

State Damage Prevention Law Summary

State: Kansas

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

Summary Date: 8/7/2017

Excavator Requirements	
Excavation: Definition	Kansas Statute Annotated (K.S.A.) § 66-1802. (c) "Excavation" means any operation in which earth, rock or other material below the surface is moved or otherwise displaced by any means, except tilling the soil for normal agricultural purposes, or railroad or road and ditch maintenance that does not change the existing railroad grade, road grade and/or ditch flowline, or operations related to exploration and production of crude oil or natural gas, or both.
Excavator: Definition	K.S.A. § 66-1802. (d) "Excavator" means any person who engages directly in excavation activities within the state of Kansas, but shall not include any occupant of a dwelling who: (1) Uses such dwelling as a primary residence; and (2) excavates on the premises of such dwelling. ... (m) Person means any individual, partnership, corporation, association, franchise holder, state, city, county or any governmental subdivision or instrumentality of a state and its employees, agents or legal representatives.
Excavator Notice to One Call Required (Yes / No)	Yes
Excavator Notice Minimum # Working Days Before Digging	2 (K.S.A. § 66-1804. (b))
Excavator Notice (Specific Language)	<p>K.S.A. § 66-1802. (p) Tier 1 facility means an underground facility used for transporting, gathering, storing, conveying, transmitting or distributing gas, electricity, communications, crude oil, refined or reprocessed petroleum, petroleum products or hazardous liquids. (q) Tier 2 facility means an underground facility used for transporting, gathering, storing, conveying, transmitting or distributing potable water or sanitary sewage. (r) "Tier 3 facility" means a water or wastewater system utility which serves more than 20,000 customers who elects to be a tier 3 member of the notification center pursuant to this subsection.</p> <p>K.S.A. § 66-1803. An excavator shall not engage in excavation near the location of any underground facility without first having ascertained, in the manner prescribed in this act, a location of all underground facilities in the proposed area of the excavation.</p> <p>K.S.A. § 66-1804. (a) Except in the case of an emergency, an excavator shall serve notice of intent of excavation at least two full working days, but not more than 15 calendar days before the scheduled excavation start date, on each operator having underground tier 1 facilities located in the proposed area of excavation. (b) An excavator may serve notice of intent of excavation at least two full working days, but not more than 15 calendar days before the scheduled excavation start date, on each operator of tier 2 facilities located in the proposed area of excavation.</p> <p>K.S.A. § 66-1807. (a) In the case of an emergency ... excavation, maintenance or repairs may be made without using explosives, if notice and advice thereof, whether in writing or otherwise are given to the operator or notification center as soon as reasonably possible.</p> <p>Kansas Administrative Regulations (KAR) § 82-14-2. In addition to the provisions of K.S.A. 66-1804, K.S.A. 66-1807, K.S.A. 66-1809, and K.S.A. 66-1810 and amendments thereto, the following requirements shall apply to each excavator: (a) If an excavator directly contacts a tier 2 member or a tier 3 member the excavation scheduled start date shall be the later of the following: (1) The excavation scheduled start date assigned by the notification center; or (2) two full working days after the day of contact with the tier 2 member or tier 3 member. (b) Unless all affected operators have provided notification to the excavator, excavation shall not begin at any excavation site before the excavation scheduled start date. (c) If a meet on site is requested by the excavator, the excavation scheduled start date shall be no earlier than the fifth working day after the date on which the notice of intent of excavation was given to the notification center or to the tier 2 member or tier 3 member.</p>
Ticket Life (# of days)	15 (K.S.A. § 66-1804. (c))
White-Line Required (Yes / No)	Yes (K.S.A. § 66-1804. (f), and KAR § 82-14-3. (s))
Tolerance Zone	<p>K.S.A. § 66-1802. (s) Tolerance zone means the area not less than 24 inches of the outside dimensions in all horizontal directions of an underground facility, except that a larger tolerance zone for a tier 1, 2 or 3 facility may be established by rules and regulations adopted under K.S.A. 2011 Supp. 66-1815 and amendments thereto. An operator of a water or wastewater facility may elect to use a tolerance zone for such water or wastewater facility in which tolerance zone means the area not less than 60 inches of the outside dimensions in all horizontal directions of an underground water or wastewater facility upon notification of the excavator, except that a larger tolerance zone may be established by rules and regulations adopted under K.S.A. 2011 Supp. 66-1815, and amendments thereto.</p> <p>KAR § 82-14-1. (r) Tolerance zone has the meaning specified in K.S.A. 66-1802 and amendments thereto. The tolerance zone shall not be greater than the following: (1) 25 inches for each tier 1 facility; and (2) 61 inches for each tier 2 facility.</p>

Special Digging Requirements Within Tolerance Zone (Specific Language)	<p>K.S.A. § 66-1809 (a) Upon receiving information as provided in K.S.A. 2001 Supp. 68-1806, and amendments thereto, an excavator shall exercise such reasonable care as may be necessary for the protection of any underground facility in and near the construction area when working in close proximity to any such underground facility.</p> <p>KAR § 82-14-1 (n) Reasonable care means the precautions taken by an excavator to conduct an excavation in a careful and prudent manner. Reasonable care shall include the following: (1) Providing for proper support and backfill around all existing underground facilities; (2) using nonintrusive means, as necessary, to expose the existing facility in order to visually determine that there will be no conflict between the facility and the proposed excavation path when the path is within the tolerance zone of the existing facility; (3) exposing the existing facility at intervals as often as necessary to avoid damage when the proposed excavation path is parallel to and within the tolerance zone of an existing facility; and (4) maintaining the visibility of the markings that indicate the location of underground utilities throughout the excavation period.</p>
Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)	<p>Yes (KAR § 82-14-1 (n))</p>
Preserve / Maintain Marks Required (Yes / No)	<p>Yes (KAR § 82-14-1 (n))</p>
Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)	<p>No (Reference K.S.A. § 66-1806. (e) and (f))</p>
Notify One-Call if Marks Moved or No Longer Visible (Yes / No)	<p>No (Reference K.S.A. § 66-1806. (e))</p>
Special Language Regarding Trenchless Technology (Yes / No)	<p>Yes (K.S.A. § 66-1809. (b), and KAR § 82-14-2. (j))</p>
Separate Locate Request Required for Each Excavator (Yes / No)	<p>Yes (K.S.A. § 66-1804. (a), and KAR § 82-14-2.)</p>
Notify Operator of Damage (Yes / No)	<p>Yes (K.S.A. § 66-1810, and KAR § 82-14-2. (k))</p>
Notify One Call Center of Damage (Yes / No)	<p>No</p>
Call 911 if Hazardous Materials Released (Yes / No)	<p>Yes (K.S.A. § 66-1810)</p>
Notice Exemptions (Yes / No)	<p>Yes</p>
Notice Exemptions (Specific Language)	<p>K.S.A. § 66-1802. (c) Excavation means any operation in which earth, rock or other material below the surface is moved or otherwise displaced by any means, except tilling the soil for normal agricultural purposes, or railroad or road and ditch maintenance that does not change the existing railroad grade, road grade and/or ditch flowline, or operations related to exploration and production of crude oil or natural gas, or both. (d) Excavator means any person who engages directly in excavation activities within the state of Kansas, but shall not include any occupant of a dwelling who: (1) Uses such dwelling as a primary residence; and (2) excavates on the premises of such dwelling.</p> <p>K.S.A. § 66-1804. (a) Except in the case of an emergency, an excavator shall serve notice of intent of excavation ... on each operator having underground tier 1 facilities located in the proposed area of excavation.... (g) The provisions of this section shall not apply to a preengineered project or a permitted project, except that the excavators shall be required to give notification in accordance with this section prior to starting such project.</p> <p>K.S.A. § 66-1807. (a) In the case of an emergency ... excavation, maintenance or repairs may be made without using explosives, if notice and advice thereof, whether in writing or otherwise are given to the operator or notification center as soon as reasonably possible.</p> <p>NOTE: It is the legal opinion of the Kansas Corporation Commission that Kansas does not exempt municipalities, state agencies or their contractors from one call notification requirements.</p>
Operator Response	
Minimum # Days for Operator to Respond After Receiving Notice (Generally)	<p>2</p>

<p>Operator Requirements to Respond to Locate Notification (Specific Language)</p>	<p>K.S.A. § 66-1806. (a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method. (b) If the operator of tier 2 facilities cannot accurately mark the tolerance zone, such operator shall mark the approximate location to the best of its ability, notify the excavator that the markings may not be accurate, and provide additional guidance to the excavator in locating the facilities as needed during the excavation. (c) The operator of tier 2 facilities shall not be required to provide notification of the tolerance zone for facilities which are at a depth at least two feet deeper than the excavator plans to excavate but does have to notify the excavator of their existence. (d) If the operator of a tier 1 facility has no underground facilities in the area of the proposed excavation, such operator, before the excavation start date, shall notify the excavator that it has no facilities in the area of proposed excavation by telephone, facsimile, marking the area all clear or by other technology that may be developed for such purposes.</p> <p>KAR § 82-14-3. (f) Except in cases of emergencies or separate agreements between the parties, each operator of a tier 1 facility shall perform one of the following, within the two working days before the excavation scheduled start date assigned by the notification center: (1) Inform the excavator of the location of the tolerance zone of the operator's underground facilities in the area described in the notice of intent of excavation; or (2) notify the excavator that the operator has no facilities in the area described in the notice of intent of excavation. (g) Except in cases of emergencies or separate agreements between the parties, the operator of a tier 2 facility shall perform one of the following within the two working days before the excavation scheduled start date assigned by the notification center or the tier 2 member or tier 3 member, whichever is later: (1) Mark the location of its facilities according to the requirements of subsections (m) and (n) in the area described in the notice of intent of excavation and, if applicable, notify the excavator of the operator's election to require a tolerance zone of 60 inches; or (2) inform the excavator that the operator's underground facilities are expected to be at least two feet deeper than the excavator's planned excavation depth and that the location of its facilities will not be provided for the affected tier 2 facilities. (h) Each operator of a tier 2 facility that notifies an excavator of its election to require a tolerance zone of 60 inches shall record and maintain the following records of the notification for at least two years: ... (i) Each operator of a tier 2 facility that notifies an excavator of its election not to provide locates for its facilities that are expected to be two feet deeper than the excavator's maximum planned excavation depth shall record and maintain the following records of the notification for at least two years: ... (j) If the operator of a tier 2 facility is unable to provide the location of its facilities within a 60-inch tolerance zone, the operator shall mark the approximate location of its facilities to the best of its ability, notify the excavator that the markings could be inaccurate, remain on site or in the vicinity of the excavation, and provide additional guidance to the excavator in locating the facilities as needed during the excavation.</p>
<p>Minimum Standards for Locator Qualifications (Yes / No)</p>	<p>No</p>
<p>Minimum Standards for Locator Qualifications (Specific Language)</p>	<p>Not addressed. (Only reference is KAR § 82-14-3. (e) Each tier 3 member shall perform the following: ... (8) employ at least two technically qualified individuals whose job function is dedicated to the location of underground utilities."</p>
<p>Law Specifies Marking Standards Other Than Color (Yes / No)</p>	<p>No</p>
<p>Law Specifies Marking Standards Other Than Color (Specific Language)</p>	<p>Not addressed. (Reference KAR § 82-14-3. (l) and (m))</p>
<p>Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)</p>	<p>No</p>
<p>Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)</p>	<p>No</p>
<p>Operator Must Locate Abandoned Facilities (Specific Language)</p>	<p>Not addressed.</p>
<p>Positive Response Required - Operator Contact Excavator (Yes / No)</p>	<p>No</p>

Positive Response Required - Operator Contact Excavator (Specific Language)	Not addressed. (Reference K.S.A. § 66-1806. (a), and KAR § 82-14-3. (l))
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)	KAR § 82-14-3. (c) Each tier 1 member shall... (1) File and maintain maps of the operator's underground facilities or a map showing the operator's service area with the notification center... (d) Each tier 2 member shall... (2) file with the notification center updated maps of the operator's underground facilities or a map showing the operator's service area... (e) Each tier 3 member shall... (1) File with the notification center updated maps of the operator's underground facilities or a map showing the operator's service area; ...
Operator Must Update Information On Locations of Buried Facilities (Yes / No)	Yes
Operator Must Update Information On Locations of Buried Facilities (Specific Language)	KAR § 82-14-3. (c) Each tier 1 member shall... (1) File and maintain maps of the operator's underground facilities or a map showing the operator's service area with the notification center... (d) Each tier 2 member shall... (2) file with the notification center updated maps of the operator's underground facilities or a map showing the operator's service area... (e) Each tier 3 member shall... (1) File with the notification center updated maps of the operator's underground facilities or a map showing the operator's service area...
New Facilities Must Be Locatable Electronically (Yes / No)	Yes
New Facilities Must Be Locatable Electronically (Specific Language)	K.S.A. § 66-1802. (f) Locatable facility means facilities for which the tolerance zone can be determined by the operator using generally accepted practices such as as-built construction drawings, system maps, probes, locator devices or any other type of proven technology for locating. K.S.A. § 66-1806 (i) All tier 1 facilities installed by an operator after January 1, 2003, shall be locatable. (j) All tier 2 facilities installed by an operator after July 1, 2008, shall be locatable. KAR § 82-14-1. (f) "Locatable" has the meaning of that word as used in locatable facility, which is defined in K.S.A. 66-1802 and amendments thereto. In addition to the requirements for locating underground facilities, as specified in K.S.A. 66-1802 and amendments thereto, the operator shall be able to locate underground facilities within 24 inches of the outside dimensions in all horizontal directions of an underground facility using tracer wire, conductive material, GPS technology, or any other technology that provides the operator with the ability to locate the pipelines for at least 20 years. KAR § 82-14-3 (k) Each tier 2 facility constructed, replaced, or repaired after July 1, 2008 shall be locatable. Location data shall be maintained in the form of maps or any other format as determined by the operator.
Design Request (Yes / No)	Yes (Reference K.S.A. § 66-1802. (k), and KAR § 82-14-2. (g))
One Call, Enforcement, and Reporting	
Mandatory One Call Membership (Yes / No)	Yes (K.S.A. § 66-1805. (a))
One Call Membership Exemptions (Yes / No)	No

One Call Membership Exemptions (Specific Language)	Not addressed. (Reference K.S.A. § 66-1805. (a) This act recognizes the establishment of a single notification center for the state of Kansas. Each operator who has an underground facility shall become a member of the notification center. Also reference KAR § 82-11-4. The federal rules and regulations titled Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, 49 C.F.R. Part 192 ... are adopted by reference.... Per 49 CFR Part 192.614(b) ... an operator must perform the duties of paragraph (c)(3) of this section through participation in a one-call system, if that one-call system is a qualified one-call system.)
One-Call Law Addresses Board Make-Up (Yes / No)	Yes
One-Call Law Addresses Board Make-Up (Specific Language)	K.S.A. § 66-1805. (m) On and after July 1, 2009, the notification center's board of directors shall include two members from tier 2 facilities and 1 member from tier 3 facilities.
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)	K.S.A. § 66-1,151. Violation of standards; penalty. Any person who violates any rule or regulation adopted pursuant to this act, or any rule and regulation adopted by the commission and in effect on July 1, 1969, shall be subject to a civil penalty not to exceed \$25,000 for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed \$1,000,000 for any related series of violations. K.S.A. § 66-1812. Any person to whom this act applies, who violates any of the provisions contained in this act, shall be subject to civil penalties and injunctive relief as set out in K.S.A. 66-1,151, and amendments thereto, and any remedies established in rules and regulations promulgated by the state corporation commission in support of this act. KAR § 82-14-6. (a) After investigation, if the commission staff believes that there has been a violation or violations of K.S.A. 66-1801 et seq. and amendments thereto or any regulation or commission order issued pursuant to the Kansas underground utility damage prevention act and the commission staff determines that penalties or remedial action is necessary to correct the violation or violations, the commission staff may serve a notice of probable noncompliance on the person or persons against whom a violation is alleged.... (b) Any notice of probable noncompliance issued under this regulation may include the following: ... (3) any proposed remedial action or penalty assessments, or both, requested by the commission staff. ... (h) If any violation resulting in a notice of probable noncompliance is not settled with a consent agreement, a penalty order may be issued by the commission no sooner than 30 days after the respondent has been served with a notice of probable noncompliance. (i) The respondent shall remit payment for any civil assessments imposed by a penalty order within 20 days of service of the order.
Penalties / Fines Operators (Yes / No)	Yes
Penalties / Fines Operators (Specific Language)	K.S.A. § 66-1,151. Violation of standards; penalty. Any person who violates any rule or regulation adopted pursuant to this act, or any rule and regulation adopted by the commission and in effect on July 1, 1969, shall be subject to a civil penalty not to exceed \$25,000 for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed \$1,000,000 for any related series of violations. K.S.A. § 66-1812. Any person to whom this act applies, who violates any of the provisions contained in this act, shall be subject to civil penalties and injunctive relief as set out in K.S.A. 66-1,151, and amendments thereto, and any remedies established in rules and regulations promulgated by the state corporation commission in support of this act. KAR § 82-14-6. (a) After investigation, if the commission staff believes that there has been a violation or violations of K.S.A. 66-1801 et seq. and amendments thereto or any regulation or commission order issued pursuant to the Kansas underground utility damage prevention act and the commission staff determines that penalties or remedial action is necessary to correct the violation or violations, the commission staff may serve a notice of probable noncompliance on the person or persons against whom a violation is alleged.... (b) Any notice of probable noncompliance issued under this regulation may include the following: ... (3) any proposed remedial action or penalty assessments, or both, requested by the commission staff. ... (h) If any violation resulting in a notice of probable noncompliance is not settled with a consent agreement, a penalty order may be issued by the commission no sooner than 30 days after the respondent has been served with a notice of probable noncompliance. (i) The respondent shall remit payment for any civil assessments imposed by a penalty order within 20 days of service of the order.
Penalties / Fines Other (Yes / No)	Yes

Penalties / Fines Other (Specific Language)	<p>K.S.A. § 66-1,151. Violation of standards; penalty. Any person who violates any rule or regulation adopted pursuant to this act, or any rule and regulation adopted by the commission and in effect on July 1, 1969, shall be subject to a civil penalty not to exceed \$25,000 for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed \$1,000,000 for any related series of violations.</p> <p>K.S.A. § 66-1812. Any person to whom this act applies, who violates any of the provisions contained in this act, shall be subject to civil penalties and injunctive relief as set out in K.S.A. 66-1,151, and amendments thereto, and any remedies established in rules and regulations promulgated by the state corporation commission in support of this act.</p> <p>KAR § 82-14-6. (a) After investigation, if the commission staff believes that there has been a violation or violations of K.S.A. 66-1801 et seq. and amendments thereto or any regulation or commission order issued pursuant to the Kansas underground utility damage prevention act and the commission staff determines that penalties or remedial action is necessary to correct the violation or violations, the commission staff may serve a notice of probable noncompliance on the person or persons against whom a violation is alleged.... (b) Any notice of probable noncompliance issued under this regulation may include the following: ... (3) any proposed remedial action or penalty assessments, or both, requested by the commission staff. ... (h) If any violation resulting in a notice of probable noncompliance is not settled with a consent agreement, a penalty order may be issued by the commission no sooner than 30 days after the respondent has been served with a notice of probable noncompliance. (i) The respondent shall remit payment for any civil assessments imposed by a penalty order within 20 days of service of the order.</p>
Enforcement Authority Identified	Kansas State Corporation Commission (K.S.A. § 66-1813)
Damage Investigation Required by Enforcement Authority (Yes / No)	No (Reference KAR § 82-14-6 (k))
Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)	Yes (KAR 82-14-3 (v))
Mandatory Reporting by Excavators to State Entity or Department (Yes / No)	No
Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)	No
Law and Regulation	
Statute / Law (Name & Link)	Kansas Statute Annotated (K.S.A.) §§ 66-1801 to -1816 Underground Utility Damage Prevention Act (http://www.kslegislature.org/li_2012/b2011_12/statute/066_000_0000_chapter/066_018_0000_article/) Also see One-Call Center Website for Information on State Law.
Date of Last Revision to Statute / Law	January 15, 2011 (Based on annotation of KSA 66-1810 History, "L. 2010, ch. 119, § 18; Jan. 15, 2011")
Administrative Rules / Regulations (Yes / No)	Yes
Administrative Rules / Regulations (Name & Link)	2011 Supplement to the Kansas Administrative Regulations §§ 82-14-1 through 82-14-6 (http://www.sos.ks.gov/pubs/kar/2016/082_82_Corporation_Commission_2016_KAR_Supp.pdf)
State One Call Center(s) (Name & Link)	Kansas One Call (http://www.kansasonecall.com/)
Miscellaneous Notes	
Notes	The Kansas statute distinguishes between Tier 1, Tier 2 and Tier 3 facilities. This complicates the reading and understanding of the law as statutory requirements in the law and in the administrative regulations are somewhat different for each separate tier.
State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates	0