

Draft

FOR AN ACT ENTITLED, An Act to revise the time interval required for an excavator to provide notice of excavation and an operator to advise the excavator of the location of any underground facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 49-7A-1 be AMENDED:

Definitions of terms.

Terms used in this chapter mean:

(1) "Bar test survey," a leakage survey completed with a non-conductive piece of equipment made by driving or boring small holes in the ground at regular intervals along the route of an underground gas pipe for the purpose of extracting a sample of the ground atmosphere and testing the atmosphere in the holes with a combustible gas detector or other suitable device;

(2) "Board," One-Call Notification Board;

(3) "Emergency," an occurrence which demands immediate action to prevent significant environmental damage or loss of life, health, property, or essential public services including the reerecting of critically needed traffic control signs or devices;

(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:

(a) Tilling of soil and gardening to a depth of twelve inches and the tilling of soil for agricultural purposes to a depth of eighteen inches;

(b) Pot hole repair and grading of an existing public road if the pot hole 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;

(e) Digging in a cemetery;

(f) Digging in a planned sanitary landfill; and

(g) Any bar test survey deemed necessary by an operator in response to a suspected natural gas, propane, or other combustible liquid or gas leak that is necessary to ensure public safety in an emergency;

(5) "Excavator," any person who performs excavation;

(6) "Forty-eight hour interval" means a period of forty-eight consecutive hours beginning at 8:00 a.m. the next business day from the day the notification center receives a notice and excludes Saturdays, Sundays, and legal holidays.

~~(6)~~(7) "Member," any member of the one-call notification center;

~~(7)~~(8) "One-call notification center," the statewide one-call notification center established by § 49-7A-2;

~~(8)~~(9) "Operator," any person who operates an underground facility;

~~(9)~~(10) "Person," an individual, partnership, limited liability company, association, municipality, state, county, political subdivision, utility, joint venture, or corporation, and includes the employer of an individual;

~~(10)~~(11) "Underground facility," any item of personal property buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, fiber optics, cablevision, electric energy, oil, gas, hazardous liquids, or other substances including pipes, sewers, conduits, cables, valves, lines, wires, manholes, and attachments.

Section 2. That § 49-7A-5 be AMENDED:

No excavator may begin any excavation without first notifying the one-call notification center of the proposed excavation. The excavator shall give notice by telephone or by other methods approved by the board pursuant to rules promulgated pursuant to chapter 1-26 to the one-call notification center ~~at least forty-eight hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays of the state~~ within the forty-eight hour interval. The board may promulgate rules to reduce the forty-eight-hour interval for emergency or subsequent inquiries to the original locate request and may lengthen the forty-eight-hour interval for nonexcavation requests.

Section 3: That § 49-7A-8 be AMENDED:

49-7A-8. Location of underground facilities--Marking.

An operator shall, upon receipt of the notice, advise the excavator of the location of underground facilities in the proposed excavation area by marking the location of the facilities with stakes, flags, paint, or other clearly identifiable marking within eighteen inches horizontally from the exterior sides of the underground facilities. The board shall promulgate rules, pursuant to chapter 1-26, to establish the response time for operators to mark the underground facilities. The response time shall be ~~no later than forty-eight hours after the receipt of the notice, excluding Saturdays, Sundays, and legal holidays of the state or the excavation start time provided by the excavator, whichever is later~~ within the forty-eight hour interval. The response time may be less than ~~forty-eight hours~~ the forty-eight hour interval for emergency or subsequent inquiries to the original locate request and may be longer than ~~forty-eight hours~~ the forty-eight hour interval for nonexcavation requests. Excavators shall maintain a minimum horizontal clearance of eighteen inches between a marked underground facility and the cutting edge of any mechanical equipment. If excavation is required within eighteen inches, horizontally, the excavator shall expose the facility with hand tools or noninvasive methods approved pursuant to rule and shall protect and support the facility prior to further excavation with mechanical equipment.