

State Damage Prevention Law Summary

State: Minnesota

(Link to State law provided in Law & Regulation section below)

Summary Date: 8/7/2017

| Excavator Requirements | |
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| Excavation: Definition | Minnesota Statutes § 216D.01 Subdivision 5. "Excavation" means an activity that moves, removes, or otherwise disturbs the soil by use of a motor, engine, hydraulic or pneumatically powered tool, or machine-powered equipment of any kind, or by explosives. Excavation does not include: (1) the extraction of minerals; (2) the opening of a grave in a cemetery; (3) normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch; (4) plowing, cultivating, planting, harvesting, and similar operations in connection with growing crops, trees, and shrubs, unless any of these activities disturbs the soil to a depth of 18 inches or more; (5) gardening unless it disturbs the soil to a depth of 12 inches or more; or (6) planting of windbreaks, shelterbelts, and tree plantations, unless any of these activities disturbs the soil to a depth of 18 inches or more. |
| Excavator: Definition | Minnesota Statutes § 216D.01 Subdivision 6. "Excavator" means a person who conducts excavation in the state. |
| Excavator Notice to One Call Required (Yes / No) | Yes |
| Excavator Notice Minimum # Working Days Before Digging | 2 |
| Excavator Notice (Specific Language) | Minnesota Statutes § 216D.04 Subdivision 1. (a) Except in an emergency, an excavator shall and a land surveyor may contact the notification center and provide notice at least 48 hours, excluding Saturdays, Sundays, and holidays and not more than 14 calendar days before beginning any excavation or boundary survey. An excavation or boundary survey begins, for purposes of this requirement, the first time excavation or a boundary survey occurs in an area that was not previously identified by the excavator or land surveyor in the notice. |
| Ticket Life (# of days) | 14 days, or 6 months if excavator makes arrangements with the operators affected to periodically verify or refresh the marks. (Minnesota Statutes § 216D.04 Subdivision 4. (c)) |
| White-Line Required (Yes / No) | Yes (Minnesota Statutes § 216D.05 (2)) |
| Tolerance Zone | 24" (Minnesota Statutes § 216D.04 Subdivision 3) |
| Special Digging Requirements Within Tolerance Zone (Specific Language) | Minnesota Statutes § 216D.04 Subdivision 3. (a) Prior to the excavation start time on the notice, an operator shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator and provide readily available information regarding the operator's abandoned and out-of-service underground facilities as shown on maps, drawings, diagrams, or other records used in the operator's normal course of business ... The excavator shall determine the precise location of the underground facility, without damage, before excavating within two feet of the marked location of the underground facility. ... (b) Within 96 hours or the time specified in the notice, whichever is later, after receiving a notice for boundary survey from the notification center ... an operator shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator ... (c) For the purpose of this section, the approximate horizontal location of the underground facilities is a strip of land two feet on either side of the underground facilities. |
| Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No) | No. (Per comment of MNOPS, 10/10/12, Minnesota Statutes § 216D.04 Subdivision 4. (a), "... determine the precise location of the underground facility, without damage, before excavating ..." is interpreted as meaning hand dig, but language as such is not provided in the Minnesota law or administrative rules. |
| Preserve / Maintain Marks Required (Yes / No) | Yes (Minnesota Statutes § 216D.04 Subdivision 4. (d)) |
| Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No) | No |
| Notify One-Call if Marks Moved or No Longer Visible (Yes / No) | Yes, (Minnesota Statutes § 216D.04 Subdivision 4. (d)) |
| Special Language Regarding Trenchless Technology (Yes / No) | No. (Not addressed in law or administrative regulations; however, special requirements for installation of gas pipelines, including trenchless excavation, provided in MNOPS Alert Notice – MNOPS AL-01-2010, to Natural Gas Pipeline Operators. (https://dps.mn.gov/divisions/ops/forms-documents/Documents/Alert%20Notice%2001-2010.pdf) |

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| Separate Locate Request Required for Each Excavator (Yes / No) | Yes, (Minnesota Statutes § 216D.04 Subdivision 1. (a)) |
| Notify Operator of Damage (Yes / No) | Yes, (Minnesota Statutes § 216D.06 Subdivision 1. (a)) |
| Notify One Call Center of Damage (Yes / No) | No |
| Call 911 if Hazardous Materials Released (Yes / No) | Yes, (Minnesota Statutes § 216D.06 Subdivision 1. (a)) |
| Notice Exemptions (Yes / No) | Yes |
| Notice Exemptions (Specific Language) | Minnesota Statutes § 216D.01 Subdivision 5. ... Excavation does not include: (1) the extraction of minerals; (2) the opening of a grave in a cemetery; (3) normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch; (4) plowing, cultivating planting, harvesting, and similar operations in connection with growing crops, trees, and shrubs, unless any of these activities disturbs the soil to a depth of 18 inches or more; (5) gardening unless it disturbs the soil to a depth of 12 inches or more; or (6) planting of windbreaks, shelterbelts, and tree plantations, unless any of these activities disturbs the soil to a depth of 18 inches or more. § 216D.04 Subdivision 1. (a) Except in an emergency, an excavator shall and a land surveyor may contact the notification center and provide notice.... |
| Operator Response | |
| Minimum # Days for Operator to Respond After Receiving Notice (Generally) | 2 |
| Operator Requirements to Respond to Locate Notification (Specific Language) | Minnesota Statutes § 216D.04 Subd. 3. (a) Prior to the excavation start time on the notice, an operator shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator and provide readily available information regarding the operator's abandoned and out-of-service underground facilities as shown on maps, drawings, diagrams, or other records used in the operator's normal course of business ... (b) Within 96 hours or the time specified in the notice, whichever is later, after receiving a notice for boundary survey from the notification center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the land surveyor and operator, an operator shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator ... |
| Minimum Standards for Locator Qualifications (Yes / No) | No |
| Minimum Standards for Locator Qualifications (Specific Language) | Not addressed |
| Law Specifies Marking Standards Other Than Color (Yes / No) | Yes |
| Law Specifies Marking Standards Other Than Color (Specific Language) | Minnesota Statutes § 216D.04 Subdivision 3. (d) Markers used to designate the approximate location of underground facilities must follow the current color code standard used by the American Public Works Association. Minnesota Administrative Rules § 7560.0250 Subpart 1. Facility locate. Unless otherwise agreed to between the excavator and operator, an operator shall locate an underground facility using stakes, flags, paint, or other suitable materials in varying combinations dependent upon the surface. The locate must be in sufficient detail to clearly identify the approximate route of the underground facility. The locate must also include: A. name, abbreviation, or logo of the operator when more than one operator listed on the notice uses the same color markings; B. width of the underground facility if it is greater than eight inches; and C. number of underground facilities if greater than one. Subp. 2. Operator duties in no conflict situation. After December 31, 2005, an operator who receives notice and determines that an underground facility is not in conflict with the proposed excavation shall complete one or more of the following: A. mark the area "NO" followed by the operator's name, abbreviation, or logo in the color code of the underground facility not in conflict; B. place a clear plastic flag at the area that: (1) states "N/C" or "NO CONFLICT" in lettering matching the color code of the underground facility that is not in conflict; and (2) includes the operator's name, abbreviation, or logo, the date, a contact telephone number, and the ticket number; or C. contact the notification center through procedures required by the notification center and indicate that there are no underground facilities in conflict with the proposed excavation and that no markings or flags were left at the proposed excavation site. |
| Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No) | Yes. (Minnesota Administrative Rules § 7560.0375 Subpart 1 (c)). |

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| Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No) | No |
| Operator Must Locate Abandoned Facilities (Specific Language) | <p>Minnesota Statutes § 216D.04 Subd. 3. Locating underground facility; operator. (a) Prior to the excavation start time on the notice, an operator shall ... and provide readily available information regarding the operator's abandoned and out-of-service underground facilities as shown on maps, drawings, diagrams, or other records used in the operator's normal course of business, without cost to the excavator.</p> <p>Minnesota Administrative Rules § 7560.0125 Subpart 1. Duty of operators to provide readily available information. Operators shall provide readily available information, as shown on maps, drawings, diagrams, or other records used in the normal course of business, on the approximate location of abandoned and out-of-service facilities to an excavator by the excavation date and time noted on the excavation or location notice unless otherwise agreed between the excavator and the operator. An operator fulfills an obligation to provide information on these facilities by doing one or more of the following: A. locating and marking the approximate location of the facility according to the current color code standard used by the American Public Works Association, as required in Minnesota Statutes, section 216D.04, subdivision 3, with an abandoned or out-of-service facility identified by an uppercase A surrounded by a circle; B. providing informational flags at the area of proposed excavation; C. communicating information verbally; or D. providing copies of maps, diagrams or records.</p> |
| Positive Response Required - Operator Contact Excavator (Yes / No) | No |
| Positive Response Required - Operator Contact Excavator (Specific Language) | Not addressed |
| Positive Response Required - Operator Contact One Call Center (Yes / No) | No |
| Positive Response Required - Operator Contact One Call Center (Specific Language) | Not addressed |
| Positive Response - One-Call Automated (Yes / No) | No |
| Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Yes / No) | Yes |
| Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Specific Language) | Minnesota Administrative Rules § 7560.0300 An operator shall participate in and share the costs of the one call excavation notice system by: A. submitting the information required by the notification center to allow the center to notify the operator of excavation activity; B. updating the information provided to the notification center on a timely basis; |
| Operator Must Update Information On Locations of Buried Facilities (Yes / No) | Yes |
| Operator Must Update Information On Locations of Buried Facilities (Specific Language) | Minnesota Administrative Rules § 7560.0300 An operator shall participate in and share the costs of the one call excavation notice system by: A. submitting the information required by the notification center to allow the center to notify the operator of excavation activity; B. updating the information provided to the notification center on a timely basis; |
| New Facilities Must Be Locatable Electronically (Yes / No) | Yes |
| New Facilities Must Be Locatable Electronically (Specific Language) | Minnesota Administrative Rules § 7560.0150 Subp. 2. Duty to install locating wire. After December 31, 2005, an operator shall install a locating wire or have an equally effective means of marking the location of each nonconductive underground facility within a public right-of-way installed after that date. This requirement does not apply when making minor repairs to an existing nonconductive facility. As applied to this chapter, "minor repairs" means repairs to or partial replacement of portions of existing service laterals located within a public right-of-way for purposes of routine maintenance and upkeep. |

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| Design Request (Yes / No) | Yes, (Minnesota Statutes § 216D.04 Subdivision 1a. (a)) |
| One Call, Enforcement, and Reporting | |
| Mandatory One Call Membership (Yes / No) | Yes, (Minnesota Statutes § 216D.03 Subdivision 1.) |
| One Call Membership Exemptions (Yes / No) | Yes |
| One Call Membership Exemptions (Specific Language) | Minnesota Statutes § 216D.01 Subdivision 9. "Operator" means a person who owns or operates an underground facility. A person is not considered an operator solely because the person is an owner or tenant of real property where underground facilities are located if the underground facilities are used exclusively to furnish services or commodities on that property, unless the person is the state, a state agency, or a local governmental unit. § 216D.03 Subdivision 1. An operator shall participate in and share in the costs of one statewide notification center operated by a vendor selected under subdivision 2. |
| One-Call Law Addresses Board Make-Up (Yes / No) | Yes |
| One-Call Law Addresses Board Make-Up (Specific Language) | Minnesota Statutes § 216D.03 Subdivision 2. (a) ... The nonprofit corporation must be governed by a board of directors of up to 20 members, one of whom is the director of the Office of Pipeline Safety. The other board members must represent and be elected by operators, excavators, and other persons eligible to participate in the center. |
| Separate Body Designated to Advise Enforcement Authority (Yes / No) | No |
| Separate Body Designated to Advise Enforcement Authority (Specific Language) | Not addressed |
| Penalties / Fines Excavators (Yes / No) | Yes |
| Penalties / Fines Excavators (Specific Language) | Minnesota Statutes § 216D.08 Subdivision 1. Penalties. A person who is engaged in excavation for remuneration or an operator other than an operator subject to section 299F.59, subdivision 1, who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed by the commissioner not to exceed \$1,000 for each violation per day of violation. An operator subject to section 299F.59, subdivision 1, who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed under section 299F.60. Minnesota Administrative Rules § 7560.0800 Subpart 1. Proceedings against excavators. When the office has good cause to believe that an excavator is engaging or has engaged in conduct that violates Minnesota Statutes, section 216D.04, subdivision 1, 2, or 3; 216D.05, clause (1), (2), (3), or (4); or 216D.06, subdivision 1, or a rule adopted under Minnesota Statutes, section 216D.08, subdivision 4, the office, if appropriate, shall negotiate a civil penalty under Minnesota Statutes, section 216D.08, subdivision 2. ... An operator who engages or has engaged in excavation that violates Minnesota Statutes, chapter 216D, is subject to the proceedings specified in subpart 2 and is subject to the penalties specified in subpart 4, item B or C. ... Subp. 4. Maximum penalties. For the purposes of this part, penalties imposed under this part must not exceed the limits in items A to C. A. Penalties imposed against excavators must not exceed \$1,000 for each violation per day of violation. |
| Penalties / Fines Operators (Yes / No) | Yes |

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| Penalties / Fines Operators (Specific Language) | <p>Minnesota Statutes § 216D.08 Subdivision 1. Penalties. A person who is engaged in excavation for remuneration or an operator other than an operator subject to section 299F.59, subdivision 1, who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed by the commissioner not to exceed \$1,000 for each violation per day of violation. An operator subject to section 299F.59, subdivision 1, who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed under section 299F.60.</p> <p>Minnesota Statutes § 299F.60 Subdivision 1. Any person who violates any provision of sections 299F.56 to 299F.641, or any rule issued thereunder, is subject to a civil penalty to be imposed by the commissioner not to exceed \$100,000 for each violation for each day that the violation persists, except that the maximum civil penalty must not exceed \$1,000,000 for any related series of violations.</p> <p>Minnesota Administrative Rules § 7560.0800 Subp. 2. Proceedings against underground facility operators. The office may negotiate a civil penalty under item A or B. A. When the office has good cause to believe that an underground facility operator, other than an operator set forth in item B, is engaging or has engaged in conduct that violates Minnesota Statutes, sections 216D.01 to 216D.07, or a rule adopted under Minnesota Statutes, section 216D.08, subdivision 4, the office, if appropriate, shall negotiate a civil penalty under Minnesota Statutes, section 216D.08, subdivision 2. ... B. When the office has good cause to believe that an operator who engages in the transportation of gas or hazardous liquids or who owns or operates a gas or hazardous liquid pipeline facility is engaging or has engaged in conduct that violates Minnesota Statutes, sections 299F.56 to 299F.641, or a rule adopted under Minnesota Statutes, section 299F.60, subdivision 5, the office, if appropriate, shall negotiate a civil penalty under Minnesota Statutes, section 299F.60, subdivision 2. ... Subp. 4. Maximum penalties. For the purposes of this part, penalties imposed under this part must not exceed the limits in items A to C. ... B. Penalties imposed against underground facility operators, other than an operator set forth in item C, must not exceed \$1,000 for each violation per day of violation. C. Penalties imposed against an operator who engages in the transportation of gas or hazardous liquids or who owns or operates a gas or hazardous liquid pipeline facility must not exceed \$10,000 for each violation for each day that the violation persists, except that the maximum civil penalty must not exceed \$500,000 for a related series of violations.</p> |
| Penalties / Fines Other (Yes / No) | <p>No</p> |
| Penalties / Fines Other (Specific Language) | <p>Not addressed</p> |
| Enforcement Authority Identified | <p>Office of Pipeline Safety of the Minnesota Department of Public Safety (Minnesota Statutes § 216D.01 Subdivision 1a, and Minnesota Administrative Rules § 7560.0100 Subp. 8)</p> |
| Damage Investigation Required by Enforcement Authority (Yes / No) | <p>No</p> |
| Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No) | <p>No</p> |
| Mandatory Reporting by Excavators to State Entity or Department (Yes / No) | <p>No</p> |
| Mandatory Reporting to State Entity or Department - Gas Only (Yes / No) | <p>Yes. On 10/11/11, MN Office of Pipeline Safety issued a Alert Notice – MNOPS AL – 04-2010, to Natural Gas Pipeline Operators, requiring all gas leaks caused by excavation to be reported to MNOPS via email as soon as possible. This includes leaks caused by 1st, 2nd, and 3rd parties. However, if the damage does not result in a gas leak, no report is necessary.</p> |
| Law and Regulation | |
| Statute / Law (Name & Link) | <p>Minnesota Statutes, Chapter 216D, Excavation Notice System, §§ 216D.01 to - 216D.09 (https://www.revisor.mn.gov/statutes/?id=216D&view=chapter) Also see One-Call Center Website for Information on State Law.</p> |
| Date of Last Revision to Statute / Law | <p>January 1, 2006</p> |
| Administrative Rules / Regulations (Yes / No) | <p>Yes</p> |
| Administrative Rules / Regulations (Name & Link) | <p>Minnesota Administrative Rules, Chapter 7560, Excavation Notice System, Office of Pipeline Safety, §§ 7560.0100 to -.0800 (https://www.revisor.mn.gov/rules/?id=7560&view=chapter&keyword_type=exact&keyword=excavation&redirect=0)</p> |
| State One Call Center(s) (Name & Link) | <p>Gopher State One Call (GSOC) (http://gopherstateonecall.org/about-gsoc-2)</p> |
| Miscellaneous Notes | |

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| Notes | 0 |
| State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates | 0 |