

2023 Kansas Statutes

66-1802. Definitions. As used in this act:

- (a) "Damage" means any impact or contact with an underground facility, its appurtenances or its protective coating, or any weakening of the support for the facility or protective housing that requires repair.
- (b) "Electric public utility" means the same as such term is defined in K.S.A. 66-101a, and amendments thereto.
- (c) "Emergency" means any condition constituting a clear and present danger to life, health or property, or a customer service outage.
- (d) "Excavation" means any operation in which earth, rock or other material below the surface is moved or otherwise displaced by any means, except tilling the soil for normal agricultural purposes, or railroad or road and ditch maintenance that does not change the existing railroad grade, road grade and/or ditch flowline, or operations related to exploration and production of crude oil or natural gas, or both.
- (e) "Excavator" means any person who engages directly in excavation activities within the state of Kansas, but shall not include any occupant of a dwelling who: (1) Uses such dwelling as a primary residence; and (2) excavates on the premises of such dwelling.
- (f) "Facility" means any sanitary sewer or underground line, system or structure used for transporting, gathering, storing, conveying, transmitting or distributing potable water, gas, electricity, communication, crude oil, refined or processed petroleum, petroleum products or hazardous liquids. "Facility" does not include:
 - (1) Production petroleum lead lines, salt water disposal lines or injection lines that are located on platted land or outside the corporate limits of any city; or
 - (2) any stormwater sewers.
- (g) "Locatable facility" means facilities for which the tolerance zone can be determined by the operator using generally accepted practices such as as-built construction drawings, system maps, probes, locator devices or any other type of proven technology for locating.
- (h) "Marking" means the use of stakes, paint, flags or other clearly identifiable materials to show the field location of underground facilities, in accordance with the rules and regulations promulgated by the state corporation commission in the administration and enforcement of this act.
- (i) "Municipality" means any city, county, municipal corporation, public district or public authority located in whole or in part within this state that provides firefighting, law enforcement, ambulance, emergency medical or other emergency services.
- (j) "Notification center" means the statewide communication system operated by an organization which has as one of its purposes to receive and record notification of planned excavation in the state from excavators and to disseminate such notification of planned excavation to operators who are members and participants.
- (k) "Operator" means any person who owns or leases an underground tier 1 or tier 2 facility, except for any person who is the owner of real property wherein is located underground facilities for the purpose of furnishing services or materials only to such person or occupants of such property.

An electric public utility shall not be considered an operator of any portion of an underground facility that is on another person's side of the point where ownership of the facility changes from the electric public utility to another person as determined by the electric public utility's rules and regulation, tariffs, service or membership agreement or other similar documents.
- (l) "Preengineered project" means a public project or a project that is approved by a public agency wherein the public agency responsible for the project, as part of its engineering and contract procedures, holds a meeting prior to the commencement of any construction work on such project in which all persons, determined by the public agency to have underground facilities located within the construction area of the project, are invited to attend and given an opportunity to verify or inform the public agency of the location of their underground facilities, if any, within the construction area and where the location of all known and underground facilities are duly located or noted on the engineering drawing as specifications for the project.

(m) "Permitted project" means a project where a permit for the work to be performed must be issued by a city, county, state or federal agency and, as a prerequisite to receiving such permit, the applicant must serve notice of intent of excavation to all operators of underground facilities in the area of the work and in the vicinity of the excavation.

(n) "Person" means any individual, partnership, corporation, association, franchise holder, state, city, county or any governmental subdivision or instrumentality of a state and its employees, agents or legal representatives.

(o) "Production petroleum lead line" means an underground facility used for production, gathering or processing on the lease or unit, or for delivery of hydrocarbon gas or liquids to an associated tank battery, separator or sales facility. "Production petroleum lead lines" includes underground lines associated with lease fuel and saltwater disposal and injection.

(p) "Platted land" means a tract or parcel of land that has been subdivided into lots of less than five acres for the purpose of building developments, including housing developments, and for which a surveyor's plat has been filed of record in the office of the register of deeds in the county where the land is located.

(q) "Tier 1 facility" means an underground facility used for transporting, gathering, storing, conveying, transmitting or distributing gas, electricity, communications, crude oil, refined or reprocessed petroleum, petroleum products or hazardous liquids.

(r) "Tier 2 facility" means an underground facility used for transporting, gathering, storing, conveying, transmitting or distributing potable water or sanitary sewage.

(s) "Tier 3 facility" means a water or wastewater system utility that serves more than 20,000 customers who elects to be a tier 3 member of the notification center pursuant to this subsection. The operator of a tier 3 facility shall:

(1) Develop and operate a locate service website capable of receiving locate requests;

(2) publish and maintain a dedicated telephone number for locate services;

(3) maintain 24-hour response capability for emergency locates; and

(4) employ not less than two individuals whose primary job function shall be the location of underground utilities. Operators of tier 3 facilities shall make either such website or contact information available to the notification center. The notification center shall collect and charge a fee of \$500 a year for each tier 3 facility. No other fee, charge or cost shall be assessed to a tier 3 facility by the notification center. Tier 3 members shall be subject to all provisions of K.S.A. 66-1801 et seq., and amendments thereto.

(t) "Tolerance zone" means the area not more than 24 inches of the outside dimensions in all horizontal directions of an underground facility, except that a larger tolerance zone for a tier 1, 2 or 3 facility may be established by rules and regulations adopted under K.S.A. 66-1815, and amendments thereto. An operator of a water or wastewater facility may elect to use a tolerance zone for such water or wastewater facility in which tolerance zone means the area not more than 60 inches of the outside dimensions in all horizontal directions of an underground water or wastewater facility upon notification of the excavator, except that a larger tolerance zone may be established by rules and regulations adopted under K.S.A. 66-1815, and amendments thereto.

(u) "Update" means an additional request from the excavator to extend the time period of the request for intent to excavate beyond the 20 calendar day duration of the request.

(v) "Whitelining" means the act of marking by the excavator the route or boundary of the proposed excavation site with white paint, white stakes or white flags or identifying such route or boundary by other technology developed for such purposes.

(w) "Working day" means every day Monday through Friday beginning at 12:01 a.m., except for the following officially recognized holidays: New Year's day, Memorial day, Independence day, Labor day, Thanksgiving day, the day after Thanksgiving and Christmas.

History: L. 1993, ch. 217, § 2; L. 1994, ch. 207, § 1; L. 1998, ch. 78, § 1; L. 2002, ch. 41, § 1; L. 2008, ch. 122, § 5; L. 2019, ch. 33, § 1; L. 2023, ch. 12, § 1; July 1.