



Legislative Research Council

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Rep. Larry J. Tidemann, Chair
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James Fry, Director
Doug Decker, Code Counsel

October 2, 2007

Kara Semmler
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

Dear Ms. Semmler:

The One-Call Notification Board has proposed adoption and amendment of rules in chapter 20:25:03 and § 20:25:01:01 regarding one-call notification. We have reviewed the proposed rules, scheduled for hearing on October 23, 2007, and approve the rules for legality, with the following exceptions:

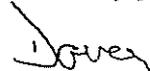
20:25:03:01(5) – This subdivision is not written in a manner that corresponds with the lead-in line and the other subdivisions listed in this section. Please revise the wording for this subdivision.

20:25:03:05 – Do not include more than one set of subdivisions in a section. More than one set of subdivisions may lead to confusion when making reference to any particular subdivision within such section. It is recommended that the proposed amendments to this section be divided into three sections. Please see style and form comments.

20:25:03:07(2) – If necessary, add additional options to the current menu or list for submitting locate requests. You may not substitute such a menu or list with, "or by other methods approved by the board".

This letter is based on a preliminary review of your rules. Attached are your rules edited for form and style pursuant to SDCL 1-26-6.5 and directions for submitting the final draft of the rules. If you have any questions, please don't hesitate to call me or the staff member who has reviewed your rules.

Sincerely yours,


Doug Decker
Code Counsel

Enclosures:

DIRECTIONS FOR SUBMITTING THE FINAL DRAFT

RULES REVIEW MEETING SCHEDULE: The Interim Rules Review Committee has set the following tentative meeting schedule for the 2007 interim: December 4, 2007 and January 7, 2008.

- A. FINAL DRAFT TO LEGISLATIVE RESEARCH COUNCIL:** When the final draft of the adopted rules is brought to this office for signature for legality and for form and style, please include the following items:
1. The edited copy of the first draft;
 2. One legible copy of the final draft, to be left here. The final draft should be double spaced, contain only rules being amended, repealed, or adopted, and show changes from current printed rules by means of overstrikes and underscores;
 3. The original form #11 which contains the signature of the officer empowered to adopt the rules or the signatures of a majority of the members of a board or commission which has the rule-making authority; and
 4. Copies of the following:
 - a. The minutes of all public hearings, (a summary of the minutes if needed); and
 - b. The affidavit of mailing to Rules Committee members, if already done.
- B. SERVICE ON COMMITTEE:** The following information is to be served on the interim Rules Review Committee at least five days before the committee meeting date:
1. The final draft of the adopted rules (three-holed punched and numbered by page);
 2. The minutes of the public hearing;
 - a. Include a summary of the hearing if a verbatim transcript is used;
 - b. Include a summary of any subsequent hearing if the public hearing is continued or final action is taken at a later date;
 3. A summary of the written comments or copies of the written comments;
 4. The Impact Statement on Small Business;
 5. The Fiscal Note; and
 6. Agency financial resource information if the agency proposes a rule to increase a fee.
- First class mail should be used.
- C. FILING WITH THE SECRETARY OF STATE'S OFFICE** (After appearing before the Interim Rules Review Committee)
1. Each agency must complete and sign all documents before filing the certificate of compliance with Chapter 1-26 and the final draft of the rules with the Secretary of State's Office. Although it is not required by statute, the Secretary of State's Office would like to have a copy of the approval signature sheet with the filing of the final draft and the certificate.

20:25:01:01. Definitions. Terms defined in SDCL 49-7A-1 have the same meaning when used in this article. Terms used in this article mean:

- (1) "Excavation site," the specific location where an excavation will occur;
- (2) "Informational locate request," a communication between a person and the one-call center in which a request for locating underground facilities for planning, permit, surveying, mapping, or design work where the purpose of the request is not related to planned excavation activity within the next eighteen months;
- (3) "Normal business hours," 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays as defined by SDCL 1-5-1;
- (4) "Notification time," the time at the end of the telephone locate request when the answering attendant provides the excavator with a confirmation number or the time ~~the computer software, facsimile, and e-mail~~ a non-telephone locate request is received by the one-call center;
- (5) "Planned excavation locate request," a communication between a person and the one-call center in which a request for locating underground facilities for planning, permit, or design work relative to specific excavation activity planned to start within the next eighteen months;
- (6) "Planner," any person who prepares a drawing for a planned construction or other project which will require excavation at a future date;

(7) "Respond," the facility operator shall mark or physically identify by other means the location of underground facilities if the facility operator owns any underground facilities in the area of the proposed excavation;

(8) "Routine locate request," a communication between an excavator and the one-call center in which a request for locating underground facilities for excavation activity ~~that will commence within the next ten business days;~~

¹⁰
~~(9)~~ "Ticket," a document issued by the one-call notification center to operators and excavators for the purpose of locating an underground facility.

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~~(10)~~ "Service Lateral," ^{any} means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-user customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premise;

Source: 21 SDR 27, effective August 21, 1994; 26 SDR 161, effective June 8, 2000; 29 SDR 111, effective February 12, 2003.

General Authority: SDCL 49-7A-4.

Law Implemented: SDCL 49-7A-1.

CHAPTER 20:25:03

OPERATOR PARTICIPATION AND MEMBERSHIP CLASSIFICATIONS AND FEES

Section

20:25:03:01 Operator participation.

20:25:03:01.01 Repealed.

- 20:25:03:02 Membership classes.
- 20:25:03:03 Membership fees.
- 20:25:03:04 Information required when initiating a routine locate request.
- 20:25:03:04.01 Information required when initiating a planned excavation locate request.
- 20:25:03:04.02. Information required when initiating an informational locate request.
- 20:25:03:04.03 Locate requests in emergency situations.
- 20:25:03:04.04 No excavation allowed on planned excavation or informational locate requests.
- 20:25:03:04.05 Operator compensation on informational locate requests.
- ✓ 20:25:03:05 Color standards ~~and guidelines~~ for marking underground facilities and identification of marked facilities.
- 20:25:03:05.01 Valid period for underground facility markings.
- 20:25:03:05.02 Excavator responsibilities for the preservation of markings.
- 20:25:03:05.03 Excavator responsibilities when excavating near markings.
- 20:25:03:06 Repealed.
- 20:25:03:07 Requirements for operation of a one-call notification center.
- 20:25:03:08 Ticket standards.
- 20:25:03:09 Procedures for marking excavation sites which are impractical to flag, mark, or describe.
- 20:25:03:10 Operator requirements after receipt of an emergency or modified routine ticket.
- 20:25:03:10.01 Operator requirements after receipt of a planned excavation or informational ticket.
- 20:25:03:11 Petition for declaratory rulings.
- 20:25:03:12 Board action on petition.
- 20:25:03:01. Operator participation.** Each operator required by SDCL 49-7A-2 to join the one-call system:

(1) Shall provide to the notification center data that allows proper notification to the operator of excavation near the operator's utility lines and updates to such data. This data shall be provided to the notification center as soon as possible, but no later than 30 days after membership or operation of underground facilities, whichever is first. This information shall be provided on printed forms ~~approved by the one-call notification center or in an electronic internet-based format, compatible with the computer software systems used by the one-call notification center~~ approved by the South Dakota One Call Notification Board;

(2) Shall respond to notification of excavation, including emergency notices, as required by SDCL chapter 49-7A and article 20:25;

(3) Shall establish a means of receiving notification of excavation and shall utilize such this method to receive notifications from the one-call notification center; and

(4) Who receives more than an average of 30 tickets per month in any three consecutive months, shall receive tickets by electronic transmission other than by voice telephone. Electronic transmission includes e-mail, facsimile, data printer, or computer transmission; and

shall install an in a such a manner, that makes the like
(5) ~~Any underground utility lines installed underground after January 1, 2008,~~
shall be installed in such a manner as to be locatable by the operator for purposes of this chapter.

Source: 21 SDR 27, effective August 21, 1994; 24 SDR 30, effective September 14, 1997; 29 SDR 111, effective February 12, 2003.

General Authority: SDCL 49-7A-4.

Law Implemented: SDCL 49-7A-2, 49-7A-5, 49-7A-7, 49-7A-8, 49-7A-15.

20:25:03:03. Membership fees. The board shall assess an initial membership fee to all one-call members based on their membership classes, as follows:

- (1) Class A Members: \$150;
- (2) Class B Members: \$ 50;
- (3) Class C Members: \$ 35.

The board shall determine the fee to be collected for location requests based on the operating cost to the center of providing the locate services, overhead costs, and advertising costs. The center shall bill operators monthly, based on the number of location requests transmitted to that operator. The board shall review the fee for locate requests at least annually. ^{An} ~~Operators have sixty days to dispute any tickets/~~ ^{has} invoiced after ~~which time all tickets/~~ ^{the} is presumed to be ~~will be considered~~ accurately invoiced.

Source: 21 SDR 27, effective August 21, 1994.

General Authority: SDCL 49-7A-4.

Law Implemented: SDCL 49-7A-2.

20:25:03:04. Information required when initiating a routine locate request. The following information is required to be provided by the excavator when a routine locate request is submitted:

- (1) The name, address, and telephone number of the person making the routine locate request;
- (2) The name, address, and telephone number of the excavator doing the work;
- (3) The date and time when excavation is scheduled to begin;
- (4) The depth of planned excavation within 18 inches vertical;
- (5) The type and extent of excavation being planned including:
 - (a) Whether the excavation involves tunneling or horizontal boring; and
 - (b) If applicable, whether the use of explosives is anticipated;
- (6) A phone number that provides access to the excavator during normal business hours;
- (7) The location of the excavation by any one or more of the following means:
 - (a) Latitude/longitude;
 - (b) A specific street or rural address, which has a numbered address on a marked street or avenue that is publicly recorded; or
 - (c) The distance and direction from an intersecting street within 1000 feet of the excavation site; ~~or~~
 - (d) A specific quarter section by section, range, township, and county; and or
 - (e) A specific mile marker reference from any state or federal highway; and

(8) A precise description of the specific excavation area within each location by:

(a) Providing the perimeter of the excavation site or the length and direction of the excavation route in reference to the exact distance and direction from known points of reference on or near the excavation site; or

(b) Marking the perimeter of the excavation area or the length and direction of the proposed excavation route by means of white paint or flags; or

(c) Requesting to meet the facility operators when it is impractical to utilize item a or b above and to inform the facility operators, in writing, of the extent and work schedule of the proposed excavation.

Source: 21 SDR 27, effective August 21, 1994; 24 SDR 30, effective September 14, 1997; 26 SDR 161, effective June 8, 2000; 29 SDR 111, effective February 12, 2003; 31 SDR 164, effective May 10, 2005.

General Authority: SDCL 49-7A-4.

Law Implemented: SDCL 49-7A-2, 49-7A-6.

20:25:03:04.01. Information required when initiating a planned excavation locate request. The following information is required to be provided by the planner when a planned excavation locate request is submitted:

(1) The name, address, and telephone number of the person making the planned excavation locate request;

(2) The name, address, and telephone number of the business doing the work;

(3) The approximate date when planned excavation is scheduled to begin;

(4) The type and extent of the planned excavation;

(5) A phone number that provides access to the planner during normal business hours;

(6) The location of the planned excavation by any one or more of the following means:

(a) Latitude/longitude;

(b) A specific street or rural address, which has a numbered address on a marked street or avenue that is publicly recorded; or

(c) The distance and direction from an intersecting street within 1000 feet of the excavation site; ~~or~~

(d) A specific quarter section by section, range, township, and county; ~~and~~ or

(e) A specific mile marker reference from any state or federal highway; and

(7) A precise description of the planned excavation area within each location by:

(a) Providing the perimeter of the planned excavation site or the length and direction of the planned excavation route in reference to the exact distance and direction from known points of reference on or near the planned excavation site; or

(b) Marking the perimeter of the planned excavation area or the length and direction of the planned excavation route by means of pink paint or flags; or

(c) Requesting to meet the facility operators, when it is impractical to utilize item a or b above or the planned excavation involves a major project, and to inform the facility operators, in writing, of the extent of the planned excavation.

Source: 29 SDR 111, effective February 12, 2003; 31 SDR 164, effective May 10, 2005.

General Authority: SDCL 49-7A-4.

Law Implemented: SDCL 49-7A-2, 49-7A-6.

20:25:03:04.02. Information required when initiating an informational locate request. The following information is required to be provided by the person initiating the request when an informational locate request is submitted:

- (1) The name, address, and telephone number of the person making the notification request;
- (2) The name, address, and telephone number of the business requesting the facility location information;
- (3) The approximate date when the facility information is required;
- (4) The type and extent of the informational request;
- (5) A phone number that provides access to a person, knowledgeable about this request, during business hours;
- (6) The location of the required facility information by any one or more of the following means:

(a) Latitude/longitude;

(b) A specific street or rural address, which has a numbered address on a marked street or avenue that is publicly recorded; or

(c) The distance and direction from an intersecting street within 1000 feet of the excavation site; ~~or~~

(d) A specific quarter section by section, range, township, and county; ~~and~~ or

(e) A specific mile marker reference from any state or federal highway; and

(7) A precise description of the specific area for which facility information is required by:

(a) Providing the perimeter or the length and direction of the route for which underground facility information is required in reference to the exact distance and direction from known points of reference on or near the area for which underground facility information is required; or

(b) Marking the perimeter of the specific area for which facility information is required or the length and route of the underground facility information required by means of pink paint or flags; or

(c) Requesting to meet the facility operators, when it is impractical to utilize item a or b above or the informational request involves a major project, and to inform the facility operators, in writing, of the extent of the underground facility information requested.

Source: 29 SDR 111, effective February 12, 2003; 31 SDR 164, effective May 10, 2005.

General Authority: SDCL 49-7A-4.

Law Implemented: SDCL 49-7A-2, 49-7A-6.

20:25:03:05. Color standards and guidelines for marking underground facilities and identification of marked facilities. Operators who must mark their underground facilities as required by SDCL 49-7A-8 shall ~~identify the operator of the marked underground facility and~~ use the following color standards:

- (1) Electric - Red;
- (2) Gas/oil/steam - Yellow;
- (3) Communications/CATV - Orange;
- (4) Water - Blue;
- (5) Sewer - Green;
- (6) Temporary survey markings - Pink;
- (7) Proposed excavation boundaries - White; and
- (8) Reclaimed water, irrigation, and slurry lines - Purple.

~~If multiple underground facilities exist, the operator shall separately mark each underground facility. When determining the most suitable means to mark underground facilities, terrain, site conditions, and the type and extent of the proposed excavation shall~~

be considered. The excavator may request off-set marks to maintain an accurate record of the facility locations:

04
:25:03:05.04

Each Operator ^{is required to mark its} who ~~must mark their~~ underground facilities ^{pursuant to} as required by SDCL 49-

7A-8 shall identify the underground facility ^{using} ~~at~~ the following minimum standards:

- (1) The underground facility ^{must} ~~should~~ be marked in the most suitable manner with consideration to terrain, site conditions, type, and extent of the proposed excavation to clearly identify the existence of an underground facility for the excavator;
- (2) The marked underground facility shall clearly identify the name, abbreviation, or logo of the operator of the underground facility;
- (3) ^{IF} ~~When~~ the width of the facility exceeds six inches, the outside edges of the underground facility ^{must} ~~should~~ be marked to clearly identify the width of the underground facility for the excavator;
- (4) ^{IF} ~~When~~ multiple underground facilities exist, the operator shall separately mark each underground facility;
- (5) ^{IF} ~~When~~ the operator has no underground facilities in conflict with the excavation area, the operator shall mark in the excavation area "NO" followed by the operator's name, abbreviation, or logo in the color code of the underground facility not in conflict with the excavation area; and
- (6) The excavator may request off-set marks to maintain an accurate record of the facility locations.

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Unless otherwise agreed by the excavator and the operator, an underground facility operator shall locate a service lateral before the start date and time on the notice and in accordance with ^{subdivisions 1 to 4, inclusive} ~~items 1 through 4~~ with the exception that an operator is not required to

20:25:03:05.05
↓

Avoid a
third set of
subdivisions
if necessary
create
more
sections

locate a service lateral of a customer who is required by statute to participate in the statewide notification system.

~~(1) An operator of a natural gas, propane, or electric facility shall locate a service lateral up to the meter or the connection to a customer owned underground facility, whichever is closer to the end-use customer. If the meter or connection to the customer owned underground facility is within a public right-of-way, at a minimum the operator shall locate that portion of the service lateral within the public right-of-way up to the point where the service lateral first leaves the public right-of-way.~~

~~(2) An operator of a communication facility shall locate a service lateral up to the entry of the first building. If the service lateral does not enter a building, the operator shall locate up to the utilization equipment, fence, or wall that surrounds the equipment.~~

~~(3) After January 1, 2008, an operator of a water facility, at a minimum, shall locate the service lateral installed after that date to the meter or the connection to a customer's underground facility. If the meter or connection to the customer's underground facility is within a public right-of-way, at a minimum the operator shall locate that portion of the service lateral within the public right-of-way up to the point where the service lateral first leaves the public right-of-way. The operator shall either locate or provide information as shown on maps, drawings, diagrams, or other records, on the location of a water service lateral installed before January 1, 2008. If no information is available on a water service lateral installed before January 1, 2008, then notifying the excavator that no information exists fulfills the requirements of this section.~~

~~(4) After January 1, 2008, an operator of a sewage facility, at a minimum, shall locate that portion of the service lateral within a public right-of-way installed after that~~

date up to the point where the service lateral first leaves the public right-of-way. The operator shall either locate or provide information as shown on maps, drawings, diagrams, or other records, on the location of a sewer service lateral installed before January 1, 2008. If no information is available on a sewer service lateral installed before January 1, 2008, then notifying the excavator in writing that no information exists fulfills the requirements of this section.

Source: 24 SDR 30, effective September 14, 1997; 26 SDR 161, effective June 8, 2000; 29 SDR 111, effective February 12, 2003.

General Authority: SDCL 49-7A-4.

Law Implemented: SDCL 49-7A-8.

20:25:03:07. Requirements for operation of a one-call notification center. The one-call notification center shall provide the following services:

(1) Accept a location request from the excavator twenty-four hours a day, seven days a week;

(2) Accept a locate request by telephone call, *leave as is and add more options, if any, to rule* ~~facsimile transmission, and e-mail or remote entry by computer transmission~~ ^{and} or by other methods approved by the board;

(3) At close of each location request made by ~~telephone call, facsimile transmission, or e-mail,~~ processed by a customer service representative at the center, prior to the issuance of a confirmation number, verify with the excavator that information provided by the excavator meets the requirements of § 20:25:03:04, 20:25:03:04.01, or 20:25:03:04.02. Following verification of the information, provide the excavator with the

verification number associated with this request, and a list of underground facility operators who will be notified of this request;

(4) If a locate request, submitted in compliance with ~~SDCL 49-7A-6~~, ARSD §§ 20:25:03:04, 20:25:03:04.01 or 20:25:03:04.02, is received by ~~faesimile, e-mail, or remote computer entry or internet~~ transmission, the excavator shall receive a ticket, within four hours, as the confirmation notice;

(5) Record each conversation which pertains to a location request;

(6) Maintain a copy of each conversation and ticket for a period of seven years;

and

(7) Upon request, provide copies of the tickets and recorded conversations to operators or excavators, at the cost of providing such copies: ; and

(8) Accept facility operator database information that allows proper notification to the operator of excavation near the operator's utility lines and updates to such data on a web based system as required by the South Dakota One Call Notification Board.

Source: 26 SDR 161, effective June 8, 2000; 31 SDR 164, effective May 10, 2005.

General Authority: SDCL 49-7A-4.

Law Implemented: SDCL 49-7A-2, 49-7A-5, 49-7A-6, 49-7A-8.