



## **HB20-1173**

### **Exempt County Road Maintenance from 811 Requirements**

**Sponsors: Reps. Saine and Baisley / Sens. Smallwood & Winter**

County road and bridge departments are responsible for maintaining over 100,000 miles of unpaved roads across Colorado. Maintenance grading activities are required regularly to keep the roads' surface and adjacent roadside drainage in safe condition and usable by all sectors of the traveling public. Under the current 811 "Call Before You Dig" law, counties are required to submit every mile of road for verification of the location of underground utilities (aka "locates") before they can begin grading – even though this grading activity does not disturb more than a few inches of ground. This locate requirement is time-consuming and cumbersome for counties to comply with and results in costly delays at the local level – at a time when transportation dollars are becoming scarcer.

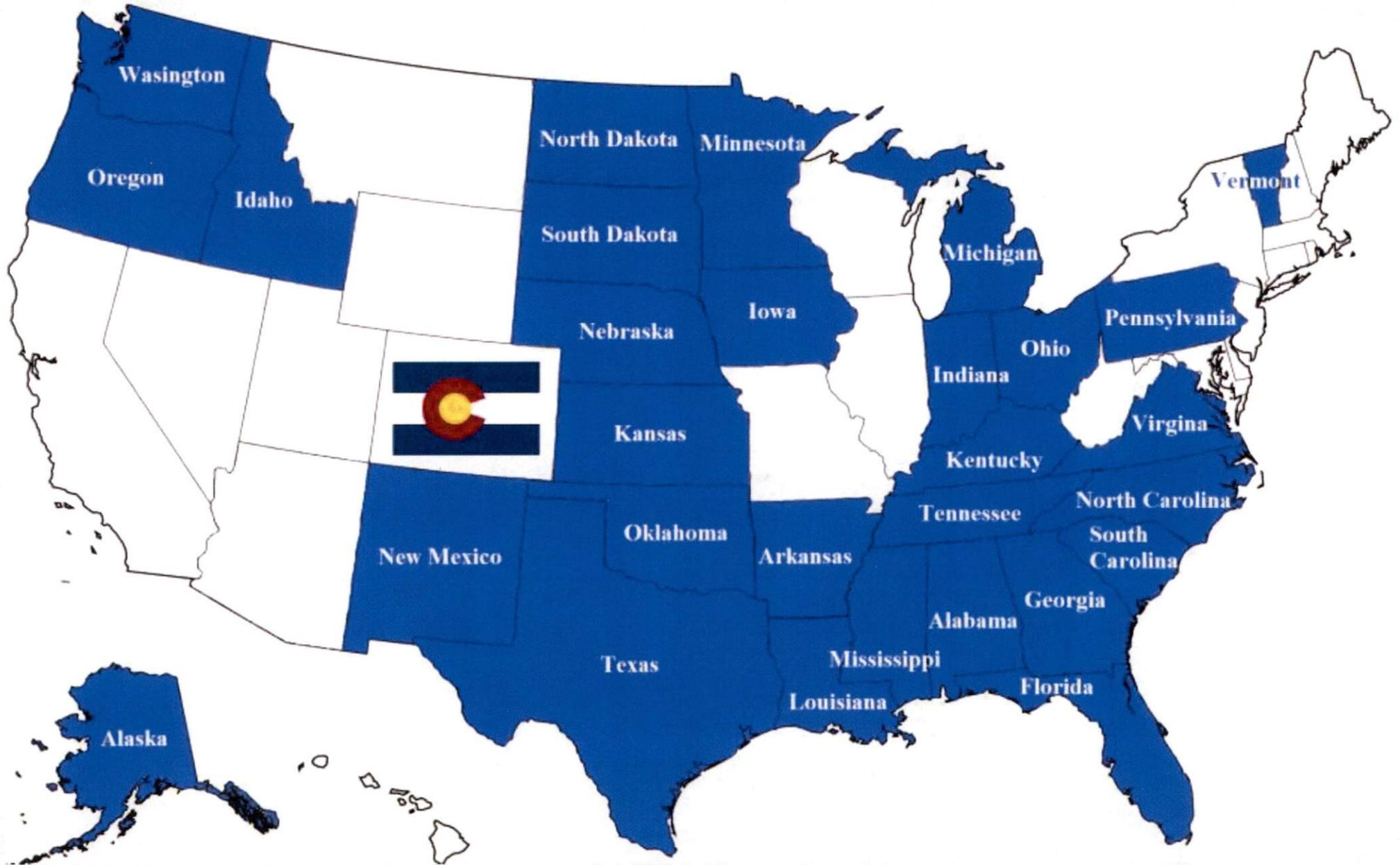
HB20-1173 would exempt counties from the 811 utility locate requirements when performing routine maintenance on county roads, provided that the maintenance activities do not lower the grade of the road or disturb more than six inches of soil. The bill represents a compromise agreement between CCI, Colorado 811, the Colorado Contractors Association, Xcel Energy and the Colorado Association of Road Supervisors and Engineers (CARSE). It is worth noting that 29 other states have an exemption from 811 requirements for county road maintenance.

HB 1173 will save valuable time and resources without endangering infrastructure or public safety. While county road maintenance is exempted, any road construction activities that involve actual excavation would still require a formal locate request by the county to Colorado 811.

**CCI asks for your "YES" vote on HB20-1173**

**Contact:** Eric Bergman 303.915.2909/[ebergman@ccionline.org](mailto:ebergman@ccionline.org)

# 29 States with Enacted “811 Locate Exemptions” for County Routine Road Maintenance





February 25, 2019

J.D. Maniscalco, CEO  
Utility Notification Center of Colorado  
16361 Table Mountain Parkway  
Golden, CO 80403

Dear Mr. Maniscalco:

Colorado Counties, Inc. (CCI) is a non-profit, nonpartisan membership association of 61 of the state's 64 counties, dedicated to assisting county commissioners, mayors and councilmembers. CCI strives to keep its members up-to-date on issues that directly impact county operations and works to present a unified local government voice at the Colorado General Assembly and to other government and regulatory bodies to help shape the future of our state.

In the past two weeks, CCI has received numerous complaints from county road and bridge departments across Colorado about delays in getting their non-paved roads cleared for maintenance under the new optional means allowed in SB18-167. It appears there are communication breakdowns relative to the counties receiving a meaningful "positive response" from utility owners via Colorado 811 after their requests for delineation of clearances and conflicts within the statutorily specified ten days. These delays are preventing our road and bridge departments from carrying out their duties and compromising the quality of our service to our constituents.

We understand that Colorado 811 and utility owners are adjusting to the nuances of the recent modifications to Colorado's decades old utility locate law – just as our county road and bridge departments are. Road maintenance is a key factor for the traveling safety of our citizens and the economic vitality of our counties. We are committed to cooperating and supporting the modifications delineated in SB18-167, but wanted to share the feedback we are receiving with you.

Thank you for your time and attention to this matter and for your continued service to Colorado. If you have any questions, we would ask that you contact CCI Policy Director Eric Bergman at 303.861.4076.

Respectfully yours,

Norm Steen, Chair,  
CCI Transportation & Telecommunications  
Steering Committee

Steve O'Dorisio, Vice Chair,  
CCI Transportation & Telecommunications  
Steering Committee



## 2019 LEGISLATIVE ISSUE FORM

CCI is soliciting potential legislative issues for the 2019 legislative session. Please answer all of the questions below for each of your county's legislative issues. If your county submits multiple issue forms, please prioritize your issues. Submitted issues are discussed during the summer steering committees and district meetings. We encourage you to confer with your county managers or administrators and department heads, as well as other elected officials, to determine what issues are the most pressing in your county and have implications for other counties. All submitted issues forms **must have the support of the Board of County Commissioners or the Mayor/City and County Council.**

In accordance with the Legislative Principles that are part of CCI's Policy Statement, "...initiated legislation should be realistic and closely related to the conduct of our members' responsibilities if we are to retain a high level of credibility. Local elected officials' groups, county and otherwise, as well as other interest groups, should be encouraged to find sponsors for and initiate their own proposals, allowing our members and CCI to take a supportive role when the bill is introduced."

Please email your issue forms to Jeanne DeHaven at [jdehaven@ccionline.org](mailto:jdehaven@ccionline.org). Please feel free to use more than one page when submitting issues and to submit additional documentation or background information related to the issue. Legislative Issue Forms need to be returned by **Friday, June 29, 2018** in order to be discussed during the summer legislative review and steering committee meetings.

Name: Rod Meredith Title: Director of Public Works Operations

County: Douglas Phone: (303)660-7423 E-mail: [rmeredith@douglas.co.us](mailto:rmeredith@douglas.co.us)

1.) Issue: The 811 Senate Bill 18-167 that was signed into law May 25, 2018 in Colorado is not practical when it comes to requiring locates for blading the top six inches of a gravel road – which is a necessary part of the maintenance of hundreds of miles of roadway the County services.

2.) Background: We have bladed the surface of our county roads 60+ years with little difficulty. All utilities are required to place buried lines 30 inches below the surface as per Douglas County standards, anyway. We have many rural subdivisions with gravel roads. We have thousands of houses on these gravel roads. A single subdivision may have a utility running down the middle of the road for miles, with service lines to each house on both sides of the road at 200' intervals. Once the utilities are located as required in C.R.S. § 9-1.5-101 *et seq.*, there will be hundreds of marks on the roads. How can we possibly pothole (using vacuum truck to excavate to actual line depth) every line before we blade the top six inches over the course of many miles of roadway? At what frequency should we pothole lines that are running down the middle of the road? Will we have to pothole in multiple places for every line after each 180 day locate? If all three hundred miles of our gravel roads are marked in a 10 day period as per law, how can we possibly get to all of them before the marks disappear? If we have severe weather and the roads become impassable, how can the public wait for all of this occur before we blade? Should service lines be potholed at each edge of the road surface and in the middle of the road? Will we still be penalized if we hit a line after doing all of this potholing?

3.) Proposed Solution/Legislative Remedy (Please provide the specific statutory citation your board is requesting to modify AND the proposed language you are requesting.): Add an additional exception to the definition of "Excavation" in 9-1.5-102(3)(c) to read: "Routine or emergency maintenance of right of way by Counties that does not disturb more than six inches depth of roadway surface." Or even language more comprehensive such as: "When a local government is carrying out maintenance activities within its designated right of way, which may include resurfacing, milling, emergency replacement of signs critical for maintaining safety, or the reshaping of shoulder and ditches to the original road profile."



- 4.) County Commissioner role in this issue: Avoiding unnecessary expense or delay in rural road work.
- 5.) Proponents/Opponents (Please indicate if your board has had conversations with proponents/opponents to date and their perspective on this proposal): 811 Authority Board has refused to allow this type of activity when requested citing safety concerns. All Counties are anticipated to be in support of this change.
- 6.) Have you visited with your legislator(s) about this proposal? What was their reaction? Are members of your delegation likely to sponsor, support, or oppose this proposal: No contact with local legislator.
- 7.) Anticipated Fiscal Impact: Uncalculated financial savings to all Counties maintaining gravel roads with improved efficiencies.
- 8.) Please list the subject matter experts CCI staff can follow-up with for more information on this proposal: Local County Public Works Operations Directors, Colorado Association of Road Supervisors and Engineers (CARSE) and public utility officials.
- 9.) Priority Ranking (If multiple issues submitted): Number 1 non-Human Services legislative priority.

## Depth Requirement for Utilities in County Right of Way

County	Required Depth for Utilities
Adams	No specific depth requirements, instead decided on a case-by-case basis by county staff, utilizing facility owner recommendations
Cheyenne	No minimum depth requirements
Delta	Gas Lines = 2 feet; Phone Lines = 2.5 feet; Power Lines = 3.5 feet; Water Lines = 4 feet
Dolores	Minimum of 3 feet
Douglas	Street Lights & Gas Lines = 2.5 feet; Storm Sewer Lines = 3.5 feet; Fiber Optic Lines = 4 feet; Water Lines = 4.5 feet; Sewer Lines = 5 feet
Elbert	Minimum of 3-3.5 feet
Fremont	Water, Electric, Telephone & Cable TV Lines = 3.5 feet; Fiber Optic & Gas Lines = 4 feet
Gilpin	Power & Natural Gas Lines = 4 feet; Everything Else = 3 feet
Gunnison	Electric & Communication Lines = 2 feet; High Pressure Gas Lines = 4 feet
Jefferson	No specific depth requirements, instead decided on a case-by-case basis by county staff, utilizing facility owner recommendations
Kiowa	Minimum of 4 feet
Larimer	Minimum of 2.5 feet
Mesa	Telephone & Cable Lines = 2 feet; Electric Lines = 3 feet; Gas Pipeline Lines = 4 feet
Montezuma	Electric & Phone Lines = 2 feet; Fiber Optic & Gas Lines = 3 feet; Water Lines = 4 feet
Morgan	Minimum of 4 feet
Park	Minimum of 3 feet (4 feet where obtainable)
Pitkin	Minimum of 2 feet
Prowers	Minimum of 3 feet
Rio Blanco	Sewer & Electric Lines - 4 feet
Rio Grande	Telephone & TV Lines = 2.4 feet; Distribution Gas Lines = 3 feet; Fiber Optic, High Pressure Gas, Water, Sewer & Electric Lines = 4 feet
Routt	Telephone, Cable, & Fiber Optic Lines = 3 feet; Electric Lines = 4 feet; Gas Lines = 5 feet; Water Lines = 7 feet
Saguache	Minimum of 3 feet
San Miguel	Minimum of 1.5 feet; Gas Lines = 4 feet; Minimum depth may be greater based on utility owner specifications
Summit	Minimum of 2 feet
Teller	Gas, Telephone, & CATV Lines = 3 feet; Fiber Optic & Electric Lines = 4 feet; Sewer Lines = 5 feet; Water Lines = 7 feet
Weld	Dry Utilities Lines = 3-5 feet; Wet Utilities Lines = 4-10 feet; Oil & Gas Lines = Greater than 10 feet
Yuma	Minimum of 2 feet - but can be altered depending on road use and maintenance issues

## 29 States with 811 Legislation that have Underground Utility Locate Exemptions for Routine Road Maintenance

### ALABAMA

(10) EXCAVATE or EXCAVATION. Any operation for the purpose of the movement or removal of earth, rock, or other material by mechanized equipment or explosive device and includes, but is not limited to, augering, backfilling, blasting, boring, digging, ditching, drilling, grading, pile-driving, plowing in, pulling-in, ripping, scraping, sub-soiling, trenching, and tunneling. Excavate or excavation does not include routine roadway maintenance activities carried out by or for those responsible for publicly-maintained roadways, provided that the activities occur entirely within the right-of-way of a public road, street, or highway; are carried out with reasonable care so as to protect any utility facilities placed in the right-of-way by permit; are carried out within the limits of any original excavation on the traveled way, shoulder, or drainage ditches of a public road, street, or highway; and, if involving the replacement of existing structures, including traffic control devices, replace such structures in their approximate previous locations and at their approximate previous depth

[http://www.al811.com/wp-content/uploads/2019/06/2019Law\\_Markup-1.pdf](http://www.al811.com/wp-content/uploads/2019/06/2019Law_Markup-1.pdf)

<http://www.al811.com/law/>

### ALASKA

(3) "excavation" means

(A) an activity in which earth, rock, or other material on or below the ground is moved or otherwise displaced by any means;

(B) road maintenance that changes the original road grade;

(C) demolition or movement of earth by equipment, tools, or explosive device except tilling of the soil less than 12 inches in depth for agricultural purposes;

<http://www.akleg.gov/basis/statutes.asp#42.30.490>

### ARKANSAS

§ 14-271-109. Notice requirement compliance exceptions (a) Compliance with notice requirements of § 14-271-112 is not required for: (1) The moving of earth that is not on a right-of-way or within an easement of an operator by tools manipulated only by human or animal power; (2) The moving of earth by an operator that is on a right-of-way or within an easement of the operator by tools only manipulated by human power and exclusively for the purposes of system maintenance and leak detection or (5) Routine road work and general maintenance as performed in the right-of-way by state or county maintenance departments, but excluding any work or maintenance involving any demolition or excavation.

<file:///C:/Users/lmiskine/OneDrive%20-%20Douglas%20County/0---NEW%20CARSE%20FOLDER--->

<0/811%20Legislation/Other%20States%20Feb%202019%20Search/Arkansas%20state-laws.pdf>

### FLORIDA

**556.108 Exemptions. - The notification requirements provided in s. 556.105(1) do not apply to:**

(4) Any excavation of 18 inches or less for:

(b) Maintenance activities performed by a state agency and its employees when such activities are within the right-of-way of a public road; however, if a member operator has permanently marked facilities on such right-of-way, mechanized equipment may not be used without first providing notification; or

<https://www.sunshine811.com/the-law>

### GEORGIA

(12) "Excavating" means any operation using mechanized equipment or explosives to move earth, rock, or other material below existing grade. This includes but is not limited to augering, blasting, boring, digging, ditching, dredging, drilling, driving-in, grading, plowing in, ripping, scraping, trenching, and tunneling. "Excavating" shall not include pavement milling or pavement repair that does not exceed the depth of the existing pavement or 12 inches, whichever is less. The term shall not include routine road or railroad maintenance activities carried out by road maintenance or railroad employees or contractors, provided that such activities occur entirely within the right of way of a public road, street, railroad, or highway of the state; are carried out with reasonable care so as to protect any utility facilities and sewer laterals placed in the right of way by permit; are carried out within the limits of any original excavation on the traveled way, shoulders, or drainage ditches of a public road, street, railroad, or highway, and do not exceed 18 inches in depth below the grade existing prior to such activities; and, if involving the replacement of existing guard rails and sign posts, replace such guard rails and sign posts in their previous locations and at their previous depth. "Excavating" shall not include farming activities.

<http://georgia811.com/index.php/georgia-dig-law/>

### IDAHO

This code identifies an "excavation" as any operation in which earth, rock, or other material in the ground is moved or displaced. Before doing any excavating of fifteen (15) inches or greater in vertical depth

<http://www.digline.com/idaholaw>

### INDIANA

IC 8-1-26-1 Application of chapter Sec. 1. (a) Except as provided by this section, this chapter does not apply to the following: (1) Excavation that is performed: (A) only with a hand tool; (B) on property owned or controlled by the person performing the excavation; and (C) to a depth not greater than twelve (12) inches

<https://www.indiana811.org/wp-content/uploads/2019/06/IC-8-1-26-1.pdf>

## IOWA

### 480.1 Definitions.

4. b. "Excavation" does not include normal farming operations, residential, commercial, or similar gardening, the opening of a grave site in a cemetery, normal activities involved in land surveying pursuant to chapter 542B, operations in a solid waste disposal site which has planned for underground facilities, the replacement of an existing traffic sign at its current location and at no more than its current depth, and normal road or highway maintenance which does not change the original grade of the roadway or the ditch.

<https://www.legis.iowa.gov/DOCS/ACO/IC/LINC/Chapter.480.pdf>

## KANSAS

(c) "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.

[http://www.kslegislature.org/li/b2019\\_20/statute/066\\_000\\_0000\\_chapter/066\\_018\\_0000\\_article/](http://www.kslegislature.org/li/b2019_20/statute/066_000_0000_chapter/066_018_0000_article/)

## KENTUCKY

367.4915 Activities exempt from KRS 367.4905 to 367.4917. The requirements of KRS 367.4905 to 367.4917 shall not apply to the following: (1) Excavation by an operator on its own easement except where that easement is crossed by another operator's facilities; (2) Routine road maintenance or railroad maintenance or repairs;

<https://kentucky811.org/wp-content/uploads/2018/08/KY-Dig-Law-2018.pdf>

## LOUISIANA

(6) "Excavation" or "excavate" means any operation causing movement or removal of earth, rock, or other materials in or on the ground or submerged in a marine environment that could reasonably result in damage to underground or submerged utilities or facilities by the use of powered or mechanical or manual means, including but not limited to pile driving, digging, blasting, augering, boring, back filling, dredging, compaction, plowing-in, trenching, ditching, tunneling, land-leveling, grading, and mechanical probing. "Excavation" or "excavate" shall not include manual probing or any force majeure, act of God, or act of nature.

[https://www.louisiana811.com/images/pdfs/LOC359\\_The\\_Law\\_as\\_of\\_08012019.pdf](https://www.louisiana811.com/images/pdfs/LOC359_The_Law_as_of_08012019.pdf)

## MICHIGAN

(m) "Excavation" means moving, removing, or otherwise displacing earth, rock, or other material below existing surface grade with power tools or power equipment, including, but not limited to, grading, trenching, tiling, digging, drilling, boring, augering, tunneling, scraping, cable or pipe plowing, and pile driving; and wrecking, razing, rending, moving, or removing a structure or mass of materials. Excavation does not include any of the following:

(ii) Replacing a fence post, sign post, or guardrail in its existing location

(vi) Routine maintenance or preventative maintenance as those terms are defined in section 10c of 1951 PA 51, MCL 247.660c, to a depth of not more than 12 inches below the roadway and any shoulder of a street, county road, or highway.

<https://www.missdig.org/pdf/mcl-Act-174-of-2013.pdf>

## MINNESOTA

Subdivision 5 – Excavation. "Excavation" means an activity that moves, removes, or otherwise disturbs the soil by use of a motor, engine, hydraulic or pneumatically powered tool, or machine-powered equipment of any kind, or by explosives. Excavation does not include: (1) the extraction of minerals; (2) the opening of a grave in a cemetery; (3) normal maintenance of roads and streets if the maintenance does not change the original STATE LAW 66 grade and does not involve the road ditch; (4) plowing, cultivating, planting, harvesting, and similar operations in connection with growing crops, trees, and shrubs, unless any of these activities disturbs the soil to a depth of 18 inches or more; (5) gardening unless it disturbs the soil to a depth of 12 inches or more; or (6) planting of windbreaks, shelterbelts, and tree plantations, unless any of these activities disturbs the soil to a depth of 18 inches or more.

[http://www.gopherstateonecall.org/phocadownload/GSOCHandbook2019\\_web.pdf](http://www.gopherstateonecall.org/phocadownload/GSOCHandbook2019_web.pdf)

## MISSISSIPPI

except:

(vi) routine maintenance activities carried out by or for those responsible for publicly maintained roadways and rights-of-way, provided that the activities occur entirely within the public right-of-way and do not penetrate the earth to a depth of more than twelve (12) inches and are carried out with reasonable care so as to protect any underground facilities placed in the right-of-way. Routine maintenance activities shall be more specifically described in the rules and regulations adopted by the board; or (vii) the driving of wooden stakes by use of hand tools which do not penetrate the earth to a depth of not more than six (6) inches

<https://www.ms811.org/law/>

## NEBRASKA

76-2308.

### Excavation, defined.

Excavation shall mean any activity in which earth, rock, or other material in or on the ground is moved or otherwise displaced by means of tools, equipment, or explosives and shall include grading, trenching, digging, ditching, drilling, auguring, tunneling, scraping, and cable or pipe plowing or driving but shall not include

(1) normal maintenance of roads if the maintenance does not change the original road grade and does not involve the road ditch,

(2) tilling of soil and gardening for seeding and other agricultural purposes,

(3) digging of graves or in landfills in planned locations,

(4) maintenance or rebuilding of railroad track or facilities located on a railroad right-of-way by the railroad company or its contractors when such maintenance or rebuilding does not change the track grade, or

(5) hand digging around the base of a pole for pole inspection as part of routine maintenance or replacement of a pole when the replacement pole is similarly sized and is installed in the existing hole.

<https://www.nelcall.com/ne-law-enforcement/nebraska-statutes/>

## NEW MEXICO

### 18.60.5.7 DEFINITIONS:

**I. road maintenance** means routine grading and resurfacing of the earth and gravel surface, but not the subbase, of a roadway for the purpose of maintaining the surface condition of the road and includes recovery of material from a borrow ditch but does not include road construction or reconstruction and shall entail moving no more than four (4) inches of earth; road maintenance does not include street include street sweeping or road milling and resurfacing as long as the subsurface is not disturbed;

[http://www.nm811.org/wp-content/uploads/2019/01/Title-18-Chapter-60-Part-5-Excavation-Damage-Rules\\_2018-NOPR-FINAL-N....pdf](http://www.nm811.org/wp-content/uploads/2019/01/Title-18-Chapter-60-Part-5-Excavation-Damage-Rules_2018-NOPR-FINAL-N....pdf)

<https://www.nm811.org/new-mexico-811-law/>

## NORTH CAROLINA

### 87-124. Exemptions.

The notice requirements in G.S. 87-122(a) and G.S. 87-122(b) do not apply to the following:

(6) An excavation or demolition performed when those responsible for routine maintenance of a right-of-way are conducting maintenance activities within the right-of-way. Maintenance activities shall include resurfacing, milling, emergency replacement of signs critical for maintaining safety, or the reshaping of shoulders and ditches to the original road profile. Maintenance activities do not include the initial installation of traffic signs, traffic control equipment, or guardrails

[https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter\\_87/Article\\_8A.html](https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_87/Article_8A.html)

## NORTH DAKOTA

The term does not include:

d. Normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch

<http://www.ndonecall.com/law-changes/>

## OHIO

"Excavation" excludes any activity by a governmental entity which does not penetrate the earth to a depth of more than twelve inches.

[http://www.oups.org/sites/default/files/ohio\\_revised\\_code\\_032315.pdf](http://www.oups.org/sites/default/files/ohio_revised_code_032315.pdf)

## OKLAHOMA

5) "Excavate" means to dig, compress or remove earth, rock or other materials in or on the ground by use of mechanized equipment or blasting, including, but not necessarily limited to, augering, boring, backfilling, drilling, grading, pile driving, plowing in, pulling in, trenching, tunneling and plowing; provided, however, that neither:

c) routine maintenance, nor

d) work by a public agency or its contractors on a pre-engineered project, nor

14) "Routine maintenance" means the grading of roads and barrow or drainage ditches, the removal and replacement of pavement, including excavation relating thereto and the installation and maintenance of drainage and bridge facilities, signs, guardrails, and electrical and communications facilities in or on the public rights-of-way by a public agency

[http://www.okie811.org/sites/okie811/uploads/documents/Oklahoma\\_Underground\\_Damage\\_Prevention\\_Act\\_LAW\\_2019\\_Update.pdf](http://www.okie811.org/sites/okie811/uploads/documents/Oklahoma_Underground_Damage_Prevention_Act_LAW_2019_Update.pdf)

## OREGON

(3) "Excavation" means any operation in which earth, rock or other material on or below the ground is moved or otherwise displaced by any means, except sidewalk, road and ditch maintenance less than 12 inches in depth that does not lower the road grade or original ditch flow line.

<https://digsafelyoregon.com/wp-content/uploads/2019/05/Standards-Manual-1-1-19.pdf>

<https://digsafelyoregon.com/>

## PENNSYLVANIA

"Excavation work" means the use of powered equipment or explosives in the movement of earth, rock or other material, and includes, but is not limited to, anchoring, augering, backfilling, blasting, boring, digging, ditching, drilling, driving-in, grading, plowing-in, pulling-in, ripping, scraping, trenching and tunneling. The term does not include soft excavation technology such as vacuum, high pressure air or water, tilling of soil for agricultural purposes to a depth of less than eighteen inches, performing minor routine maintenance up to a depth of less than eighteen inches measured from the top of the edge of the cartway or the top of the outer edge of an improved shoulder, in addition to the performance of incidental de minimis excavation associated with the routine maintenance and the removal of sediment buildup, within the right-of-way of public roads or work up to a depth of twenty-four inches beneath the existing surface within the right-of-way of a State highway

[https://www.pa1call.org/pa811/Public/Resource%20Center/PA\\_Act\\_287/Public/POCS\\_Content/Resource\\_Center/Act\\_287.aspx?hkey=2b7e0c60-a384-4681-a275-c190a2b10636](https://www.pa1call.org/pa811/Public/Resource%20Center/PA_Act_287/Public/POCS_Content/Resource_Center/Act_287.aspx?hkey=2b7e0c60-a384-4681-a275-c190a2b10636)

## SOUTH CAROLINA

### Section 58-36-110 (Exemptions)

when the Department of Transportation, a local government, special purpose district, or public service district is carrying out maintenance activities within its designated right-of-way, which may include resurfacing, milling, emergency replacement of signs critical for maintaining safety, or the reshaping of shoulder and ditches to the original road profile

<https://sc811.com/wp-content/uploads/2015/01/State-law-2012.pdf>

<https://www.sc811.com/resources/law/>

## SOUTH DAKOTA

(4) "Excavation," any operation in which earth, rock, or other material in or below the ground is moved or otherwise displaced by means of tools, equipment, or explosives, and includes grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, and cable or pipe plowing or driving, except:

(b) Pothole repair and grading of an existing public road if the pothole repair and grading does not extend more than eighteen inches below the finished roadway;

(c) Any vehicle operation or operation involving the use of any hand tool, other than a power tool, so long as such operation does not extend more than eighteen inches below the surface of the groundline within the right-of-way;

(d) Any road and ditch repair or road and ditch activity that does not extend more than eighteen inches below the surface of the original groundline within the right-of-way;

[http://sdlegislature.gov/Statutes/Codified\\_Laws/DisplayStatute.aspx?Type=Statute&Statute=49-7A-1](http://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=49-7A-1)

## TENNESSEE

(B) Does not include: (i) Pavement milling or pavement repair that does not exceed the depth of the existing base stone and pavement; (ii) Routine railroad maintenance activities, including removal and replacement of base material up to twentyfour inches (24") below the flow line of the ditch or ground surface of the railroad right-of-way adjacent to the existing track structure if the work is conducted by railroad employees or railroad contractors and is carried out with reasonable care so as to protect any installed underground facilities placed in the railroad right-of-way by agreement with the railroad; (iii) Routine road maintenance activities;

<https://drive.google.com/file/d/1KbLu-PzJpim-HAdQs8E1GD6zq1koBfZK/view>

## TEXAS

(5) "Excavate" means to use explosives or a motor, engine, hydraulic or pneumatically powered tool, or other mechanized equipment of any kind and includes auguring, backfilling, boring, compressing, digging, ditching, drilling, dragging, dredging, grading, mechanical probing, plowing-in, pulling-in, ripping, scraping, trenching, and tunneling to remove or otherwise disturb soil to a depth of 16 or more inches.

<https://statutes.capitol.texas.gov/Docs/UT/htm/UT.251.htm>

## VERMONT

Vermont: "Excavation activities" means activities involving the removal of earth, rock or other materials in the ground, disturbing the subsurface of the earth, or the demolition of any structure, by the discharge of explosives or the use of powered or mechanized equipment, including but not limited to digging, trenching, blasting, boring, drilling, hammering, post driving, wrecking, razing, or tunneling, within 100 feet of an underground utility facility. Excavation activities shall not include the tilling of the soil for agricultural purposes, routine home gardening with hand tools outside easement areas and public rights-of-way, activities relating to routine public highway maintenance, or the use of hand tools by a company, or the company's agent or a contractor working under the agent's direction, to locate or service the company's facilities, provided the company has a written damage prevention program. (VSA Title 30, Chapter 86)

[http://www.digsafe.com/data/lawsfiles/Vermont\\_Statue.pdf](http://www.digsafe.com/data/lawsfiles/Vermont_Statue.pdf)

## VIRGINIA

56-265.23. Exemption for roadway maintenance operations by the Virginia Department of Transportation and certain counties, cities, and towns.

Employees of the Virginia Department of Transportation acting within the scope of their employment, and certain employees of those counties, cities, and towns which maintain their streets or roads in accordance with § 33.2-319 or § 33.2-366 performing street or roadway maintenance operations and acting within the scope of their employment, excavating entirely within the right-of-way of a public road, street or highway of the Commonwealth shall not be required to comply with the provisions of this chapter if reasonable care is taken to protect the utility lines placed in the right-of-way by permit and if they:

1. Excavate within the limits of the original excavation; on the traveled way, shoulders or drainage features of a public road, street, or highway and any excavation does not exceed eighteen inches (0.45 meter) in depth below the grade existing prior to such excavation; or
2. Are replacing previously existing structures in their previous locations.

<https://law.lis.virginia.gov/vacode/title56/chapter10.3/section56-265.23/>

## WASHINGTON

### Exempted activities

(1) The requirements specified in RCW 19.122.030 do not apply to any of the following activities:

(e) Road maintenance activities involving excavation less than six inches in depth below the original road grade and ditch maintenance activities involving excavation less than six inches in depth below the original ditch flowline, or alteration of the original ditch horizontal alignment;

<https://apps.leg.wa.gov/RCW/default.aspx?cite=19.122&full=true#19.122.031>

<http://www.washington811.com/>