

# **Ontario One Call Rules for Members and Excavators**



**Effective February 1, 2023**

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<sup>2</sup> The Administrative Penalty Regulation and Administrative Penalty Policy do not come into effect until April 1, 2023.

<sup>3</sup> The Administrative Penalty provisions do not come into force until April 1, 2023.

## SECTION 1: RULES FOR MEMBERS AND EXCAVATORS

### PART I: DEFINITIONS

1. In these Rules, the following terms have the following meanings:

- (a) **“360 Feedback”** means the web-based solution provided by Ontario One Call, as may be modified from time to time, by which:
  - (i) Members notify Ontario One Call whenever the status of a Locate Request has changed; and
  - (ii) anyone that has made a Locate Request may access it to ascertain the status of their Locate Request.
- (b) **“Act”** means *Ontario Underground Infrastructure Notification System Act, 2012, S.O. 2012, c. 4*, as may be amended or replaced from time to time, and includes regulations made under the Act.
- (c) **“Administrative Penalty”** means a financial penalty imposed under section 17.2 of the Act by Ontario One Call on an Excavator or Member in accordance with the Act and the Regulations.<sup>4</sup>
- (d) **“Administrative Penalty Policy”** means a Policy approved by Ontario One Call and posted on its website as may be updated from time to time and which reflects the mandatory requirements of the Act and the Regulations.<sup>5</sup>
- (e) **“Administrative Penalty Regulation”** means Ontario Regulation 14/23 made under the Act.<sup>6</sup>
- (f) **“Alternate Locate Agreement”** means an agreement, on terms acceptable to Ontario One Call, between a Member and an Excavator that stipulates the circumstances in

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<sup>4</sup> The Administrative Penalty provisions do not come into force until April 1, 2023.

<sup>5</sup> The Administrative Penalty Policy does not come into effect until April 1, 2023.

<sup>6</sup> The Administrative Penalty Regulation does not come into force until April 1, 2023.

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which the Member will not be required to perform a Locate in relation to that Excavator.

- (g) **“Appeal Body”** means the person prescribed by the Minister or, if no person is prescribed by the Minister, the Tribunal.
- (h) **“Business Day”** means a day other than a Saturday, Sunday, or statutory holiday in the province of Ontario.
- (i) **“By-Law”** means Ontario One Call by-laws that may be applicable to the issues in the Rules.
- (j) **“Calendar Day”** means a day including Saturday, Sunday, or statutory holiday in the province of Ontario.
- (k) **“Clear”** means a written statement made by a Member or the Member’s designate indicating that none of its underground infrastructure in the vicinity of the proposed Excavation will be affected by the planned Excavation, or in the case of a Clear provided by Ontario One Call on a Member’s behalf pursuant to “Additional Optional Services” (Part [VIII] of these Rules), a Clear will be provided on the locate confirmation. “Clear” and “Clearance” have a similar meaning.
- (l) **“Complaint”** means a complaint about a Member or Excavator received by Ontario One Call as further described in Part IX.
- (m) **“Compliance Investigation”** means an investigation undertaken by Ontario One Call regarding a Member or Excavator’s compliance with the Act, applicable By-Laws, or these Rules as further described in Part X.
- (n) **“Confidential Information”** in Rule 15 means all information relating to Ontario One Call received by the Member as a result of its membership in Ontario One Call which is not publicly available on the Ontario One Call website.

- (o) **“Damage Reporting Data”** means information as required by Ontario One Call regarding each and every instance of damage to a Member’s underground infrastructure to be reported accurately by a Member in the Damage Information Reporting Tool (“DIRT”) Report.
- (p) **“Dedicated Locate Project”** means:
- (i) a Designated Broadband Project;
  - (ii) an Excavation or proposed Excavation that satisfies such criteria as may be prescribed by the Minister; or
  - (iii) an Excavation or proposed Excavation for which the Project Owner chooses to use a Dedicated Locator.
- (q) **“Dedicated Locate Request”** means a Locate Request described in Part VII that relates to the following Dedicated Locate Projects:
- (i) a Designated Broadband Project;
  - (ii) an Excavation or proposed Excavation that satisfies such criteria as may be prescribed by the Minister; or
  - (iii) an Excavation or proposed Excavation for which the Project Owner chooses to use a Dedicated Locator.
- (r) **“Designated Broadband Project”** means a broadband project that is designated under the regulations for the purposes of the *Building Broadband Faster Act, 2021*.
- (s) **“Design and Planning”** is an Optional Additional Service in accordance with Part VIII which is a request for underground infrastructure location information to help in the planning of a project where excavation will not occur within 30 calendar days. Members who voluntarily participate will provide underground infrastructure location information, and will not provide physical locates.



- (t) **“Emergency Locate Request”** has the meaning provided for in Rule [18].
- (u) **“Excavator”** means any individual, partnership, corporation, public agency, or other person or entity that digs, bores, trenches, grades, excavates, moves, or breaks earth, rock or the materials in the ground, and **“Excavation”** has a corresponding meaning.
- (v) **“False Clearance”** means, in response to a Locate Request, where the Member provides a Clear, or uses an Ontario One Call Optional Additional service, despite the fact that:
  - (i) its underground infrastructure is in the general vicinity of the Excavation; and
  - (ii) the Excavation method and depth has the potential of damaging the Member’s underground infrastructure it knows or ought to know that its Underground Infrastructure may be impacted by an Excavation.
- (i) **“Locate”** means the identification of a Member’s underground infrastructure.
- (j) **“Locate Documentation”** means information provided by the Member to the Excavator consisting of, at a minimum:
  - (i) the Excavation date originally requested;
  - (ii) the Locate request number;
  - (iii) a complete and accurate drawing depicting the location of the underground infrastructure for the area identified in the Locate Request;
  - (iv) the date that the Member completed the Locate Request;
  - (v) the time period during which the Locate Documentation and Locate markings are valid; and
  - (vi) such other information as may be required by Ontario One Call.

- (k) **“Locate Markings”** mean accurate markings on the ground identifying the location of all of the Member’s underground infrastructure in the area identified in the Locate Request;
- (l) **“Locate Request”** means a request by an Excavator to Ontario One Call for Locates of all underground infrastructure that may be affected by an Excavation.
- (m) **“Locator”** means a person, designated to respond by the Member, who Locates underground infrastructure or states in writing that the underground infrastructure will not be affected by an Excavation.
- (n) **“Mapping Information”** means accurately mapped underground infrastructure for use by Ontario One Call’s notification system, necessary to allow Ontario One Call to carry out its obligations under the Act, the Regulation, and these Rules, regardless of whether the infrastructure is currently in use, not in use, or has been abandoned.
- (o) **“Member”** means a Member of Ontario One Call pursuant to section 5 of the Act and Rule [8].
- (p) **“Minister”** means the Ministry of Public and Business Service Delivery (or such successor Ministry) or any other member of the Executive Council to whom the responsibility for the administration of the Act is assigned or transferred under the Executive Council Act.
- (q) **“Notification”** means an electronic communication from Ontario One Call to a Member or Excavator.
- (r) **“Notification of Locate Request”** means the communication by Ontario One Call to the Member regarding a Locate Request received by Ontario One Call.
- (s) **“Ontario One Call”** means the Corporation continued under subsection 2(1) of the Act.

- (t) **“Optional Additional Service”** has the meaning provided for in Part V of these Rules.
- (u) **“Policy”** or **“Policies”** means documentation described as a “Policy” that provides direction to Members and/or Excavators and is published on Ontario One Call’s website.
- (v) **“Priority Locate Request”** has the meaning provided in Rule 20.
- (w) **“Project Owner”** means, in relation to an Excavation or proposed Excavation project referred to in Part VII (Dedicated Locate Requests), an Excavator who,
  - (i) has or will have charge, management or control of the project, or
  - (ii) in the case of a Designated Broadband Project, is the proponent of the project
- (x) **“Proponent”** means a person who carries out or proposes to carry out or is the owner or person having charge, management or control of a project.
- (y) **“Regulation(s)”** means a regulation made under the Act, as may be amended or replaced from time to time.
- (z) **“Renegotiated Due Date”** means where the Member and the Excavator have mutually agreed in writing to a different due date for a Standard Locate, an Emergency Locate or Dedicated Locate, where such Renegotiated Due Date:
  - (i) reflects an actual agreement between the Member and the Excavator confirmed in writing during the first 5 Business Days (for Standard Locates), within 2 hours (for an Emergency Locate) or the first 10 Business Days (for Dedicated Locates) from when the Member received Notification of the Locate Request; and
  - (ii) is recorded by the Member in 360 Feedback or in a manner otherwise expressly permitted by Ontario One Call, by, at a minimum:

- a. Changing the locate status to “renegotiated”;
  - b. Entering the agreed-upon renegotiated date;
  - c. Entering details about the renegotiation including, but not limited to, the Member’s and the Excavator’s representatives, by name, who agreed to the new date, and the actual date the agreement was made.
- (aa) **“Standard Locate Request”** has the meaning provided for in Rule 16.
- (bb) **“Suppression”** is an Optional Additional Service in accordance with Part VIII of these Rules by which Locate Requests are suppressed by Ontario One Call and not transmitted to the affected Member in accordance with the Member’s direction.
- (cc) **“System Filter Agreement”** is an Optional Additional Service in accordance with Part VIII of these Rules by which the Member directs Ontario One Call to generate an automatic Clear on the Member’s behalf in accordance with the Member’s direction.
- (dd) **“Transmission Infrastructure”** means underground infrastructure constructed or operated for the purpose of transmitting energy including underground infrastructure owned or operated by a transmitter or gas transmitter as defined in the *Ontario Energy Board Act, 1998*.<sup>7</sup>
- (ee) **“Tribunal”** means the Ontario Land Tribunal.
- (ff) **“Utility”** means water, steam, artificial or natural gas, electrical power or energy, communications, television, internet or a sewer.

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<sup>7</sup> The following definitions from the Ontario Energy Board Act are provided here for ease of reference:  
“**gas transmitter**” means a person who carries gas by hydrocarbon transmission line, and “transmit” and “transmission” have corresponding meaning  
“**transmitter**” means a person who owns or operates a transmission system

## **PART II: APPLICATION, DURATION, NON-COMPLIANCE, POLICIES, NOTICE and CONFIDENTIALITY**

### **Application of These Rules**

2. These Rules and Ontario One Call's Policies apply to all Members and Excavators for all matters addressed herein arising on or after February 1, 2023, and may be amended by Ontario One Call from time to time in a manner that is not inconsistent with the Act. Nothing in these Rules precludes Ontario One Call from dealing informally with concerns related to Complaints or compliance issues about Excavators or Members, unless such action is inconsistent with the Act or Regulations. In the event of an inconsistency between the Act or Regulations, and Ontario One Call's Rules or Policies, the Act and applicable Regulations shall prevail.

### **Duration of These Rules and Policies and Deemed Notice to Members and Excavators**

3. These Rules remain in force from February 1, 2023 until such time as they are replaced with amended Rules posted on Ontario One Call's website. Any Policy that is referred to in these Rules or subsequently published on Ontario One Call's website remains in force from the time it is published on the Ontario One Call website until it is removed or replaced with an updated Policy. Members and Excavators are deemed to have notice of the Rules and Policies from the date on which such Rules and Policies are published on Ontario One Call's website.

### **Compliance with These Rules**

4. All Members and Excavators are required to comply with these Rules and the Policies referred to herein.

### **Policies**

5. Ontario One Call may, but is not required to, publish Policies for Members and/or Excavators on its website that must be followed by Members and Excavators.

### **Members' Provision of Information to Ontario One Call**

6. A Member must inform Ontario One Call within 30 Calendar Days of its change of address, bankruptcy, closing, merger, acquisition, sale, or divestiture of all or part of its business. All notices to Ontario One Call shall be provided by email to [MemberServices@OntarioOneCall.ca](mailto:MemberServices@OntarioOneCall.ca).

### **Notice to Members and Excavators**

7. All Members and Excavators may be contacted by Ontario One Call by telephone, email, electronic communications, mail. Members and Excavators are deemed to have received information from Ontario One Call: (i) in the case of email or electronic communications, on the day that it was sent; (ii) in the case of mail, 5 Business Days from the day on which the item was provided to Canada Post;

## **PART III DESIGNATION OF MEMBERS, OBLIGATION TO PAY FEES TO ONE CALL, INSURANCE AND CONFIDENTIALITY**

### **Designation of Members**

8. The following entities that own or operate underground infrastructure in Ontario are Members of Ontario One Call:
  - (a) Every municipality in Ontario;
  - (b) Hydro One Inc., as defined in the *Electricity Act, 1998*;
  - (c) Ontario Power Generation Inc., as defined in the *Electricity Act, 1998*;
  - (d) Every gas distributor and every gas transmitter, as those terms are defined in the *Ontario Energy Board Act, 1998*;
  - (e) Every operator of a distribution system, as defined in the *Electricity Act, 1998*;
  - (f) Every person or entity regulated under the *Oil, Gas and Salt Resources Act*; and
  - (g) Every person or entity that owns or operates underground infrastructure that crosses a public right of way or is in the vicinity of a public right of way.

### **Members' Obligation to Register with Ontario One Call**

9. Every person or entity described in section 5(1) of the Act<sup>8</sup> must register with Ontario One Call within 30 Calendar Days of meeting the criteria for membership in section 8. An entity that satisfies the criteria for membership in Ontario One Call but fails to register with Ontario One Call shall be deemed to be a Member in accordance with the Act and shall be required to comply with these Rules.

### **Members' Obligation to Provide Information to Ontario One Call**

10. Every Member shall, upon registration with Ontario One Call and from time to time thereafter, by the date specified by Ontario One Call in its Notification, provide Ontario One Call with the information requested by it, including but not limited to:
- (a) accurate Mapping Information, regardless of whether the Member's Underground Infrastructure is active, inactive, or abandoned;
  - (b) updated accurate Mapping Information within 30 Calendar Days of placing new infrastructure in the ground or removing obsolete infrastructure from the ground;
  - (c) information which advances Ontario One Call's public awareness mandate;
  - (d) as may be required by Ontario One Call, accurate Damage Reporting Data;

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<sup>8</sup> 5 (1) A person or entity described in one or more of the following paragraphs is a member of the Corporation if the person or entity owns or operates underground infrastructure:

1. Every municipality in Ontario.
2. Hydro One Inc., as defined in the *Electricity Act, 1998*.
3. Ontario Power Generation Inc., as defined in the *Electricity Act, 1998*.
4. Every gas distributor and every gas transmitter, as those terms are defined in the *Ontario Energy Board Act, 1998*.
5. Every operator of a distribution system, as defined in the *Electricity Act, 1998*.
6. Every person or entity regulated under the *Oil, Gas and Salt Resources Act*.
7. Every person or entity that owns or operates underground infrastructure that crosses a public right of way or is in the vicinity of a public right of way. 2012, c. 4, s. 5 (1).

- (e) notification instructions including, but not limited to, notifying and validating contact methodology, contact name, and contact information within 7 Business Days; and
- (f) emergency escalation procedures.

### **Members' Obligation to Pay Annual Fees to Ontario One Call and Calculation of Fees**

- 11. Each Member shall pay fees monthly to Ontario One Call:
  - (a) calculated in accordance with Ontario One Call's Fee Calculation Policy, as may be amended from time to time; and
  - (b) within 30 Calendar Days of the date on Ontario One Call's fee invoice

### **Penalties and Interest on Late or Unpaid Fees by Members**

- 12. A Member whose fees (or part thereof) remain outstanding after the payment due date:
  - (a) is subject to the Penalty and Interest Policy; and
  - (b) may be subject to a Compliance Investigation in accordance with Part X.

### **Publication of Members' Name for Non-Compliance with These Rules**

- 13. Ontario One Call:
  - (a) may, but is not obliged to, publish the names of Members on its website accessible to the public whose fees to Ontario One Call have not been paid in full by the 120<sup>th</sup> Calendar Day from the date of the invoice;
  - (b) shall publish on its website accessible to the public for two years from the date of publication, the following information:
    - (i) information about each Member's Locate performance, including, at a minimum, the number of Locate Requests received by the Member and when those Locate Requests were completed;



- (ii) any other information about a Member's performance providing Locates as may be prescribed by the Minister; and
- (iii) a summary of each order imposing an Administrative Penalty, provided that such notice shall not be posted until:
  - a. the time for delivering a notice of appeal from the Administrative Penalty expires; or
  - b. if an appeal from the Administrative Penalty is commenced, the Appeal Body has made its decision.<sup>9</sup>

#### **Members' Obligation to Maintain Insurance**

14. Each Member shall maintain a policy of comprehensive general liability insurance with a minimum coverage against bodily injury and property damage caused by the negligence of the Member in an amount not less than \$2 million per occurrence or such other amount as may be required by Ontario One Call, from time to time.

#### **Members' Confidentiality Obligations to Ontario One Call**

15. Each Member who receives Confidential Information regarding Ontario One Call as a result of its Membership will hold and maintain such Confidential Information in the strictest confidence.

### **PART IV: LOCATE REQUESTS**

#### **Standard Locate Request Definition**

16. A Standard Locate Request is every Locate Request, other than:
- (a) a Locate Request where the Excavation relates to work pursuant to *the Building Broadband Faster Act, 2021* or which otherwise qualifies as a Dedicated Locate in Part VII of the Rules; or
  - (b) an Emergency Locate Request in section 18.

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<sup>9</sup> The Administrative Penalty Regulation and Administrative Penalty Policy do not come into force until April 1, 2023.

**Standard Locate Request Mandatory Completion Deadline, etc.**

17. For a Standard Locate Request, the following provisions apply:
- (a) at the time the Locate Request is submitted, the proposed Excavation must be reasonably expected to commence in greater than 5 Business Days and less than 30 Calendar Days from the time that it is received by Ontario One Call;
  - (b) a Standard Locate Request Notification for which all necessary information has been provided will be transmitted to the Member or Member's designate by Ontario One Call within 24 hours of receipt; and
  - (c) the Member shall complete a Standard Locate within 5 Business Days,<sup>10</sup> unless the Member and the Excavator agree in writing to a Renegotiated Due Date prior to the expiration of the 5 Business Day deadline, in which case (subject to Rule 35 regarding Late Renegotiated Due Dates) the Renegotiated Due Date shall prevail.

**Emergency Locate Request Definition**

18. An Emergency Locate Request is a Locate Request that Ontario One Call determines, in its sole discretion, satisfies the following criteria:
- (a) the Locate Request is necessary as a result of a loss of service by a Utility;
  - (b) in the circumstances the Utility is considered essential; and
  - (c) the absence of the Utility service can reasonably be expected to result in:
    - (i) imminent or significant safety or environmental hazards, or
    - (ii) imminent threat to a person or to the public.

**Emergency Locate Request Mandatory Completion Deadline, etc.**

19. Where Ontario One Call has approved an Emergency Locate Request:

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<sup>10</sup> When calculating "5 Business Days":

- (i) the first Business Day is the day after Ontario One Call provides notice of the Standard Locate Request to the Member; and
- (ii) the fifth Business Day is the day of the mandatory deadline to complete the Standard Locate.

- (a) Ontario One Call will provide the Member with Notification of the Emergency Locate Request within 15 minutes of receipt; and
- (b) unless the Member and the Excavator agree to a Renegotiated Due Date in accordance with these Rules, the Member shall ensure that a person able to mark on the ground the location of the underground infrastructure is at the site for which the Locate Request has been made, or shall provide a Clear, within two hours of receiving the Notification of the Emergency Locate Request.

#### **Priority Locate Request Definition**

20. A Priority Locate Request is a Locate Request that Ontario One Call determines, in its sole discretion, satisfies the following criteria:

- (a) the proposed Excavation is reasonably expected to commence in less than 5 Business Days at the time it is received by Ontario One Call;
- (b) the Excavator could not be reasonably expected to have requested the Locate at an earlier date; and
- (c) without an adequate Locate, the impact on people or businesses would cause significant hardship if not addressed promptly.

#### **Priority Locate Request Courtesy Completion Deadline, etc.**

21. Where Ontario One Call has approved the Priority Locate Request:

- (a) Ontario One Call will provide the Member with Notification of the Priority Locate Request within 1 Business Day; and
- (b) on the basis that such performance by the requested Excavation date cannot be guaranteed, the Member may, as a courtesy, but is not obliged to, complete a Priority Locate in advance of the requirements for a Standard Locate Request in section [17(c)].

## **PART V: EXCAVATORS' OBLIGATIONS REGARDING LOCATE REQUESTS**

### **Time for Making Locate Requests by Excavators**

22. Except as provided for in Part [VII] regarding Dedicated Locate Requests, an Excavator shall not submit a Locate Request more than 30 Calendar Days from the date on which the Excavator reasonably believes that the Excavation will begin. Where the Excavator submits a Locate Request more than 10 Calendar Days in advance of the date on which the Excavator reasonably believes that the Excavation will begin, Ontario One Call will place that request on “long term suspend” and will transmit it to the Member approximately 10 Calendar Days prior to the expected Excavation date.

### **Locate Requests**

23. Before beginning any Excavation, an Excavator must:
- (a) provide all of the information requested by Ontario One Call at the time of the Locate Request;
  - (b) make a Standard Locate Request:
    - (i) at least 5 Business Days in advance of the date of the proposed Excavation;
    - (ii) but not more than 30 Calendar Days in advance of the date of the proposed Excavation; and
  - (c) not make an Emergency Locate Request unless the criteria for that Request has been satisfied.

### **No Excavation Without a Completed Locate**

24. An Excavator shall not commence an Excavation unless all of the conditions in paragraphs (a) or (b) are satisfied:
- (a) The Excavator has:
    - (i) submitted a Locate Request to Ontario One Call with the information required by Ontario One Call in accordance with Rule 23;

- (ii) received the following from each Member that owns or operates underground infrastructure that may be affected by the Excavation:
    - a. the Member or its designate has provided the Locate and the Locate Documentation; or
    - b. the Member or its designate has provided a Clear, and
  - (iii) if the Member has provided Locate markings in section (ii), the Excavator has ensured that the Locate markings on the ground do not conflict with the written information provided respecting the underground infrastructure.
- (b) Regarding shared Locates, the Excavator:
- (i) has received from another Excavator the information referred to in section 24(a)(ii), pertaining to the same Excavation parameters as the Excavator's own excavation, including the geographical limits of the area subject to the locate request, provided that the conditions in Rule 24(a) and Rule 25 (Sharing Locates) are also satisfied; and
  - (ii) if the Member has provided Locate markings in section (ii), the Excavator has ensured that the markings on the ground do not conflict with the written information provided respecting the underground infrastructure.

### **Excavators' Ability to Share Locates**

25. An Excavator who submits a locate request is permitted to share with another Excavator the Locate information provided by the Member, provided that one of the following conditions is satisfied:
- (a) the other Excavator's contact information was included in the Locate Request that was submitted to Ontario One Call; or

- (b) the Excavator who submitted the Locate Request provided the other Excavator's contact information to Ontario One Call:
  - (i) before sharing the Locate information with the other Excavator; or
  - (ii) satisfied the requirements of Ontario One Call's "Sharing Locates – Best Practices" requirements.<sup>11</sup>

### **Excavation After Expiration of Validity Period**

26. An Excavator shall not commence or continue an Excavation:
- (a) after the expiry of the Locate validity period, which is 60 Calendar Days or such longer period as the Member specifies in writing on the Locate Documentation; or
  - (b) within the Locate validity period, the Locate markings on the ground are no longer visible, in which case the Locate validity period is deemed to have expired.

### **Excavation Without a Completed Locate or Abuse of the Locate Request System**

27. An Excavator that has, in the reasonable exercise of Ontario One Call's discretion,
- (a) commenced an Excavation without a completed Locate;
  - (b) abused the Standard Locate request system by requesting a Locate where it has no reasonable expectation of commencing an Excavation within 30 Calendar Days;
  - (c) abused the Locate request system by improperly requesting an "Emergency Locate" in circumstances where the Excavator knew or ought reasonably to have known that the request did not satisfy the definition of an Emergency Locate; or

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<sup>11</sup>See [https://www.ontarioonecall.ca/wp-content/uploads/Sharing\\_Locates\\_Best\\_Practice.pdf](https://www.ontarioonecall.ca/wp-content/uploads/Sharing_Locates_Best_Practice.pdf)

#### **Additional Names After the Work to Begin Date - What you need to know:**

After the work to begin date passes, the excavator who submitted the locate can no longer change the locate request, including adding additional contact information for sharing locates. Until further notice, Ontario One Call asks Excavators to keep a written record of all they plan to share locates with, including contact information. This document must be presented to Ontario One Call, if asked.

- (d) excavated in a manner that the Excavator knew or ought reasonably to have known would damage or otherwise interfere with any underground infrastructure,

may be:

- (i) subject to an Administrative Penalty of up to \$10,000 in accordance with the Act and the Regulations;<sup>12</sup>
- (ii) required to complete an educational program mandated by Ontario One Call; and/or
- (iii) subject to a Compliance Investigation in accordance with Part X.

### **Referral of Excavator to Other Administrative Body and/or Publication of Excavator's Name**

28. Where Ontario One Call deems it appropriate, it may:

- (a) refer an Excavator to another administrative body including the Technical Standards and Safety Authority (TSSA), the Electrical Safety Authority (ESA), the Ministry of Labour, or their successor organizations, or such other regulatory or law enforcement agency as may be appropriate; and/or
- (b) publish the Excavator's name and a summary of the issue(s) where the Excavator commenced an Excavation without a completed Locate or abused the Locate Request system.

## **PART VI: MEMBERS' OBLIGATIONS REGARDING LOCATE REQUESTS**

### **Members' Obligation to Provide and Maintain Receiving Equipment**

29. Members:

- (a) are required to supply and maintain proper notification receiving equipment for communication from Ontario One Call regarding Locate Requests, including technical adequacy, back-up in the event the Member's equipment fails or

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<sup>12</sup> The Administrative Penalty Regulation does not come into force until April 1, 2023.

- system updates are required, and adequate and cooperative staffing to monitor and respond to Locate Requests;
- (b) who choose to out-source one or more of the requirements in paragraph (a) shall be responsible to the standard outlined in paragraph (a);
  - (c) who fail to meet the standards outlined in paragraph (a) may be subject to a Compliance Investigation in accordance with Part X;
  - (d) shall notify Ontario One Call 30 Calendar Days in advance of any proposed relocation or disconnection of its notification system, or changes to the method of the receipt of notification; and
  - (e) shall effect any necessary changes to its notification system to align with Ontario One Call's system, as may be updated from time to time, by the due date specified in Ontario One Call's Notification.

### **Members' Responsibility for Accuracy and Adequacy of Locates**

30. Each Member:

- (a) is solely responsible for the timeliness, accuracy and adequacy of its Locates, Clears, and any information provided by the Member to Ontario One Call;
- (b) acknowledges that Ontario One Call is not responsible for:
  - (i) ensuring the accuracy of the Member's Locates, Locate Documentation, or Clears;
  - (ii) Ontario One Call's provision of optional additional services to the Member, described in Part VIII; or
  - (ii) any injury or damage as a result of an Excavation undertaken in reliance on the Member's Locate, Locate Documentation, Clears or optional additional services in Part VI;



- (c) acknowledges that Ontario One Call shall not be liable to the Member directly or under a third party claim under any circumstances for any special, indirect or consequential damages including but not limited to, loss of profit, loss of revenue, failure to realize expected savings or other commercial or economic losses or damages of any kind.

### **Members' Obligation to Provide Timely, Accurate, and Complete Information**

- 31. With respect to each Locate Request, a Member shall ensure that:
  - (a) the Locate Markings at the Excavation site are accurate and complete
  - (b) the Locate Documentation provided to the Excavator is accurate and complete;
  - (c) if it determines that a Clear statement is warranted because the Member's underground infrastructure is not at any risk, the Clear is accurate and complete; and
  - (d) it has not, under any circumstances, provided a False Clearance;
  - (e) it has not, under any circumstances, utilized Ontario One Call's Optional Additional Services in an abusive manner, including but not limited to utilizing those services to provide False Clearances; and
  - (f) all information provided by the Member in the 360 Feedback is accurate and completed by the Member within 3 Business Days of completing the Locate.

### **Obligation to Provide Notification of Delay in Responding to a Locate Request**

- 32. Notification in accordance with this section is required but does not excuse the failure to meet the mandatory deadlines outlined below or prevent Ontario One Call from commencing or continuing a Compliance Investigation under Part X. If a Member or Dedicated Locator will not meet the:
  - (a) mandatory 5 Business Day deadline for a Standard Locate;

- (b) mandatory 2-hour deadline to be on site for an Emergency Locate; or
- (c) mandatory 10 Business Day deadline for a Dedicated Locate Project,

the Member or Dedicated Locator must notify Ontario One Call on the 360 Feedback System or using the mechanism as otherwise directed by Ontario One Call in the manner prescribed:

- (i) before the expiration of the applicable deadline; or
- (ii) within 3 Business Day of the expiration of the applicable deadline.

**Locates must be valid for a minimum of 60 Calendar Days, etc.**

33. A Member's Locate, including Dedicated Locates, if applicable:

- (a) must be valid for a minimum of 60 Calendar Days or such other time period as may be specified by the Minister;
- (b) may specify a Locate validity period that is longer than 60 Calendar Days;
- (c) must be updated if, before the end of the validity period, a Member becomes aware of any change to the information that was provided, and, within 2 Business Days after becoming aware of the change, the Member shall notify:
  - (i) in the case of a non-Dedicated Locator Project, Ontario One Call and the Excavator; or
  - (ii) in the case of a Dedicated Locator Project, Ontario One Call, the Project Owner and the Dedicated Locator.

**Consequences of Providing False Information to Ontario One Call**

34. A Member who fails to submit accurate information in accordance with these Rules and the Act may be subject to a Compliance Investigation in accordance with Part X.

### **Late Renegotiation of Due Date**

35. If no written agreement for a Renegotiated Due Date is reached between the Member and the Excavator before the applicable deadline for a Standard Locate Request or an Emergency Locate Request, as applicable, but such agreement is reached at a later date, the Locate is late by the number of Business Days between the mandatory deadline in Rule [17] (Standard Locate Requests) or [19] (Emergency Locate Requests) and the Renegotiated Due Date.

### **PART VII: DEDICATED LOCATE REQUESTS**

#### **Dedicated Locate Requests Must be Submitted at Least 90 Calendar Days before Excavation, etc.**

36. A Project Owner must, in relation to a Dedicated Locate Project:
- (a) submit a notice to Ontario One Call at least 90 Calendar Days in advance of the date on which it reasonably believes that the Dedicated Locate Project will begin, unless Ontario One Call permits a shorter notice period or the Minister directs a shorter notice period; and
  - (b) include all such information as Ontario One Call may require at the time the Project Owner submits the Dedicated notice to Ontario One Call and to update the information provided to Ontario One Call every 90 Calendar Days until the Dedicated Locate Project is completed at which point the Project Owner will notify Ontario One Call that the project is completed.

#### **Member Notification for Dedicated Locate Requests**

37. In accordance with section 7(6) of the Act, Ontario One Call will provide Notification, or a mechanism to notify, all affected Members within 3 Business Days of receiving information from a Project Owner that the Project Owner intends to carry out an excavation or dig project which is (1) a designated broadband project; (2) a project that satisfies such criteria that may be designated by the Minister; or (3) a project for which the Project Owner chooses to use a dedicated locator.

### **Selection of Dedicated Locator**

38. Unless the Dedicated Locator and the affected Member agree in writing to a different time limit, within 10 Business Days of receiving the Notification under section 37:
- (a) the affected Member(s) and the Project Owner shall agree in writing on a Dedicated Locator who will respond to all Locate requests by the Project Owner in respect of the Dedicated Locate Project; and
  - (b) the affected Member(s) shall give to the Dedicated Locator accurate mapping information, such as the location of each Member's underground infrastructure and any other information that the Dedicated Locator considers necessary.

### **Notifying Ontario One Call Regarding Identity of Dedicated Locator**

39. The Project Owner shall promptly notify Ontario One Call in writing about the identity of the Dedicated Locator agreed to in section 38(a).

### **Dedicated Locate Requests must be Completed within 10 Business Days**

40. Unless the Dedicated Locator and the affected Member agree in writing to a different time limit, within 10 Business Days after receiving Notification from Ontario One Call under section 37, the Dedicated Locator shall do either the following with respect to each affected Member's underground infrastructure:
- (a) provide a Locate and Locate Documentation; or
  - (b) provide a Clear.

### **Cost of Dedicated Locate**

41. The cost of the Dedicated Locate shall be the responsibility of the Project Owner.

### **Further Governance of Dedicated Locates**

42. A Dedicated Locate Request may be further governed by an Ontario One Call Dedicated Locator Request Policy, if any, or by additional regulations under the Act.

## **PART VIII: ADDITIONAL OPTIONAL ONTARIO ONE CALL SERVICES**

### **Alternate Locate Agreements, Locate Suppression, System Filter Agreements, Sewer Safety Inspection Request, and Design and Planning Request**

43. Ontario One Call may, but is not obliged to, offer Members additional services on terms determined by Ontario One Call in its sole discretion, including:
- (a) Alternate Locate Agreement (ALA);
  - (b) Supression;
  - (c) System Filter Agreement;
  - (d) Sewer Safety Inspection request service, including notification of affected Members; and
  - (e) Design and Planning

but in the case of all such optional services, the Member shall release and indemnify Ontario One Call from any liability arising from the provision of such optional services.

## **PART IX: COMPLAINTS, COMPLAINTS PROCESS AND COMPLAINTS RESOLUTION**

### **Complaints Process is Not a Prerequisite to an Administrative Penalty**

44. Nothing in these Rules requires Ontario One Call to pursue a complaint or investigation before imposing an Administrative Penalty in accordance with the Act and the Regulations.<sup>13</sup>

### **Complaint Notification**

45. Where Ontario One Call receives a Complaint about a Member or Excavator,<sup>14</sup> Ontario One Call will notify the Member or Excavator in writing about the Complaint.

### **Obligation to Respond to, Remediate, or Respond to a Complaint**

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<sup>13</sup> The Administrative Penalty Regulation and Administrative Penalty Policy do not come into force until April 1, 2023.

<sup>14</sup> Where the Member or Excavator wishes to remain anonymous, Ontario One Call cannot pursue the complaint but may, in the exercise of its discretion, commence a Compliance Investigation in accordance with Part X.

46. The Member or Excavator shall:
- (a) remediate the issue identified in the Complaint within 5 Calendar Days and immediately notify Ontario One Call in writing about the remediation; or
  - (b) if the Member or Excavator disputes a Complaint, it must provide a response to the Complaint in writing to Ontario One Call within 5 Calendar Days of receiving the Complaint from Ontario One Call explaining its reasons for disputing the Complaint.

### **Consequences of a Complaint**

47. Ontario One Call may:
- (a) impose an Administrative Penalty in accordance with the Act and the Regulations;<sup>15</sup>  
or
  - (b) refer the Complaint to a Compliance Investigation if a Member or Excavator fails to:
    - (i) remediate the issue(s) in the Complaint to the satisfaction of Ontario One Call; or
    - (ii) provide a response in accordance with Rule 46(b) which, in the opinion of Ontario One Call, satisfies the issues in the Complaint such that no remediation is required; or
    - (iii) Ontario One Call concludes, in its sole discretion, that a Compliance Investigation is warranted.

### **Past History of Complaints and/or Complaint Resolutions**

48. Ontario One Call:
- (a) will maintain a record of the Member or Excavator Complaint history and the outcome of each Complaint;

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<sup>15</sup> The Administrative Penalty Regulation does not come into force until April 1, 2023.

- (b) except as mandated by Rule 13, may, but is not obliged to, publish information about the Member or Excavator Complaint history in relation to Complaint(s); and
- (c) may, but is not obliged to, consider the Member or Excavator Complaint history in determining the appropriate outcome in response to subsequent Complaint(s) or Compliance Investigations.

## **PART X: MEMBER AND EXCAVATOR COMPLIANCE INVESTIGATIONS**

### **Compliance Investigation is Not a Prerequisite to an Administrative Penalty**

49. Nothing in these Rules requires Ontario One Call to initiate a Compliance Investigation before imposing an Administrative Penalty in accordance with the Act and the Regulations.<sup>16</sup>

### **Initiation of Compliance Investigation**

50. Ontario One Call may initiate a Compliance Investigation in circumstances where Ontario One Call has concluded that a Member or Excavator may not be in compliance with the Act, the By-laws or these Rules.

### **Notice Regarding Compliance Investigation**

51. Ontario One Call will provide notice to the Member or Excavator about a Compliance Investigation.

### **Obligation to Respond to the Compliance Investigation**

52. The Member or Excavator shall:
- (a) respond to the Compliance Investigation, in writing, within 7 Business Days of receipt of the notice in Rule 51; and
  - (b) cooperate with any further inquiries by Ontario One Call regarding the circumstances of the Compliance Investigation,

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<sup>16</sup> The Administrative Penalty Regulation does not come into force until April 1, 2023.

failing which Ontario One Call may proceed to Rule 54 without making further inquiries of the Member or Excavator.

### **Past History of Compliance Inquiries**

53. Ontario One Call:

- (a) will maintain a record of Members' and Excavators' Compliance Investigations history and the outcome of each Compliance Investigation;
- (b) except as mandated by Rule 13, may, but is not obliged to, publish information about the Member or Excavator's Compliance Investigation history where the outcome was anything other than "no further action"; and
- (c) may, but is not obliged to, consider the Member or Excavator's Compliance Investigation history in determining the appropriate outcome to a Compliance Inquiry.

### **Completion of Compliance Investigation**

54. Upon completion of the Compliance Investigation, Ontario One Call may do any one or more of the following:

- (a) "Take No Further Action"

Where the Compliance Investigation was unsubstantiated, mark the Compliance Investigation as resolved, and take no further action if justifiable and good reasons exist to take no further action.

- (b) "Educational Disposition"

Where the Compliance Investigation was substantiated, in whole or in part, Ontario One Call may, but is not obliged to, provide the Member or Excavator with written guidance, including a requirement to take a particular education course at the Member or Excavator's own expense. An Educational Disposition is distinct from a Reprimand, described below, and provides guidance to the Member or Excavator about how to avoid future contraventions. An Educational Disposition is not



“disciplinary action” within the meaning of the Ontario Not for Profit Corporations Act.

(c) “Warning Letter”

Where the Compliance Investigation was substantiated, in whole or in part, Ontario One Call may, but is not obliged to, provide a Warning Letter, including a requirement to take a particular education course at the Member or Excavator’s own expense. A Warning Letter is distinct from a Reprimand, described below, and provides guidance to the Member or Excavator regarding the consequences of further non-compliance. A Warning Letter is not “disciplinary action” within the meaning of the Ontario Not for Profit Corporations Act.

(d) “Negotiated Resolution”

Negotiate satisfactory compliance terms, and failing satisfactory compliance by the Member or Excavator in accordance with the Negotiated Resolution, Ontario One Call may impose such other outcome in accordance with this section. A Negotiated Resolution is not “disciplinary action” within the meaning of the Ontario Not for Profit Corporations Act.

(e) “Refer Elsewhere”

Refer the matter to another administrative body including the Technical Standards and Safety Authority (TSSA), the Electrical Safety Authority (ESA), the Ministry of Labour, or their successor organizations or such other regulatory or law enforcement entity as may be applicable. A decision to “Refer Elsewhere” is “disciplinary action” within the meaning of the Ontario Not for Profit Corporations Act.

(f) “Change Internal Processes”

Require the Member or Excavator to change its internal processes as specified by Ontario One Call at the Member or Excavator’s expense. A notice to “Change

Internal Processes” is “disciplinary action” within the meaning of the Ontario Not for Profit Corporations Act.

(g) “Reprimand”

Issue a written reprimand, which shall remain on the Member or Excavator’s Ontario One Call file. A “Reprimand” is “disciplinary action” within the meaning of the Ontario Not for Profit Corporations Act.

(h) “Administrative Penalty”

Require the Member or Excavator to pay an Administrative Penalty in accordance with the Act and the Regulations. In accordance with section 17.2(10) of the Act, the Member or Excavator is not entitled to a notice or hearing, in writing or otherwise, before an Administrative Penalty is issued.<sup>17</sup>

(i) “Other”

Take such other steps Ontario One Call deems appropriate that are not inconsistent with the Act, the By-laws or the Rules.

### Notice to the Member of Disciplinary Action

55. To the extent required by the Ontario Not for Profit Corporations Act in relation to Members, Ontario One Call shall:

(a) provide the Member with at least 15 Calendars Days’ notice of its intention to:

- (i) “Refer Elsewhere”;
- (ii) require the Member to “Change Internal Processes”; or
- (iii) issue a “Reprimand” to the Member,

(collectively, “**Disciplinary Action**”), before such Disciplinary Action shall take effect on the date specified in the notice (the “**Effective Date**”);

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<sup>17</sup> The Administrative Penalty Regulation does not come into force until April 1, 2023.

- (b) advise the Member that the Member has a right to provide a written submission to Ontario One Call which must be delivered no later than 5 Calendar Days before the Effective Date of the Disciplinary Action; and
- (c) in consideration of the Member's submission provided in accordance with section (b), if any, make a final determination as to whether Ontario One Call will impose or revoke the Disciplinary Action (the "**Final Determination**"), where such Final Determination will be conveyed to the Member in writing, but
- (d) in accordance with the Act and the Administrative Penalty Regulation, in no case are the provisions in paragraphs [55](a), (b) and/or (c) required where Ontario One Call intends to or has imposed an Administrative Penalty, either alone or in conjunction with Disciplinary Action, and in either case, the Member is not entitled to make written submissions or receive a Final Determination in relation to an Administrative Penalty.<sup>18</sup>

## **PART XI: ADMINISTRATIVE PENALTIES**

### **Administrative Penalties in Accordance with the Act and the Regulations**

- 56. Administrative Penalties may be imposed in accordance with the Act and the Regulations without a Complaint or Compliance Investigation in Parts [IX and X] of these Rules.<sup>19</sup>

## **PART XII: DISPUTE RESOLUTION**

### **Dispute Resolution**

- 57. Members, Excavators and Ontario One Call may utilize the Dispute Resolution Policy for the resolution of any disputes identified in that Policy other than those relating to Administrative Penalties. Dispute Resolution regarding Administrative Penalties is addressed in section 17.3 of the Act.<sup>20</sup>

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<sup>18</sup> The Administrative Penalty Regulation does not come into force until April 1, 2023.

<sup>19</sup> The Administrative Penalty Regulation does not come into force until April 1, 2023.

<sup>20</sup> The Administrative Penalty Regulation does not come into force until April 1, 2023.