A bill to be entitled

An act relating to underground facility damage prevention and safety; amending s. 556.107, F.S.; providing noncriminal violations relating to the transportation of certain hazardous materials; authorizing the State Fire Marshal or local fire chief to issue certain citations; providing enhanced civil penalties; providing disposition of the civil penalty; requiring a report by additional entities; amending s. 556.116, F.S.; providing that certain incident reports must be submitted to, and investigated by, the State Fire Marshal, local fire chief, local or state law enforcement officer, government code inspector, or code enforcement officer; authorizing the State Fire Marshal, local fire chief, or any local or state law enforcement officer, government code inspector, or code enforcement officer to issue citations and civil penalties; providing for disposition of the civil penalty; removing provisions relating to hearings by the Division of Administrative Hearings of certain incidents; creating s. 556.117, F.S.; creating an underground facility damage prevention review panel; providing duties and membership of the review panel; specifying the term limits of the review panel; requiring the State Fire Marshal to provide support to the review panel; providing that members of the panel serve without reimbursement or compensation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 556.107, Florida Statutes, is amended to read:

556.107 Violations.—

(1) NONCRIMINAL INFRACTIONS.—

(a)1. Violations of the following provisions are noncriminal infractions:

a.~~1.~~ Section 556.105(1), relating to providing required information.

b.~~2.~~ Section 556.105(6), relating to the avoidance of excavation.

c.~~3.~~ Section 556.105(11), relating to the need to stop excavation or demolition because marks are no longer visible, or, in the case of underwater facilities, are inadequately documented.

d.~~4.~~ Section 556.105(12), relating to the need to cease excavation or demolition activities because of contact or damage to an underground facility.

e.~~5.~~ Section 556.105(5)(a) and (b), relating to identification of underground facilities, if a member operator does not mark an underground facility, but not if a member operator marks an underground facility incorrectly.

f.~~6.~~ Section 556.109(2), relating to falsely notifying the system of an emergency situation or condition.

g.~~7.~~ Section 556.114(1), (2), (3), and (4), relating to a failure to follow low-impact marking practices, as defined therein.

h. Section 556.105(5)(c), relating to excavation practices in tolerance zones.

2. Violations of the following provisions involving an ~~underground pipe or~~ underground facility transporting hazardous materials that are regulated by the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation are noncriminal infractions, subject to enhanced civil penalties under paragraph (c):

a. Section 556.105(1), relating to providing required information.

b. Section 556.105(5)(c), relating to excavation practices in tolerance zones.

c. Section 556.105(6), relating to the avoidance of certain excavation.

d. Section 556.105(11), relating to the need to stop excavation or demolition because certain marks are no longer visible or are inadequately documented.

e. Section 556.105(12), relating to the need to cease excavation or demolition activities because of contact or damage to an underground facility.

(b) Any excavator or member operator who commits a noncriminal infraction under paragraph (a) may be issued a citation by the State Fire Marshal or agents as provided in s. 633.114 and s. 633.116; the fire chief of the special district, municipality, or county; or any local or state law enforcement officer, government code inspector, or code enforcement officer, and the issuer of a citation may require an excavator to cease work on any excavation or not start a proposed excavation until there has been compliance with the provisions of this chapter. Citations shall be hand delivered to any employee of the excavator or member operator who is involved in the noncriminal infraction. The citation shall be issued in the name of the excavator ~~or member operator, whichever is~~ ~~applicable~~ or member operator, whichever is applicable.

(c)1. Any excavator or member operator who commits a noncriminal infraction under subparagraph (a)1. ~~paragraph (a)~~ may be required to pay a civil penalty of $500 plus court costs for each infraction~~, which is $500 plus court costs~~. If a citation is issued, ~~by the State Fire Marshal or agents as provided in s. 633.114 and s. 633.116; the fire chief of~~ ~~the special district, municipality, or county; a state law~~ ~~enforcement officer;, a local law enforcement officer;, a local~~ ~~government code inspector;, or a code enforcement officer,~~ 80 percent of the civil penalty collected by the clerk of the court shall be distributed to the governmental entity whose employee issued the citation and 20 percent of the penalty shall be retained by the clerk ~~to cover administrative costs,~~ in addition to ~~other~~ any court costs. Any person who fails to properly respond to a citation issued under ~~pursuant to~~ paragraph (b) shall, in addition to the citation, be charged with the offense of failing to respond to the citation and, upon conviction, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect must be provided at the time any citation is issued under ~~pursuant to~~ paragraph (b).

2. Any excavator or member operator who commits a noncriminal infraction under subparagraph (a)2. may be required to pay an enhanced civil penalty of $2,500 plus ~~5 percent in~~ ~~addition to any other~~ court costs for each infraction. If a citation is issued, ~~by the State Fire Marshal or agents as provided in s. 633.114 and s. 633.116; the fire chief of~~ ~~the special district, municipality, or county; a state law~~ ~~enforcement officer; a local law enforcement officer; a local~~ ~~government code inspector; or a code enforcement officer,~~ ~~100~~ 80 percent of the civil penalty collected by the clerk of the court shall be distributed to the governmental entity whose employee issued the citation and 20 percent shall be retained by the clerk in addition to any court costs. ~~The additional 5 percent, plus any~~ ~~additional court costs, is to be retained by the clerk to cover~~ ~~administrative costs.~~

3. Any person who willfully fails to properly respond to a citation issued under paragraph (b) shall, in addition to the citation, be charged with the offense of failing to respond to the citation and, upon conviction, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect must be provided at the time a citation is issued under paragraph (b).

~~3. Any excavator or member operator who commits a noncriminal infraction under s. 556.116(3)(c) must be provided a written warning at the time a citation is issued that any person who willfully fails to properly respond to a citation issued shall, in addition to the citation, be charged with the offense of failing to respond to the citation and, upon conviction, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

(d) Any person cited for an infraction under paragraph (a) or s. 556.116(2~~3~~)(c)may post a bond, which must ~~shall~~ be equal in amount to the applicable civil penalty plus any additional court costs.

(e) A person charged with a noncriminal infraction under paragraph (a) or s. 556.116(2~~3~~)(c) may pay the applicable civil penalty plus the additional court costs, by mail or in person, within 30 days after the date of receiving the citation. If the person cited pays the civil penalty, she or he is deemed to have admitted to committing the infraction and to have waived the right to a hearing on the issue of commission of the infraction. The admission may be used as evidence in any other proceeding under this chapter.

(f) Any person may elect to have a hearing on the commission of the infraction ~~appear~~ before the county court. A person who elects to have a hearing waives ~~and if so electing is~~ ~~deemed to have waived~~ the limitations on the civil penalties ~~penalty~~ specified in paragraph (c). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction has been proven, the court may impose a civil penalty not to exceed the applicable civil penalty ~~$5,000~~ plus court costs for each infraction. In determining the amount of the civil penalty, the court may consider previous noncriminal infractions committed.

(g) At a court hearing under this chapter, the commission of a charged infraction must be proven by a preponderance of the evidence.

(h) If the court finds that a person ~~is found by a judge~~ ~~or hearing official to have~~ committed an infraction, the person may appeal that finding or the amount of the civil penalties imposed to the circuit court.

(i) Sunshine State One-Call of Florida, Inc., may, at its own cost, retain an attorney to assist in the presentation of relevant facts and law in the county court proceeding pertaining to the citation issued under this section. The corporation may also appear in any case appealed to the circuit court if a county court judge finds that an infraction of the chapter was committed. An appellant in the ~~circuit~~ court proceeding shall timely notify the corporation of any appeal under this section.

(2) REPORT OF INFRACTIONS.—By March 31 of each year, each clerk of court shall submit a report to the State Fire Marshal and Sunshine State One-Call of Florida, Inc., listing each citation issued for violation ~~notice written~~ under paragraph (1)(a) and s. 556.116(2~~3~~)(c) which has been filed in that county during the preceding calendar year. The report must state the name and address of the member or excavator who committed each infraction, the enforcement authority, the specific statutory infraction ~~violated per statute~~, type of underground facility related to the infraction, and indicate whether or not the civil penalty for the infraction was paid.

(3) MISDEMEANORS.—

(a) Any person who knowingly and willfully removes or otherwise destroys the valid stakes or other valid physical markings described in s. 556.105(5)(a) and (b) used to mark the horizontal route of an underground facility commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. For purposes of this subsection, stakes or other nonpermanent physical markings are considered valid for 30 calendar days after information is provided to the system under s. 556.105(1)(a).

(b) Any person who knowingly and willfully removes or

damages a permanent marker, as defined in s. 556.102, placed to

identify the approximate location of an underground facility,

commits a misdemeanor of the second degree, punishable as

provided in s. 775.082 or s. 775.083.

Section 2. Section 556.116, Florida Statutes, is amended to read:

556.116 High-priority subsurface installations; special procedures.—

~~(1)~~ ~~As used in this section, the term:~~

~~(a) "Division" means the Division of Administrative~~ ~~Hearings.~~

~~(a)(b)~~ ~~"High-priority subsurface installation" means an~~ ~~underground gas transmission or gas distribution pipeline, an~~ ~~underground pipeline used to transport gasoline, jet fuel, or~~ ~~any other refined petroleum product or hazardous or highly~~ ~~volatile liquid, such as anhydrous ammonia or carbon dioxide, if~~ ~~the pipeline is deemed to be critical by the operator of the~~ ~~pipeline and is identified as a high-priority subsurface~~ ~~installation to an excavator who has provided a notice of intent~~ ~~to excavate under pursuant to s. 556.105(1), or would have been~~ ~~identified as a high-priority subsurface installation except for~~ ~~the excavator's failure to give proper notice of intent to~~ ~~excavate.~~

~~(b)(c) "Incident" means an event that involves damage to a~~ ~~high-priority subsurface installation that has been identified~~ ~~as such by the operator according to the notification procedures~~ ~~set forth in subsection (2) and that:~~

~~1. Results in death or serious bodily injury requiring~~ ~~inpatient hospitalization.~~

~~2. Results in property damage, including service-~~~~restoration costs, in an amount in excess of $50,000 or~~ ~~interruption of service to 2,500 or more customers.~~

(1)~~(2)~~ When an excavator proposes to excavate or demolish within 15 feet of the horizontal route of an underground facility that has been identified as a high-priority subsurface installation by the operator of the facility, the operator shall, in addition to identifying the horizontal route of its facility as set forth in s. 556.105(5)(a) and (b), and within the time period set forth in s. 556.105(9)(a) for a positive response, notify the excavator that the facility is a high-priority subsurface installation. If the member operator provides such timely notice of the existence of a high-priority subsurface installation, an excavator shall notify the operator of the planned excavation start date and time before beginning excavation. If the member operator does not provide timely notice, the excavator may proceed, after waiting the prescribed time period set forth in s. 556.105(9)(a), to excavate without notifying the member operator of the excavation start date and time. The exemptions stated in s. 556.108 apply to the notification requirements in this subsection.

(2~~3~~)(a) An alleged commission of an infraction listed in s. 556.107(1) which results in an incident must be reported to the system and State Fire Marshal by a member operator or an excavator within 24 hours after learning of the alleged occurrence of an incident.

(b) Upon receipt of an allegation that an incident has occurred, the ~~system~~ member operator or excavator shall transmit an incident report to the State Fire Marshal~~; the fire chief of the special district,~~ ~~municipality, or county; a local or state law enforcement~~ ~~officer; a government code inspector; or a code enforcement~~ ~~officer in order to division and contract with the division so~~ ~~that the division may~~ who shall conduct an investigation ~~a hearing~~ to determine whether an incident has occurred, and, if so, whether a violation of s. 556.107(1)(a) was a proximate cause of the incident. The State Fire Marshal may authorize its agents as provided in s. 633.114, s. 633.116, and s.633.118 to conduct investigations of incidents. ~~The contract for services to be performed by the~~ ~~division must include provisions for the system to reimburse the~~ ~~division for any costs incurred by the division for court~~ ~~reporters, transcript preparation, travel, facility rental, and~~ ~~other customary hearing costs, in the manner set forth in s.~~ ~~120.65(9).~~

(c) The State Fire Marshal or agents as provided in s. 633.114, s. 633.116, and s.633.118 ~~; the fire chief of the special~~ ~~district, municipality, or county; a local or state law~~ ~~enforcement officer; a government code inspector; or a code~~ ~~enforcement officer~~ ~~division has jurisdiction in a proceeding~~ ~~under this section to determine the facts and law concerning an~~ ~~alleged incident. The division~~ may issue a citation and impose a civil penalty ~~fine~~ against a violator in an amount not to exceed $50,000 if the person violated a provision of s. 556.107(1)(a) and that violation was a proximate cause of the incident. However, if a state agency or political subdivision caused the incident, the state agency or political subdivision may not be fined in an amount in excess of $10,000.

(d) The civil penalty ~~A fine~~ imposed under this subsection ~~by the division~~ is in addition to any amount payable as a result of a citation relating to the incident under s. 556.107(1)(a).

(e) If an additional civil penalty is imposed by the State Fire Marshal or its agents; ~~the fire chief of the special district, municipality,~~ ~~or county; a local or state law enforcement officer; a~~ ~~government code inspector; or a code enforcement officer under~~ ~~this subsection~~, ~~95 percent $2,500 of the civil penalty collected by~~ ~~the clerk of the court shall be distributed to the governmental~~ ~~entity whose employee issued the citation and civil penalty and,~~ 5 percent of the civil penalty shall be retained by the clerk to cover administrative costs, and the remainder of the civil penalty shall be equally distributed to the Fire Fighter Cancer Decontanmination Equipment Grant Program created in 633.137, F.S. and to the system to exclusively be used for damage-prevention education. ~~A fine against an excavator or a~~ ~~member operator imposed under this subsection shall be paid to~~ ~~the system, which shall use the collected fines to satisfy the~~ ~~costs incurred by the system for any proceedings under this~~ ~~section~~. ~~To the extent there are any funds remaining, the system~~ ~~may use the funds exclusively for damage-prevention education~~.

(f) Any excavator or member operator who commits a noncriminal infraction under s. 556.116(2~~3~~)(c) must be provided a written warning at the time a citation is issued that any person who willfully fails to properly respond to a citation issued shall, in addition to the citation, be charged with the offense of failing to respond to the citation and, upon conviction, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(f) This section does not change the basis for civil liability. The findings and results of an investigation ~~a~~ ~~hearing~~ under this section may not be used as evidence of liability in any civil action.

~~(4)(a) The division shall issue and serve on all original~~ ~~parties an initial order that assigns the case to a specific~~ ~~administrative law judge and requests information regarding~~ ~~scheduling the final hearing within 5 business days after the~~ ~~division receives a petition or request for hearing. The~~ ~~original parties in the proceeding include all excavators and~~ ~~member operators identified by the system as being involved in~~ ~~the alleged incident. The final hearing must be conducted within~~ ~~60 days after the date the petition or the request for a hearing~~ ~~is filed with the division.~~

~~(b) Unless the parties otherwise agree, venue for the~~ ~~hearing shall be in the county in which the underground facility~~ ~~is located.~~

~~(c) An intervenor in the proceeding must file a petition~~ ~~to intervene no later than 15 days before the final hearing. A~~ ~~person who has a substantial interest in the proceeding may~~ ~~intervene.~~

~~(5) The following procedures apply:~~

~~(a) Motions shall be limited to the following:~~

~~1. A motion in opposition to the petition.~~

~~2. A motion requesting discovery beyond the informal~~ ~~exchange of documents and witness lists described in paragraph~~ ~~(c). Upon a showing of necessity, additional discovery may be~~ ~~permitted in the discretion of the administrative law judge, but~~ ~~only if the discovery can be completed no later than 5 days~~ ~~before the final hearing.~~

~~3. A motion for continuance of the final hearing date.~~

~~(b) All parties shall attend a prehearing conference for~~ ~~the purpose of identifying the legal and factual issues to be~~ ~~considered at the final hearing, the names and addresses of~~ ~~witnesses who may be called to testify at the final hearing,~~ ~~documentary evidence that will be offered at the final hearing,~~ ~~the range of penalties that may be imposed, and any other matter~~ ~~that would expedite resolution of the proceeding. The prehearing~~ ~~conference may be held by telephone conference call.~~

~~(c) Not later than 5 days before the final hearing, the~~ ~~parties shall furnish to each other copies of documentary~~ ~~evidence and lists of witnesses who may testify at the final~~ ~~hearing.~~

~~(d) All parties shall have an opportunity to respond, to~~ ~~present evidence and argument on all issues involved, to conduct~~ ~~cross-examination and submit rebuttal evidence, and to be~~ ~~represented by counsel or other qualified representative.~~

~~(e) The record shall consist only of:~~

~~1. All notices, pleadings, motions, and intermediate~~ ~~rulings.~~

~~2. Evidence received during the final hearing.~~

~~3. A statement of matters officially recognized.~~

~~4. Proffers of proof and objections and rulings thereon.~~

~~5. Matters placed on the record after an ex parte~~ ~~communication.~~

~~6. The written final order of the administrative law judge~~ ~~presiding at the final hearing.~~

~~7. The official transcript of the final hearing.~~

~~(f) The division shall accurately and completely preserve~~ ~~all testimony in the proceeding and, upon request by any party,~~ ~~shall make a full or partial transcript available at no more~~ ~~than actual cost.~~

~~(g) The administrative law judge shall issue a final order~~ ~~within 30 days after the final hearing or the filing of the~~ ~~transcript thereof, whichever is later. The final order of the~~ ~~administrative law judge must include:~~

~~1. Findings of fact based exclusively on the evidence of~~ ~~record and matters officially recognized.~~

~~2. Conclusions of law. In determining whether a party has~~ ~~committed an infraction of s. 556.107(1)(a), and whether the~~ ~~infraction was a proximate cause of an incident, the commission~~ ~~of an infraction must be proven by a preponderance of the~~ ~~evidence.~~

~~3. Imposition of a fine, if applicable.~~

~~4. Any other information required by law or rule to be~~ ~~contained in a final order.~~

~~The final order of the administrative law judge constitutes~~ ~~final agency action subject to judicial review pursuant to s.~~ ~~120.68.~~

Section 3. Section 556.117, Florida Statutes, is created to read:

556.117 Underground facility damage prevention review. ~~panel.—~~

(1) The corporation shall ~~underground facility damage prevention review~~ ~~panel is established under the Division of State Fire Marshal~~ ~~within the Department of Financial Services to~~ review the reports submitted by the clerks of court to the State Fire Marshal, and any complaints of ~~an~~ alleged violations under this chapter to identify issues or potential issues with damage prevention and enforcement. The corporation ~~review panel~~ shall identify areas in the state where additional education related to damage prevention and enforcement is needed and shall recommend solutions to remedy issues related to damage prevention and enforcement. ~~The corporation review panel shall also review~~ ~~current practices for locating underground pipes or other~~ ~~underground facilities that transport hazardous materials which~~ ~~are regulated by the Pipeline and Hazardous Materials Safety~~ ~~Administration of the United States Department of Transportation~~ ~~in the state and determine if any statutory changes are needed~~ ~~to make such pipelines or facilities more resilient and safer~~ ~~for communities.~~ The corporation shall, by October first of each year submit an analysis of its reviews and any receommendations for improvement underground damage prevention and enforcement. ~~Except as otherwise provided in this section,~~ ~~the review panel shall operate in a manner consistent with s.~~ ~~20.052.~~

~~(2) The review panel shall consist of nine members~~ ~~appointed by the State Fire Marshal and shall include the~~ ~~following:~~

~~(a) One member representing the electrical utility~~ ~~industry.~~

~~(b) One member representing the telecommunications or cable~~ ~~industry.~~

~~(c) One member licensed as an underground utility and~~ ~~excavation contractor under chapter 489 and engaged in work~~ ~~within road or highway rights-of-way.~~

~~(d) One member representing the natural gas industry.~~

~~(e) One member representing the utility locator industry.~~

~~(f) One member representing county or municipal water and~~ ~~sewer service providers.~~

~~(g) One member representing excavators performing work~~ ~~unrelated to construction in road or highway rights-of-way,~~ ~~including landscaping, fencing, or plumbing contractors.~~

~~(h) One member licensed as an underground utility and~~ ~~excavation contractor under chapter 489 and engaged in work for~~ ~~public utilities.~~

~~(i) One member representing the public at large.~~

~~(3) The State Fire Marshal shall establish a process to~~ ~~receive applications for the purpose of appointing members to~~ ~~the review panel.~~

~~(4) Each member shall serve for a 2-year term. A member~~ ~~may not serve more than two consecutive 2-year terms or be a current board member of the Sunshine State One-Call of Florida, Inc., except~~ ~~that members listed in paragraphs (2)(a)-(e) shall initially~~ ~~serve a 1-year term and those members listed in paragraphs~~ ~~(2)(f)-(i) shall serve a 2-year term. All subsequent~~ ~~appointments shall be for 2-year terms. A vacancy for an~~ ~~unexpired term of a member shall be filled in the same manner as~~ ~~the original appointment. The review panel shall elect from~~ ~~among its members a chair and vice chair and meet quarterly in~~ ~~conjunction with the meeting of the board of directors or at the~~ ~~call of the chair.~~

~~(5) The Division of State Fire Marshal shall provide staff~~ ~~support and meeting space to the review panel. Members of the~~ ~~panel shall serve without compensation and are not entitled to~~ ~~reimbursement for per diem or travel expenses.~~

Section 4. Section 556.102, Florida Statutes, is amended to read:

556.102 Definitions.—As used in this act:

(1) “Business days” means Monday through Friday, excluding the following holidays: New Year’s Day, Birthday of Dr. Martin Luther King, Jr., Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the following Friday, Christmas Eve, and Christmas Day. Any such holiday that falls on a Saturday shall be observed on the preceding Friday. Any such holiday that falls on a Sunday shall be observed on the following Monday.

(2) “Business hours” means the hours of a day during which the system is open for business.

(3) “Damage” means any impact upon or contact with, including, without limitation, penetrating, striking, scraping, displacing, or denting, however slight, the protective coating, housing, or other protective devices of any underground facility, or the removal or weakening of any lateral or vertical support from any underground facility, or the severance, partial or complete, of any underground facility.

(4) “Demolish” or “demolition” means any operation by which a structure or mass of material is wrecked, razed, rended, moved, or removed by means of any tool, equipment, or discharge of explosives, or any disturbance of the earth in any manner on public or private lands which could damage any underground facility.

(5) “Design services” means services that may be provided by a member operator to a design engineer, architect, surveyor, or planner, if the presence of underground facilities is known to a member operator, upon payment of a fee to the member operator, which services may be based on:

(a) Information obtained solely from a review of utility records.

(b) Information to augment utility records, such as topographic surveying of above-ground utility features.

(c) Information obtained through the use of designating technologies to obtain horizontal underground facility locations.

(d) Information obtained from physically exposing underground facilities.

(6) “Excavate” or “excavation” means any manmade cut, cavity, trench, or depression in the earth’s surface, formed by removal of earth, intended to change the grade or level of land, or intended to penetrate or disturb the surface of the earth, including land beneath the waters of the state, as defined in s. [373.019](http://leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.019.html)(22), and the term includes pipe bursting and directional drilling or boring from one point to another point beneath the surface of the earth, or other trenchless technologies.

(7) “Excavator” or “excavating contractor” means any person performing excavation or demolition operations.

(8)"High-priority subsurface installation" means an underground gas transmission or gas distribution pipeline, an underground pipeline used to transport gasoline, jet fuel, or any other refined petroleum product or hazardous or highly volatile liquid, such as anhydrous ammonia or carbon dioxide, if the pipeline is deemed to be critical by the operator of the pipeline and is identified as a high-priority subsurface installation to an excavator who has provided a notice of intent to excavate under ~~pursuant to~~ s. 556.105(1), or would have been identified as a high-priority subsurface installation except for the excavator's failure to give proper notice of intent to excavate.

(9) "Incident" means an event that involves damage to a high-priority subsurface installation that has been identified as such by the operator according to the notification procedures set forth in ~~subsection (2)~~ s. 556.116(1) and that:

1. Results in death or serious bodily injury requiring inpatient hospitalization.

2. Results in property damage, including service-restoration costs, in an amount in excess of $50,000 or interruption of service to 2,500 or more customers.

(10~~8~~) “Member operator” means any person who furnishes or transports materials or services by means of an underground facility.

(11~~9~~) "Permanent marker" means a clearly visible indication

of the approximate location of an underground facility made of

material that is durable in nature and which is reasonably

expected to remain in position for the life of the underground

facility.

(12) ~~(9)~~ “Person” means any individual, firm, joint venture, partnership, corporation, association, municipality, or other political subdivision, governmental unit, department, or agency, and includes any trustee, receiver, assignee, or personal representative of a person.

(13) ~~(10)~~ “Positive response” means the communications among member operators, excavators, and the system concerning the status of locating an underground facility.

(14)~~(11)~~ “Premark” means to delineate the general scope of the excavation on the surface of the ground using white paint, white stakes, or other similar white markings.

(15)~~(12) “~~Tolerance zone” means 24 inches from the outer edge of either side of the exterior surface of a marked underground facility.

(16)~~(13)~~ “Underground facility” means any public or private personal property which is buried, placed below ground, or submerged on any member operator’s right-of-way, easement, or permitted use which is being used or will be used in connection with the storage or conveyance of water; sewage; electronic, telephonic, or telegraphic communication; electric energy; oil; petroleum products; natural gas; optical signals; or other substances, and includes, but is not limited to, pipelines, pipes, sewers, conduits, cables, valves, and lines. For purposes of this act, a liquefied petroleum gas line regulated under chapter 527 is not an underground facility unless such line is subject to the requirements of Title 49 C.F.R. adopted by the Department of Agriculture and Consumer Services, provided there is no encroachment on any member operator’s right-of-way, easement, or permitted use. Petroleum storage systems subject to regulation pursuant to chapter 376 are not considered underground facilities for the purposes of this act unless the storage system is located on a member operator’s right-of-way or easement. Storm drainage systems are not considered underground facilities.

(17)~~(14)~~ “System” means a free-access notification system established by the corporation as provided in this act.

Section 5. This act shall take effect July 1, 2020.