

214 CSR1

TITLE 214
PROCEDURAL RULE

West Virginia Underground Facilities Damage Prevention Board

SERIES 1
BOARD MEETINGS, ORGANIZATION, AND OPERATION

§214-1-1. General.

1.1. Scope. -- This rule governs the conduct of the Underground Facilities Damage Prevention Board meetings. It is intended to comply with the requirements of the State Administrative Procedures Act and the State Freedom of Information Act.

1.2. Authority. -- W. Va. Code §24C-1-1 *et seq.*

1.3. Filing Date. -- June 29, 2020.

1.4. Effective Date. -- July 30, 2020.

§214-1-2. Definitions.

2.1. "Underground Facilities Damage Prevention Board or Board" means the public body created by the West Virginia Legislature in W.Va. Code §24C-1-1 *et seq.*

2.2. "Administrative Procedures Act" means the statute, W.Va. Code §6-9A-1 *et seq.*, governing the conduct of public meetings held by any administrative or legislative unit of state, county or municipal government including any subunit or committee authorized by law to exercise some portion of executive or legislative power.

2.3. "Freedom of Information Act" means the statute, W. Va. Code §29B-1-1 *et seq.*, governing the availability of public records to the public.

2.4. "Person" includes any natural person, corporation, partnership, firm or association.

2.5. "Public record" means any writing containing information prepared or received by a public body, the content or context of which, judged either by content to context, relates to the conduct of the public's business.

2.6. "Quorum" means a simple majority of the members of the Board which is required in order to take any official action by the Board. Board members who attend and vote at any meeting by telephone are officially in attendance and are counted toward establishment of a quorum.

2.7. "Writing" means, in the context of a public record, any books, papers, maps, photographs, cards, tapes, recordings or other documentary materials regardless of physical form or characteristics.

§214-1-3. Parliamentary Procedure.

3.1. Meetings of the Board will be conducted in accordance with Roberts Rules of Order. The Executive Secretary is Parliamentarian unless the Boards elects a Board member as Parliamentarian.

§214-1-4. Regular Meetings.

4.1. The Board will hold at least two meetings a year, or as often as necessary to conduct the business of the Commission.

4.2. Business to come before the Board will be placed on an agenda and properly posted in accordance with this rule and the Open Meetings Act. Matters, not on the agenda, which are brought up for discussion during the meeting which require action by the Board, will be addressed at a future meeting.

4.3. Notice of all regular meetings must be posted at least five (5) business days prior to the date of the meeting on the Secretary of State's website, on the Board's website (need to imbed the link) and other locations the Board may designate. The notice must include the date, time and place of the meeting.

4.4. The agenda for all regular meetings must be posted three (3) days prior to the date of the meeting. It may be posted in a central location in the Board's office and on the Board's website. A link to the Board's website may be posted on the Secretary of State's website if authorized by the Administrative Law Division of the Secretary of State's office.

4.4.1. The agenda may be amended up to three (3) days before the meeting date and posted in the same manner as the original agenda was posted.

§214-1-5. Special Meetings.

5.1. Special meetings of the Board may be called by the Chairman or Chairwoman of the Board when a matter must be addressed before the next regularly scheduled meeting of the Board but do not rise to the level of an emergency.

5.2. Notice of any special meeting must be posted at least five (5) business days prior to the date of the meeting on the Secretary of State's website, on the Board's website (need to imbed the link) and other locations the Board may designate. The notice must include the date, time and place of the meeting.

5.3. The agenda for all special meetings must be posted two (2) days prior to the date of the meeting. It may be posted in a central location in the Board's office and on the Board's website. A link to the Board's website may be posted on the Secretary of State's website if authorized by the Administrative Law Division of the Secretary of State's office.

5.3.1. The agenda may be amended up to three (3) days before the meeting date and posted in the same manner as the original agenda was posted.

§214-1-6. Emergency Meetings.

6.1. Emergency meetings may be called by the Chairman or Chairwoman in the event that a matter requires immediate official action by the Board's. Notice of the meeting must be given as soon as practicable prior to the meeting date in the same manner as other meeting notices. The notice must state the time, place and purpose of the meeting and the facts and circumstances of the emergency. The agenda is limited to the emergency matter.

214 CSR1

6.2. Emergency matters may be added to a scheduled meeting agenda by amending the agenda. The amended agenda must provide the facts and circumstances which warrant adding the emergency item to the agenda.

§214-1-7. Minutes.

7.1. The Secretary of the Board prepare written minutes of all Board meetings. The minutes must contain at a minimum:

7.1.1. The date, time and place of the meeting.

7.1.2. The name of each Board member and staff member in attendance.

7.1.3. All motions, proposals, resolutions, and measures proposed, the name of the Board member proposing the same, and its disposition.

7.1.4. The results of all votes and, upon the request of any Board member, the vote of each member by name.

§214-1-8. Open Proceedings.

8.1. All meetings of the Board will be open to the public, except when the Board holds an executive session pursuant to W. VA. Code§6-9A-4.

8.2. Any person desiring to address the Board at any meeting may do so provided that such person registers to address the Board at least 15 minutes prior to the scheduled meeting time.

8.3. The Board may remove a member of the public from a meeting who the Board determines is disrupting the meeting to the extent that the orderly conduct of the meeting is compromised.

8.4. The Board will create and enforce reasonable guidelines for public attendance at any meeting where there is not enough room for all members of the public who wish to attend.

§214-1-9. Executive Session.

9.1. The Board may enter into executive session upon a motion by a Board member. The motion must state the reason or reasons for going into executive session as provided in W. Va. Code §6-9A-4. This includes, discussion of personnel matters or pending litigation; to consider matters involving the purchase, sale or lease or real property, or to plan or consider an official investigation.

9.2. The matter or matters under discussion during executive session may not be voted on during executive session. The vote, which is an official action of the Board must be open to the public. However, the Board may vote to give its attorney settlement authority to enter into negotiations and provide a settlement range in executive session. If a settlement is reach, then the settlement agreement, including the amount, becomes a matter of public record unless sealed by a court.

§214-1-10. Public records of the Commission.

10.1. The written records of the business of the Board are public records and subject to the requirements of the West Virginia Freedom of Information act, W. Va. Code §29B-1-1 *et seq.*

214 CSR1

10.2. All requests for records under the Freedom of Information Act must be sent to the Executive Secretary, who is the official custodian of the records, at 206 Berkley Street, Charleston, WV 25302.