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UTILITIES COMMISSION

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Doug Decker, Code Counsel

September 4, 2009

Ms. 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 chapters 20:25:01, 20:25:02, and 20:25:03 regarding the one-call notification system. We have reviewed the proposed rules, scheduled for hearing on September 30, 2009, and approve the rules for legality, with the following exception:

20:25:03:07 and 20:25:03:10.02 – SDCL 49-7A-6 has been repealed and should be deleted as a law implemented. Please consistently use the full term, high profile underground facility, in the proposed rules.

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

DD:FB

Enclosures

ARTICLE 20:25

ONE-CALL NOTIFICATION

Chapter

- 20:25:01 Definitions.
- 20:25:02 General provisions.
- 20:25:03 Operator participation and membership classifications and fees.
- 20:25:04 Competitive bidding for one-call center contractor selection.

CHAPTER 20:25:01

DEFINITIONS

Section

- 20:25:01:01 Definitions.

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) "Commercially navigable waterway," a waterway where a substantial likelihood of commercial navigation exists;

(2) "Excavation site," the specific location where an excavation will occur;

(3) "High profile underground facility," a high profile underground facility is any:

(a) High pressure natural gas pipeline with a maximum allowable operating pressure greater than 300psi;

(b) Natural gas transmission facility in a high consequence area;

(c) Petroleum pipeline;

(d) Hazardous material pipeline;

(e) High-voltage electric supply line, conductor, or cable that has a potential to ground of greater than or equal to 60 kilovolts; or

(f) Underground facility that, if damaged, has the potential for significant public safety, economic or environmental impact;

as of October 1, 2009

(4) "High consequence area," as defined in 49 CFR § 192.903;

~~(2)~~ (5) "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)~~ (6) "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)~~ (7) "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 a nontelephone locate request is received by the one-call center;

~~(5)~~ (8) "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)~~ (9) "Planner," any person who prepares a drawing for a planned construction or other project which will require excavation at a future date;

~~(7)~~ (10) "Respond," the facility operator shall mark or physically identify by other means the location of underground facilities if the facility operator ~~owns~~ operates any underground facilities in the area of the proposed excavation;

~~(8)~~ (11) "Routine locate request," a communication between an excavator and the one-call center in which a request for locating underground facilities for excavation activity;

~~(9)~~ (12) "Ticket," a document issued by the one-call notification center to operators and excavators for the purpose of locating an underground facility.

Source: 21 SDR 27, effective August 21, 1994; 26 SDR 161, effective June 8, 2000; 29 SDR 111, effective February 12, 2003; 34 SDR 180, effective December 24, 2007.

General Authority: SDCL 49-7A-4.

Law Implemented: SDCL 49-7A-1.

CHAPTER 20:25:02

GENERAL PROVISIONS

Section

20:25:02:01	Board meetings.
20:25:02:02	Board meeting via telephone conference.
20:25:02:03	Voting.
20:25:02:04 and 20:25:02:05	Repealed.
20:25:02:06	Election of officers -- Ability to hire and contract.
20:25:02:07	Removal of officers.
20:25:02:08	Filling vacant office.

20:25:02:06. Election of officers -- Ability to hire and contract. The board shall elect one of its members as ~~chairperson~~ ^{chair} and another as ~~secretary/treasurer~~ ^{vice-chain} ~~chairperson~~, for such terms and with such duties and powers as the board considers necessary for the performance of the functions of those offices.

Source: 21 SDR 27, effective August 21, 1994; 28 SDR 58, effective October 29, 2001.

General Authority: SDCL 49-7A-4.

Law Implemented: SDCL 49-7A-2, 49-7A-3.

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 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.
- 20:25:03:05.04 Operator responsibilities when marking underground facilities.
- 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.
- 20:25:03:10.02. Procedures for excavation near high profile facilities. *underground*
- 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 or in an internet-based format, approved by the South Dakota One Call Notification board. ^{Each} ~~All high profile underground facilities~~ *identified and listed* shall be ~~provided~~ in a database separate from other underground facilities ;

(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 this method to receive such notification from the one-call notification center;

(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

(5) Shall install an underground utility line in such a manner after January 1, 2009, that makes the line 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; 34 SDR 180, effective December 24, 2007.

General Authority: SDCL 49-7A-4.

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

20:25:03:05.04. Operator responsibilities when marking underground facilities. Each operator who is required to mark its underground facilities pursuant to SDCL 49-7A-8 shall identify the underground facility using the following minimum standards:

(1) The underground facility must 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 multiple underground facilities exist, the operator shall separately mark each underground facility;

(4) Upon request by the excavator at the time a ticket is produced, the operator shall provide notification if the operator identifies, without making a site visit, that it has no underground facilities located within the excavation area. When such request is made, the excavator shall provide information that allows notification by email, facsimile, and telephone;

~~(4)~~ (5) If a site visit is made, and 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

~~(5)~~ (6) The excavator may request off-set marks to maintain an accurate record of the facility locations.

Source: 34 SDR 180, effective December 24, 2007.

General Authority: 49-7A-4.

Law Implemented: 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, remote entry by computer transmission, or an internet-based format approved by the South Dakota One Call board;

(3) At close of each location request 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 3
a list underground
and any high profile facility operators within the excavation area ;

(4) If a locate request, submitted in compliance with § 20:25:03:04, 20:25:03:04.01, or 20:25:03:04.02, is received by 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;

(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; 34 SDR 180, effective December 24, 2007.

General Authority: SDCL 49-7A-4.

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

20:25:03:10.02. Procedures for excavation near high profile facilities.

repealed
Prior to the legal excavation start date and time, the operator shall communicate with the excavator ^{if} ~~when~~ based on information in the ticket, the operator believes a high profile ^{underground} facility is in close proximity to the excavation site. If it is determined by the operator that ^{no} ~~high~~ profile ^{underground facility is} ~~facilities are not~~ at risk, the operator may allow the excavator to commence excavation without a site meeting. The excavator may proceed and excavate according to all other rules and statutes.

If the operator is either unable to clearly identify the specific excavation site or determines that the excavation site ^{may} ~~will~~ be in close proximity to the high profile underground facility, the following steps shall be taken prior to the legal excavation start date and time:

(1) The operator and excavator shall conduct an on-site meeting at a mutually agreed upon time to verify the exact excavation site relative to the location of the high profile underground facility;

(2) No excavation activity may commence until the completion of the site meeting;
and

(3) If a determination is made at the site meeting that excavation will be within 25 feet of the high profile underground facility, the operator may require that the operator be present during all excavation within 25 feet of the high profile underground facility. Failure of the excavator to comply is considered a violation and subject to all penalties according to applicable law.

Source:

General Authority: SDCL 49-7A-4.

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