintenance activities
84 conducted within the track structure, drainage ditches, or within
85 the railroad right-of-way, a distance not to exceed thirty (30)
86 feet from the outside rail of the outermost track or tracks,
87 provided this work is performed by railroad employees or railroad
88 contractors and is carried out with reasonable care so as to
89 protect any underground facilities properly installed in the
90 railroad right-of-way by agreement with the railroad; or (v)
91 routine activities of a cemetery, provided that for any cemetery
92 that begins or expands after July 1, 2015, such activities occur
93 only after initial notice is provided to Mississippi 811,
94 Incorporated, and all affected operators have advised that there
95 are no underground facilities within the boundaries of the subject
96 cemetery; or (vi) routine maintenance activities carried out by or
97 for those responsible for publicly maintained roadways and
98 rights-of-way, provided that the activities occur entirely within
99 the public right-of-way and do not penetrate the earth to a depth
100 of more than twelve (12) inches and are carried out with
101 reasonable care so as to protect any underground facilities placed
102 in the right-of-way. Routine maintenance activities shall be more



103 specifically described in the rules and regulations adopted by the
104 board; or (vii) the driving of wooden stakes by use of hand tools
105 which do not penetrate the earth to a depth of not more than six
106 (6) inches. The term "excavate" shall include, but not be limited
107 to, the operations of demolition, blasting, grading, land
108 leveling, trenching, digging, ditching, drilling, augering,
109 directional boring, tunneling, scraping, cable or pipe plowing,
110 driving, jacking, wrecking, razing, rending, dredging and
111 anchoring, moving or removing any structure or other material or
112 mass of material on or below the ground.

113 (j) "Excavator" means any person who engages directly
114 in excavation.

115 (k) "Mark" means the use of stakes, paint or other
116 clearly identifiable materials to show the field location of
117 underground facilities in accordance with the current color code
118 standard of the American Public Works Association, or the
119 uncovering or exposing of underground facilities so that the
120 excavator may readily see the location of same, or the pointing
121 out to the excavator of certain aboveground facilities such as,
122 but not limited to, manhole covers, valve boxes and pipe and cable
123 risers, which indicate the location of underground facilities;
124 submerged facilities may be marked also by electronic methods or
125 GPS coordinates.

126 (l) "Mechanical excavating equipment" means all
127 equipment powered by any motor, engine, or hydraulic or pneumatic



128 device used for excavating and shall include, but not be limited
129 to, trenchers, bulldozers, backhoes, power shovels, scrapers,
130 draglines, clam shells, dredging equipment, augers, drills, cable
131 and pipe plows and other plowing-in or pulling-in equipment.

132 (m) "Mississippi 811, Incorporated," means a nonprofit
133 corporation organized under the laws of the State of Mississippi
134 that provides a service through which a person shall notify the
135 operator(s) of underground facilities of plans to excavate and
136 request marking of facilities.

137 (n) "Mississippi One-Call System, Incorporated," means
138 "Mississippi 811, Incorporated." Whenever the term "Mississippi
139 One-Call System, Incorporated," appears in this chapter, the term
140 shall mean "Mississippi 811, Incorporated."

141 (o) "Operator" means any person who owns or operates a
142 utility. However, the term "operator" shall not include any
143 railroad or the Mississippi Department of Transportation.

144 (p) "Person" means any individual, firm, partnership,
145 association, trustee, receiver, assignee, corporation, entity,
146 limited liability company, utility, joint venture, municipality,
147 state governmental unit, subdivision or instrumentality of the
148 state, or any legal representative thereof.

149 (q) "Pipeline Safety Division" means the Pipeline
150 Safety Division of the Public Service Commission.

151 (r) "Positive Response Information System" or "PRIS"
152 means an automated information system operated and maintained by



153 Mississippi 811, Incorporated, that allows excavators, locators,
154 facility owners or operators, and other affected parties to enter
155 and/or determine the status of a locate request.

156 (s) "Underground facility" means any underground
157 utility lines and other items which shall be buried * * *, placed
158 below ground or submerged for use in connection with underground
159 utility lines and including, but not be limited to, pipes, sewers,
160 conduits, cables, valves, lines, wires, manholes, vaults,
161 attachments and those portions of poles below the ground.

162 (t) "Underground utility lines" means
163 underground * * *, buried or submerged cable, conduit pipes and
164 related facilities for transportation and delivery of electricity,
165 telecommunications (including fiber optics), water, sewage, gas,
166 mixtures of gases, petroleum, petroleum products or hazardous,
167 flammable, toxic or corrosive liquids.

168 (u) "Utility" means any person who supplies,
169 distributes or transports by means of underground utility lines or
170 underground facilities any of the following materials or services:
171 gas, mixture of gases, petroleum, petroleum products or hazardous,
172 toxic, flammable or corrosive liquids, electricity,
173 telecommunications (including fiber optics), sewage, drainage,
174 water, steam or other substances.

175 (v) "Working day" means a twenty-four-hour period
176 commencing from the time the locate request ticket is processed or
177 entered into the * * * Mississippi 811, * * * Inc., system in



178 accordance with this chapter, excluding Saturdays, Sundays and
179 legal holidays.

180 (w) "Impending Emergency" means circumstances
181 potentially dangerous to life, health, property, or loss of
182 customer services, which would likely develop into an emergency,
183 as defined in Section 77-13-11, if excavation is not initiated
184 sooner than the normal notification requirements allow.

185 (x) "Locate request ticket" means an electronic
186 document generated by the Mississippi 811, Inc., system, which
187 includes the information described in Section * * * 77-13-5(1)(a).

188 (y) "Trenchless excavation" means horizontal excavation
189 parallel to the surface of the earth, which does not use trenching
190 or vertical digging as the primary means of excavation, including,
191 but not limited to, directional boring, tunneling, or augering.

192 (z) "Electronic pre-marking" means a process in which
193 the excavator submits a locate request ticket through the Web
194 Portal and simultaneously pre-marks the approximate boundary of
195 the proposed excavation area in the Mississippi 811 Web Portal map
196 by drawing lines, points or polygon geometries, providing a clear
197 visual of the proposed excavation or demolition area.

198 (aa) "Large project excavation" means an excavation
199 project that an excavator determines cannot be reasonably
200 completed within twenty (20) calendar days from the time the
201 locate request ticket is processed in the Mississippi 811, Inc.,
202 system, or for submerged excavation, thirty (30) calendar days



203 from the time the locate request ticket is processed in the
204 Mississippi 811, Inc., system, due to its large area or
205 complexity.

206 (bb) "Marine exclusion zone" means a strip measured
207 seventy-five (75) feet from the outside edge of both sides of the
208 submerged facility marks on a horizontal plane.

209 (cc) "Preconstruction meeting" means an in-person,
210 video or telephonic meeting held among a large project excavator,
211 its contractors, all operators with underground lines, underground
212 facilities or submerged facilities in the area of a large project
213 excavation, and the operators' locators to discuss the large
214 project excavation and facilitate the exchange of maps, plans,
215 excavation and locating schedules, contact information, and other
216 information related to the large project excavation.

217 (dd) "Preconstruction meeting ticket" means an
218 electronic document generated by the Mississippi 811, Inc., system
219 and transmitted to operators with underground utility lines,
220 underground facilities or submerged facilities in the area of the
221 large project excavation, for the purposes of facilitating a
222 preconstruction meeting in advance of a large project excavation.

223 (ee) "Submerged excavation" means excavation that
224 occurs under a body of water, including rivers, lakes, waterways,
225 bays, the sea, and arms of the sea.

226 (ff) "Submerged facility" means an underground facility
227 or underground utility line that normally is submerged under a



228 body of water, including rivers, lakes, waterways, bays, the sea,
229 and arms of the sea.

230 (gg) "Tolerance zone" means a strip of land measured
231 eighteen (18) inches, plus one-half of the diameter of the
232 underground facility or underground utility if the diameter is
233 indicated at the marks, from the outside edge of both sides of the
234 marks on a horizontal plane.

235 (hh) "Web portal" means an online platform operated and
236 maintained by Mississippi 811, Inc., which allows excavators to
237 electronically submit and track locate request tickets and allows
238 facility owners or operators to submit information to the positive
239 response information system.

240 **SECTION 2.** Section 77-13-5, Mississippi Code of 1972, is
241 amended as follows:

242 77-13-5. (1) * * * Except for emergency excavation as
243 provided in Section 77-13-11, impending emergency excavation as
244 provided in paragraph (c) of this subsection, and submerged
245 excavation as provided in subsection (8) of this section, before
246 beginning any excavation, * * * the excavator shall:

247 (a) Provide not less than three (3) and not more than
248 ten (10) working days' advance written, electronic or telephonic
249 notice of the commencement, extent, location and duration of the
250 excavation work to Mississippi 811, Incorporated, so that * * * a
251 locate request ticket may be processed, notifying
252 operator(s) * * * to locate and mark the location of underground



253 utility lines and underground facilities in the excavation area.
254 The advance written, electronic or telephonic notice required by
255 this subsection shall not be required where a qualified operator
256 using reasonable care so as to protect himself and any underground
257 facility that may be in the area, uses a hand-powered probe rod to
258 locate that operator's underground facilities for the purpose of
259 underground facility mapping.

260 The written, electronic or telephonic notice required by this
261 paragraph * * * (a) shall contain the name, address and telephone
262 number of the person filing the notice of intent, the person
263 responsible for the excavation, the starting date, anticipated
264 duration, type of excavation to be conducted, the location of the
265 proposed excavation, which is limited to an area the excavator
266 reasonably believes may be completed within * * * twenty (20)
267 calendar days from the date and time the locate request ticket is
268 processed * * * in the Mississippi 811, Inc., system and does not
269 include any area in which the excavator has already completed the
270 excavation work, and whether or not explosives are to be used.

271 In addition to all other violations of this chapter,
272 providing advanced written notification required by this paragraph
273 (* * * a) where the proposed excavation location could not
274 reasonably be completed within * * * twenty (20) calendar days
275 from the date and time the locate request ticket is
276 processed * * * in the Mississippi 811, Inc., system or where the
277 proposed excavation location includes any area in which the



278 excavator has already completed the excavation work shall
279 constitute violations of this chapter.

280 **(b)** Prior to providing the advance notice to
281 Mississippi 811, Inc., as required by * * * paragraph * * * (a) of
282 this subsection, the excavator shall pre-mark the approximate
283 boundary of the proposed excavation area with white paint,
284 flags * * *, stakes or electronic pre-marking. Where an excavator
285 pre-marks the proposed excavation area with a single stake or
286 other single-point indicator, that excavator represents that the
287 proposed excavation area does not exceed fifty (50) feet in any
288 direction from the pre-mark. Pre-marking of the proposed
289 excavation area may not exceed the actual area of excavation. If
290 the pre-marked proposed excavation area is inconsistent with the
291 proposed excavation area described in the locate request ticket,
292 then the proposed excavation area in the locate request ticket
293 shall control. Pre-marking of the proposed excavation area with
294 white paint, flags * * *, stakes or electronic pre-marking shall
295 not be required * * * for excavation performed on property owned
296 by the excavator where the proposed excavation area can be defined
297 clearly and adequately and described in the locate request ticket.

298 **(* * *c)** Provide advance written, electronic or
299 telephonic notice of the commencement, extent, location and
300 duration of the excavation work to Mississippi 811, Incorporated,
301 for excavations required due to an impending emergency, that
302 includes an excavation start time that is not less than twelve



303 (12) hours from the time of notices provided between 8:00 p.m. and
304 11:59 a.m., and not sooner than 8:00 a.m., on the next calendar
305 day for notices provided between 12:00 p.m. and 7:59 p.m., so
306 that * * * a locate request ticket may be processed, informing
307 operators * * * to locate and mark the location of underground
308 utility lines and underground facilities in the excavation area.

309 In addition to the written, electronic or telephonic notice
310 information required in paragraph (a) of this subsection * * *,
311 the excavator shall also provide contact information for a person
312 readily available to discuss the impending emergency excavation
313 with operators.

314 (2) Except for submerged excavation, the markings provided
315 by operators and the locate request * * * ticket shall only be
316 valid for a period of * * * twenty (20) calendar days from the
317 date and time the locate request ticket is processed * * * in the
318 Mississippi 811, Incorporated system. The excavator shall
319 preserve all markings until they are no longer required for proper
320 and safe excavation. When a mark is no longer visible but the
321 excavator's work continues in the vicinity of underground
322 facilities, underground lines or submerged facilities, the
323 excavator shall notify Mississippi 811, Inc., of the need for a
324 remark. An excavator shall not make repeated requests for
325 remarking unless necessary due to circumstances not reasonably
326 within the control of the excavator.



327 (3) Except for submerged excavation, the person responsible
328 for the excavation project shall renew the notification with
329 Mississippi 811, Incorporated, at least three (3) and not more
330 than four (4) working days prior to this expiration date and shall
331 continue to renew such notification in the same manner throughout
332 the duration of the excavation. Such renewal notice shall be
333 valid for a period of * * * twenty (20) calendar days from the
334 date and time the renewal locate request is processed * * * in the
335 Mississippi 811, * * * Inc., system. The proposed excavation
336 location on a renewal locate request ticket shall not include any
337 area in which the excavator has already completed the excavation
338 work. In addition to all other violations of this chapter,
339 renewing a locate request ticket that includes any area within the
340 proposed excavation location in which the excavator has already
341 completed the excavation work shall constitute a violation of this
342 chapter.

343 (* * * 4) Except when such excavation is in a clearly marked
344 underground facility right-of-way, compliance with the notice
345 requirements of this section shall not be required of: (a)
346 persons plowing less than twenty-four (24) inches in depth for
347 agricultural purposes; (b) persons who are moving or otherwise
348 displacing, by hand, earth, rock or other material or mass of
349 material on or below the ground at a depth of less than twelve
350 (12) inches on property they own; * * * (c) persons, other than
351 the property owner, who are moving or otherwise displacing, by



352 hand, earth, rock or other material or mass of material on or
353 below the ground at a depth of less than twelve (12) inches * * *;
354 and (d) any excavation or demolition that occurs as the result of
355 electric power generation activities, if those activities are
356 confined to the immediate secured property of the facility and the
357 activities are not performed on any operator's marked
358 right-of-way, easement or permitted use.

359 (5) In addition to complying with this act and all other
360 applicable regulations and requirements of federal, state, county
361 and municipal authorities, a person may not engage in excavation
362 of any kind within the tolerance zone unless the excavator
363 satisfies all of the following conditions:

364 (a) Determines the precise location of all marked
365 underground facilities and underground lines in or near the area
366 where the excavation is to be conducted using noninvasive methods
367 of excavation such as hand digging, pot holing, soft digging,
368 vacuum methods, use of pressurized air or water, pneumatic hand
369 tools or other similar procedures;

370 (b) Plans and conducts the excavation to avoid or
371 minimize interference with or damage to underground utility lines
372 and underground facilities in or near the excavation area;

373 (c) Maintains a clearance between an underground
374 utility line or underground facility and the cutting edge or point
375 of any mechanical excavating equipment, taking into account the



376 known limit of control of the cutting edge or point, as may be
377 reasonably necessary to avoid damage to the facility; and

378 (d) Provides such support for underground utility lines
379 and underground facilities in and near the excavation area,
380 including during any backfilling operations, as may be reasonably
381 necessary for the protection of the facilities.

382 (* * *6) A person may make a written, electronic or
383 telephonic design information request to Mississippi 811,
384 Incorporated, so that owners and operators of utilities may locate
385 underground utility lines * * *, underground facilities and
386 submerged facilities in the design information area. The design
387 information request shall contain the name, address, and telephone
388 number of the person making the request, the type of project
389 planned, and a description of the area to be located with
390 sufficient particularity to enable the utility owner or operator
391 to ascertain the precise tract or parcel of land involved.

392 (* * *7) (a) Notwithstanding any other provision of this
393 chapter to the contrary, the procedures and requirements set forth
394 in this subsection (* * *7) shall apply on the site of any
395 excavation involving trenchless excavation, including directional
396 boring, where the approximate location of underground utility
397 lines or underground facilities has been marked in compliance with
398 Section 77-13-9.

399 (b) The excavator shall not use power-driven equipment
400 for trenchless excavation, including directional boring, across or



401 within the * * * tolerance zone unless, when reasonably practical,
402 the excavator exposes the planned trenchless excavation path by a
403 noninvasive method such as hand digging, pot holing when
404 practical, soft digging, vacuum methods, use of pressurized air or
405 water, or pneumatic hand tools and then carefully and prudently
406 monitors the horizontal and vertical location of the trenchless
407 excavation device in a manner calculated to enable the device to
408 be visually observed by the excavator as it crosses the entire
409 width of the * * * tolerance zone.

410 (c) For trenchless excavations, including directional
411 boring, parallel to the * * * tolerance zone, the excavator shall,
412 when reasonably practical, use a noninvasive method such as hand
413 digging, pot holing when practical, soft digging, vacuum methods,
414 use of pressurized air or water, or pneumatic hand tools to
415 identify the actual location of the underground utility facility
416 at careful and prudent intervals.

417 (8) (a) Before beginning a submerged excavation, the
418 excavator shall provide not less than seven (7) working days'
419 advance written, electronic or telephonic notice of the
420 commencement, extent, location and duration of the submerged
421 excavation work to Mississippi 811, Inc., so that a locate request
422 ticket may be processed notifying operators to locate and mark the
423 location of submerged facilities in the excavation area. The
424 written, electronic or telephonic notice required by this
425 subsection (8) must contain: the name, address and telephone



426 number of the person filing the notice of intent; the person
427 responsible for the excavation; the starting date, anticipated
428 duration and type of excavation to be conducted; the location of
429 the proposed excavation, which is limited to an area the excavator
430 reasonably believes may be completed within thirty (30) calendar
431 days from the date and time the locate request ticket is processed
432 in the Mississippi 811, Inc., system and which may not include any
433 area in which the excavator already has completed the excavation
434 work; and whether or not explosives are to be used. In addition
435 to all other violations of this chapter, providing advance written
436 notification required by this paragraph (a) when the proposed
437 submerged excavation location could not reasonably be completed
438 within thirty (30) calendar days from the date and time the locate
439 request ticket is processed in the Mississippi 811, Inc., system
440 or when the proposed excavation location includes any area in
441 which the excavator already has completed the excavation work
442 constitutes a violation of this chapter. Before providing the
443 advance notice to Mississippi 811, Inc., as required by this
444 paragraph (a), the excavator shall pre-mark the approximate
445 boundary of the proposed excavation area with white paint, flags,
446 stakes or electronic pre-marking.

447 (b) For submerged facilities, the markings provided by
448 operators and the locate request ticket shall be valid for a
449 period of thirty (30) calendar days from the date and time the
450 locate request ticket is processed in the Mississippi 811, Inc.,



451 system. The person responsible for the excavation project shall
452 renew the notification with Mississippi 811, Inc., at least seven
453 (7), and not more than ten (10), working days before this
454 expiration date and shall continue to renew the notification in
455 the same manner throughout the duration of the excavation. The
456 renewal notice shall be valid for a period of thirty (30) calendar
457 days from the date and time the renewal locate request is
458 processed in the Mississippi 811, Inc., system. The proposed
459 excavation location on a renewal locate request ticket may not
460 include any area in which the excavator already has completed the
461 excavation work. In addition to all other violations of this
462 chapter, renewing a locate request ticket that includes any area
463 within the proposed submerged excavation location in which the
464 excavator has already completed the excavation work constitutes a
465 violation of this chapter.

466 (c) A person seeking to excavate within the marine
467 exclusion zone shall request consent from operators with submerged
468 facilities located within the marine exclusion zone, and in such
469 instances, the operators, in good faith, shall respond to and
470 consult with the requesting excavator. Excavation may not occur
471 within the marine exclusion zone without the written consent from
472 operators with submerged facilities located within the marine
473 exclusion zone, which consent may not be unreasonably withheld.

474 **SECTION 3.** Section 77-13-9, Mississippi Code of 1972, is
475 amended as follows:



476 77-13-9. (1) Every person owning or operating underground
477 utility lines * * *, underground facilities or submerged
478 facilities shall, upon receiving advance notice of the
479 commencement of excavation, in accordance with Section 77-13-5,
480 make an investigation * * * to determine the approximate location
481 of its underground utility lines * * *, underground facilities and
482 submerged facilities in the area of the proposed excavation, and
483 shall either: (a) mark the approximate location of underground
484 utility lines * * *, underground facilities and submerged
485 facilities in or near the area of the excavation, so as to enable
486 the person engaged in excavation work to locate the lines and
487 facilities in advance of and during the excavation work and notify
488 the excavator through the PRIS that the facilities have been
489 marked; or (b) advise through the PRIS that it has no underground
490 utility lines * * *, underground facilities or submerged
491 facilities in the excavation area * * *.

492 (2) * * * Unless otherwise agreed in writing between the
493 operator and the excavator, the operator shall perform its
494 obligations described in subsection (1) of this section within the
495 following times:

496 (a) Standard Excavation: For an underground utility
497 line or underground facility in the area of excavation, within
498 three (3) working days from the time the locate request ticket is
499 processed in accordance with Section 77-13-5(1) (a). If an
500 operator can locate its underground utility lines or underground



501 facilities in the excavation area only by excavation, the operator
502 shall provide notice of such through PRIS, and that operator shall
503 be allowed a reasonable amount of additional time, not to exceed
504 four (4) working days from the time the locate request ticket is
505 processed in accordance with Section 77-13-5(1) (a), to mark the
506 approximate location of the underground utility lines or
507 underground facilities. In lieu of marking described in
508 subsection (1) of this section, the operator may request to be
509 present at the site upon commencement of the excavation, so long
510 as the operator complies within three (3) working days from the
511 time the locate request ticket is processed in accordance with
512 Section 77-13-5(1) (a).

513 (b) Submerged Excavation: For a submerged facility in
514 the area of submerged excavation, within seven (7) working days
515 from the time the locate request ticket is processed in accordance
516 with Section 77-13-5(8).

517 (c) Emergency Excavation: For an underground utility
518 line or underground facility in the area of an emergency
519 excavation, within two (2) hours from the time the locate request
520 ticket is processed in accordance with Section 77-13-11.

521 (d) Impending Emergency Excavation: For an underground
522 utility line or underground facility in the area of impending
523 emergency excavation, before the start time of excavation provided
524 in the locate request ticket in accordance with Section
525 77-13-5(1) (c).



526 (3) Before and during excavation, the excavator shall
527 inspect the excavation site and inform himself or herself of the
528 presence of marks and evidence of unmarked underground utility
529 lines or underground facilities on the excavation site. When an
530 excavator, upon arriving at an excavation site, sees evidence of
531 unmarked underground utility lines or underground facilities or
532 encounters an unmarked underground utility line or underground
533 facility on an excavation site after excavation has commenced
534 where notice of intent has been made in accordance with the
535 provisions of this chapter, that excavator must immediately
536 contact Mississippi 811, Incorporated. All operator(s) thus
537 notified must contact the excavator within two (2) hours and
538 inform the excavator of any of their known underground facilities,
539 active or abandoned, at the site of the excavation.

540 (4) When marking the approximate location of the facilities,
541 the operator shall follow the color code designated and described
542 herein, unless otherwise provided for by specific administrative
543 rule or regulation promulgated pursuant to this chapter, namely:

544 UTILITY OR TYPE OF FACILITY	GROUP IDENTIFYING COLOR
545 Electric	Safety Red
546 Petroleum Product/Hazardous/ 547 Flammable/Corrosive/Toxic 548 Materials, Product and Steam 549 Lines, Gas or Gaseous Material	High Visibility Safety Yellow



551	Telecommunications (including fiber	
552	optics) and CATV	Safety Alert Orange
553	Potable Water	Safety Precaution Blue
554	Reclaimed Water, Irrigation,	
555	Slurry Lines	Purple
556	Sewer and Drain Lines	Safety Green
557	Temporary Survey Markings	High Visibility Pink
558	Proposed Excavation	White

559 (5) All utility facilities installed by owners or operators
560 of utilities on or after January 1, 2010, shall be installed in
561 such manner that the utility facility may be located by using a
562 generally accepted electronic locating method.

563 (6) * * * If, before the expiration of the * * * times set
564 forth in subsection (2) of this section, all identified facility
565 owners or operators have responded to the locate request and all
566 have indicated that their facilities are either not in conflict or
567 have been marked as indicated through the use of the PRIS, then
568 the person planning to perform excavation or blasting shall be
569 authorized to commence work, subject to the other requirements of
570 this section, without waiting * * * for the times in subsection
571 (2) of this section to expire.

572 (7) Upon receiving a design information request, the utility
573 owner or operator shall within seven (7) working days from the
574 time notice is provided in accordance with this chapter to
575 Mississippi 811, Incorporated, respond by one (1) of the following



576 methods: (a) marking the approximate location of its underground
577 utility lines * * *, underground facilities and submerged
578 facilities in the area in accordance with subsection (1) of this
579 section; (b) providing to the person making the design information
580 request the best available description of its underground utility
581 lines * * *, underground facilities and submerged facilities in
582 the area which may include drawings or other records maintained by
583 the utility owner or operator; or (c) allowing the person making
584 the design information request or any other authorized person to
585 inspect or copy the drawings or other records for all underground
586 utility lines and utility facilities in the area.

587 * * *

588 **SECTION 4.** Section 77-13-11, Mississippi Code of 1972, is
589 amended as follows:

590 77-13-11. (1) The advance notice provisions of this chapter
591 shall not * * * be required of any person making an emergency
592 excavation at times of emergency involving an imminent danger to
593 life, health or property or a customer service outage. However,
594 every person who shall engage in such emergency excavation shall
595 take all necessary and reasonable precautions to avoid or minimize
596 interference with or damage to existing underground utility lines
597 and underground facilities in and near the excavation area, and
598 shall notify Mississippi 811, Incorporated, of the specifically
599 designated emergency excavation as promptly as reasonably possible
600 so that operators may locate and mark the location of underground



601 utility lines and underground facilities in the specifically
602 designated emergency excavation area. In addition to the written,
603 electronic or telephonic notice information required in Section
604 77-13-5(1)(a), the excavator also shall provide contact
605 information for a person who is or will be present at the site of
606 the emergency excavation and will be readily available to discuss
607 the emergency excavation with operators. In the event of damage
608 to or dislocation of any underground utility lines or underground
609 facilities caused by any such emergency excavation work, the
610 person responsible for the excavation shall immediately notify the
611 operator of the damaged or dislocated underground facilities of
612 the damage or dislocation.

613 (2) An imminent danger to life, health, property or customer
614 service exists whenever there is a substantial likelihood that
615 injury, loss of life, health or customer services, or substantial
616 property loss could result before the person responsible for the
617 excavation or demolition can fully comply with the notification
618 and response procedures required in Sections 77-13-7 and 77-13-17.

619 (3) Any misrepresentation of either an emergency excavation
620 or an impending emergency as defined in Section 77-13-3, shall
621 constitute a violation of this chapter.

622 **SECTION 5.** The following shall be codified as Section
623 77-13-12, Mississippi Code of 1972:

624 77-13-12. (1) If an excavator determines that the planned
625 excavation will be a large project excavation, the excavator may



626 request a preconstruction meeting by submitting notice to
627 Mississippi 811, Inc. In the notice, the excavator shall provide
628 the following information:

629 (a) The location, date and time of the preconstruction
630 meeting, which must occur no sooner than ten (10) working days
631 after submission of the notice;

632 (b) The location of the proposed excavation;

633 (c) The names, addresses, telephone numbers and email
634 addresses of the person responsible for the excavation, the
635 excavator's preconstruction meeting contact person, and
636 representatives of all known contractors and subcontractors that
637 will perform work on the excavation;

638 (d) The expected starting date of the excavation, which
639 may occur no sooner than ten (10) working days after the
640 preconstruction meeting date;

641 (e) The anticipated duration of the excavation; and

642 (g) The types of excavation to be conducted and whether
643 or not explosives are to be used.

644 (2) Upon receipt of the notice of preconstruction meeting
645 from the excavator, the Mississippi 811, Inc. system will generate
646 a preconstruction meeting ticket, and operators may report through
647 the use of PRIS their intent to attend the meeting. The
648 excavator, operators with underground lines, underground
649 facilities, or submerged facilities in the area of the large
650 project excavation, and all other persons who will perform



651 excavation work or utility locating services may participate in
652 the preconstruction meeting to exchange contact information and
653 attempt to reach agreement on the scope of the excavation work,
654 the dates of excavation activities, the operators' locating
655 schedule, and any other details that the excavator and operators
656 agree should be included in a written excavation agreement. If an
657 operator is unable to attend the preconstruction meeting, that
658 operator may meet separately or otherwise communicate with the
659 excavator to discuss the details of the excavation and attempt to
660 agree on the excavation terms. The written excavation agreement
661 may be considered valid only if signed by the excavator and all
662 operators with underground lines, underground facilities or
663 submerged facilities in the area of the excavation.

664 (3) If the excavator and operators execute a valid written
665 excavation agreement, the excavator shall perform the large
666 project excavation according to the terms of the written agreement
667 and also shall submit advance notices of excavation and perform
668 all excavation work in accordance with Section 77-13-5. For all
669 locate request tickets processed in accordance with Section
670 77-13-5 as part of the large project excavation, operators shall
671 perform their utility locating obligations in accordance with
672 Section 77-13-9. If, after the written excavation agreement
673 becomes valid, the excavator determines that the excavation dates
674 will be delayed or the scope of the large project excavation area
675 will increase, the excavator and all operators with underground



676 lines, underground facilities or submerged facilities in the area
677 of the excavation shall either execute a revised written
678 excavation agreement or the excavator shall submit a new
679 preconstruction meeting notice.

680 (4) If a written excavation agreement is not signed by the
681 excavator and all operators with underground lines, underground
682 facilities or submerged facilities in the area of the large
683 project excavation at least three (3) working days before the
684 expected starting date of the excavation, the large project
685 excavation classification shall be deemed null and void, the large
686 project excavation ticket shall be canceled, and the excavator
687 shall provide advance notice of and conduct the excavation in
688 accordance with Section 77-13-5.

689 **SECTION 6.** Section 77-13-17, Mississippi Code of 1972, is
690 amended as follows:

691 77-13-17. (1) Any operator who fails to follow, abide by or
692 comply with this chapter shall be responsible for the cost or
693 expense the excavator shall incur as a direct result of the
694 failure of the operator to follow, abide by or comply with the
695 provisions of this chapter.

696 (2) Operators who have underground utility lines * * *,
697 underground facilities or submerged facilities within the State of
698 Mississippi shall be a member of Mississippi 811, Inc.

699 (3) The person giving notice of the intent to excavate to
700 Mississippi 811, Inc., shall be furnished an individual locate



701 request number for each notification and, upon request, shall be
702 furnished the names of the operators to whom the notification will
703 be transmitted.

704 (4) An adequate record of all notifications shall be
705 maintained by Mississippi 811, Inc., in order to document timely
706 compliance with this chapter. These records shall be retained for
707 a period of not less than four (4) years and shall be made
708 available at a reasonable cost upon proper and adequate advance
709 request.

710 (5) The services of Mississippi 811, Inc., will be provided
711 on working days as defined in Section 77-13-3(* * *y) at least
712 between the hours of 7:30 a.m. and 5:00 p.m.

713 (6) Mississippi 811, Inc., will voice-record the
714 notification telephone calls and after-hour calls will at least
715 reach a voice recording which explains emergency notification
716 procedures.

717 (7) All operators shall provide Mississippi 811, Inc., the
718 following information:

719 (a) A list of counties, cities and towns in which the
720 operator has underground utility lines * * *l, underground
721 facilities or submerged facilities in each county.

722 (b) A digital map, paper map or geospatial information
723 showing the location of the operator's underground utility
724 lines * * *l, underground facilities and submerged facilities or



725 for other reasons wish to receive notification of proposed
726 excavation.

727 (c) An update on an annual basis of each operator's
728 underground utility lines * * *, underground facilities and
729 submerged facilities for the State of Mississippi.

730 **SECTION 7.** This act shall take effect and be in force from
731 and after July 1, 2025.

