



**Operating Practices
of the
Maryland Underground Facilities Damage Prevention Authority
("The Authority")**

NPV Procedures 2.0

1. Upon receipt of a Notice of Probable Violation (NPV) from the complainant, the Authority verifies the contact and incident information contained in the on-line submittal for sufficiency and accuracy and then notifies the probable violator via Notice of Investigation (NOI) and the complainant via Notice of Receipt (NOR) by regular US mail. The probable violator is encouraged to contact the Authority upon receiving the NOI letter in order to provide additional information.
2. After completion of a thorough and comprehensive investigation, the Executive Director will utilize the Standardized Fining Matrix (SFM) to assess fines and penalties for all new NPVs subsequent to the March 28, 2016 ruling of the Maryland Court of Appeals (*Reliable Contracting v. Maryland Underground Facilities Damage Prevention Authority*) which upheld the constitutionality of the Authority, but also stated that when assessing fines, the Authority must take into consideration three factors 1) Seriousness of the Violation, 2) Intent "good faith" of Violator, 3) Past history of Violations.
3. The Executive Director will then present the entire review of the NPV along with all supporting documentation and SFM calculations to the Authority at the next regularly scheduled meeting of the Authority. After the Authority completes their review of the NPV at a regularly scheduled meeting, the Authority will either (1) assign a recommendation of civil penalty and/or training for the probable violator, based on the SFM, (2) request additional investigative procedures to acquire more information and documentation for a further review of the NPV before making a recommendation or (3) dismiss the NPV for (a) a lack of a documented violation, (b) a lack of a documented probable violator, (c) a lack of sufficient evidence and documentation to proceed with any further investigation or (d) any reason the Authority may deem reasonable for not proceeding with any further investigation or review of the NPV.

4. If the Authority makes a recommendation of civil penalty and/or training, the Executive Director will forward a letter by Certified USPS mail to the probable violator alerting them of the (1) establishment of the Authority and its legislative intent and authority, (2) details of the NPV as outlined in the initial submission by the complainant, (3) research of the Authority, (4) possible effects of subtitle §12-135, (5) action taken by the Authority, (6) probable violator's rights, remedies and options, and (7) existence of Maryland's Administrative Procedure Act (APA) and how it impacts the hearing process.
5. If the probable violator does not respond to the Authority's recommendation letter within the 30-day prescribed period, the Executive Director will send a second recommendation letter by both certified and regular USPS mail as outlined in #4 above or by Process Server.
6. If after an additional 30-day period, the probable violator still has not responded to the Authority's recommendation letter, the Executive Director will bring the issue back to the Authority at their next regularly scheduled meeting, at which time the Authority will assign a hearing date for the NPV.
7. The Executive Director will notify all parties to the NPV of the hearing date. The violator will be notified by both certified and regular USPS mail. If after 30 days, there is still no response from the probable violator, the Executive Director will issue a subpoena via both certified and regular USPS mail or by Process Server to the probable violator and to any other party the Authority deems necessary to summons.
8. On the date of the hearing, should the probable violator not be in attendance, the Authority will hold the hearing and determine the civil penalties and/or training in closed Executive Session. The Executive Director will then notify the probable violator via both certified and regular USPS mail of the Authority findings and decision and of the right of any person aggrieved by the decision of the Authority to request judicial review by the Circuit Court within 30 days after receiving the decision. (Note: The probable violator still maintains the right to an appeal before the Circuit Court following notification of the Authority's ruling)
9. Should the probable violator miss the 30-day deadline within which the violator must seek judicial review, a second letter will be sent by both certified and regular USPS mail notifying the probable violator that they have lost their right to appeal to the Circuit Court. (Note: If at any time during these time frames, the Authority receives payment for the civil fine and notification of participation in Title XII training, the case will be closed).
10. If there is still no response from the probable violator, the case will be sent for collection action. (Note: Any probable violator who does not fulfill any of the requirements set down by the Authority, will be placed in a Closed/Incomplete Status, which can be used as evidence when applying the SFM standards.)