

**State Damage Prevention Law Summary**

**State: Nebraska**

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

Summary Date: 8/7/2017

Excavator Requirments	
<b>Excavation: Definition</b>	Nebraska Revised Statutes § 76-2308. Excavation shall mean any activity in which earth, rock, or other material in or on the ground is moved or otherwise displaced by means of tools, equipment, or explosives and shall include grading, trenching, digging, ditching, drilling, auguring, tunneling, scraping, and cable or pipe plowing or driving but shall not include: (1) normal maintenance of roads if the maintenance does not change the original road grade and does not involve the road ditch, (2) tilling of soil and gardening for seeding and other agricultural purposes, (3) digging of graves or in landfills in planned locations, (4) maintenance or rebuilding of railroad track or facilities located on a railroad right-of-way by the railroad company or its contractors when such maintenance or rebuilding does not change the track grade, or (5) hand digging around the base of a pole for pole inspection as part of routine maintenance or replacement of a pole when the replacement pole is similarly sized and is installed in the existing hole.
<b>Excavator: Definition</b>	Nebraska Revised Statutes § 76-2309. Excavator shall mean a person who engages in excavation in this state. § 76-2315. Person shall mean an individual, partnership, limited liability company, association, municipality, state, county, political subdivision, utility, joint venture, or corporation and shall include the employer of an individual.
<b>Excavator Notice to One Call Required (Yes / No)</b>	Yes (Nebraska Revised Statutes § 76-2321)
<b>Excavator Notice Minimum # Working Days Before Digging</b>	2
<b>Excavator Notice (Specific Language)</b>	Nebraska Revised Statutes § 76-2321. (1) A person shall not commence any excavation without first giving notice to every operator. An excavator's notice to the center shall be deemed notice to all operators. An excavator's notice to operators shall be ineffective for purposes of this subsection unless given to the center. Notice to the center shall be given at least two full business days, but no more than ten business days, before commencing the excavation, except notice may be given more than ten business days in advance when the excavation is a road construction, widening, repair, or grading project provided for in sections 70-311 to 70-313 and 86-708 to 86-710. An excavator may commence work before the elapse of two full business days when (a) notice to the center has been given as provided by this subsection, and (b) all the affected operators have notified the excavator that the location of all affected operator's underground facilities have been marked or that the operators have no underground facilities in the location of the proposed excavation.
<b>Ticket Life (# of days)</b>	Not addressed.
<b>White-Line Required (Yes / No)</b>	No
<b>Tolerance Zone</b>	18" (Nebraska Revised Statutes § 76-2323 (1))
<b>Special Digging Requirements Within Tolerance Zone (Specific Language)</b>	Not addressed for all excavations. However, for excavation near underground natureal gas transmission lines: Nebraska Revised Statutes § 76-2331 Unless otherwise agreed by the operator and excavator in writing, no excavation shall be performed within twenty five feet of an underground natural gas transmission line as defined in 49 C.F.R. 192.3 unless a representative of the operator of the underground natural gas transmission line is present at the planned excavation area. If the representative of the operator fails to appear at the proposed excavation area at the time work is scheduled to commence, the excavator shall notify the operator that the representative failed to appear and excavation operations can begin if reasonable precautions are taken to protect the underground facility. This section does not prohibit an operator from either voluntarily having its representative present during excavation or from entering into an agreement voluntarily with an excavator that allows an operator representative to be present during excavation.
<b>Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)</b>	No
<b>Preserve / Maintain Marks Required (Yes / No)</b>	No
<b>Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)</b>	No
<b>Notify One-Call if Marks Moved or No Longer Visible (Yes / No)</b>	Yes (Nebraska Revised Statutes § 76-2323 (2))

Special Language Regarding Trenchless Technology (Yes / No)	No
Separate Locate Request Required for Each Excavator (Yes / No)	Yes (Nebraska Revised Statutes § 76-2321 (1))
Notify Operator of Damage (Yes / No)	No
Notify One Call Center of Damage (Yes / No)	Yes (Nebraska Revised Statutes § 76-2326)
Call 911 if Hazardous Materials Released (Yes / No)	No
Notice Exemptions (Yes / No)	Yes
Notice Exemptions (Specific Language)	Nebraska Revised Statutes § 76-2308. Excavation shall mean ... but shall not include (1) normal maintenance of roads if the maintenance does not change the original road grade and does not involve the road ditch, (2) tilling of soil and gardening for seeding and other agricultural purposes, (3) digging of graves or in landfills in planned locations, (4) maintenance or rebuilding of railroad track or facilities located on a railroad right-of-way by the railroad company or its contractors when such maintenance or rebuilding does not change the track grade, or (5) hand digging around the base of a pole for pole inspection as part of routine maintenance or replacement of a pole when the replacement pole is similarly sized and is installed in the existing hole.
<b>Operator Response</b>	
Minimum # Days for Operator to Respond After Receiving Notice (Generally)	2
Operator Requirements to Respond to Locate Notification (Specific Language)	Nebraska Revised Statutes § 76-2323. (1) Upon receipt of the information contained in the notice pursuant to section 76-2321, an operator shall advise the excavator of the approximate location of underground facilities in the area of the proposed excavation by marking or identifying the location of the underground facilities with stakes, flags, paint, or any other clearly identifiable marking or reference point and shall indicate if the underground facilities are subject to section 76-2331. The location of the underground facility given by the operator shall be within a strip of land eighteen inches on either side of the marking or identification plus one-half of the width of the underground facility. If in the opinion of the operator the precise location of a facility cannot be determined and marked as required, the operator shall provide all pertinent information and field locating assistance to the excavator at a mutually agreed to time. The location shall be marked or identified using color standards prescribed by the center. The operator shall respond no later than two business days after receipt of the information in the notice or at a time mutually agreed to by the parties. (2) The marking or identification shall be done in a manner that will last for a minimum of five business days on any nonpermanent surface and a minimum of ten business days on any permanent surface. If the excavation will continue for longer than five business days, the operator shall remark or reidentify the location of the underground facility upon the request of the excavator. The request for remarking or reidentification shall be made through the center. (3) An operator who determines that it does not have any underground facility located in the area of the proposed excavation shall notify the excavator of the determination prior to the date of commencement of the excavation.
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)	No
Law Specifies Marking Standards Other Than Color (Specific Language)	Marking standards other than color not addressed. (See Nebraska Revised Statutes § 76-2323.)
Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)	No

Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)	No
Operator Must Locate Abandoned Facilities (Specific Language)	Not addressed
Positive Response Required - Operator Contact Excavator (Yes / No)	No
Positive Response Required - Operator Contact Excavator (Specific Language)	Not addressed. (See Nebraska Revised Statutes § 76-2323 (1))
Positive Response Required - Operator Contact One Call Center (Yes / No)	No
Positive Response Required - Operator Contact One Call Center (Specific Language)	Not addressed. (See Nebraska Revised Statutes § 76-2323 (1))
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)	Nebraska Revised Statutes § 76-2319. ... Every operator shall furnish the vendor selected by the board of directors with information concerning the location of its underground facilities.
Operator Must Update Information On Locations of Buried Facilities (Yes / No)	No
Operator Must Update Information On Locations of Buried Facilities (Specific Language)	Not addressed
New Facilities Must Be Locatable Electronically (Yes / No)	No
New Facilities Must Be Locatable Electronically (Specific Language)	Not addressed
Design Request (Yes / No)	No
<b>One Call, Enforcement, and Reporting</b>	
Mandatory One Call Membership (Yes / No)	Yes
One Call Membership Exemptions (Yes / No)	Yes
One Call Membership Exemptions (Specific Language)	Nebraska Revised Statutes § 76-2313. Operator shall mean a person who manages or controls the functions of an underground facility but shall not include a person who 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 the real property. § 76-2318. Operators of underground facilities shall become members of and participate in the statewide one-call notification center.

<b>One-Call Law Addresses Board Make-Up (Yes / No)</b>	Yes
<b>One-Call Law Addresses Board Make-Up (Specific Language)</b>	<p>Nebraska Revised Statutes § 76-2319. The center shall be governed by a board of directors who shall establish the operating procedures and the technology needed for the center pursuant to rules and regulations adopted and promulgated by the State Fire Marshal. The rules and regulations adopted and promulgated by the State Fire Marshal shall provide for the qualifications, appointment, retention, and composition of the board of directors.</p> <p>Nebraska Administrative Code, Title 155, Chapter 2, § 08 A board of directors shall be appointed by the State Fire Marshal and shall govern the center and establish operating procedures and the technology needed for the center pursuant to the regulations contained in this chapter and shall establish a competitive bidding procedure to select a vendor to provide the notification service. 08.1. The board shall be composed of 22 members representing the following: 08.1.A. Two members representing local exchange telecommunications companies; 08.1.B. Two members representing long-distance telecommunications companies; 08.1.C. Three members representing municipally-owned utilities; 08.1.D. Two members representing public power district with more than forty million dollars in gross revenue; 08.1.E. Two members representing public power districts or electric cooperatives with less than forty million dollars in gross revenue; 08.1.F. Two members representing cable television companies; 08.1.G. Two members representing natural gas distribution companies; 08.1.H. Two members representing transmission pipeline companies; 08.1.I. One member representing rural water districts; 08.1.J. One member representing governmental utility providers; 08.1.K. One non-voting member representing private excavation contractors; and 08.1.L. One non-voting member representing the Nebraska Department of Roads; 08.1.M. One non-voting member representing county governments.</p>
<b>Separate Body Designated to Advise Enforcement Authority (Yes / No)</b>	No
<b>Separate Body Designated to Advise Enforcement Authority (Specific Language)</b>	Not addressed
<b>Penalties / Fines Excavators (Yes / No)</b>	Yes
<b>Penalties / Fines Excavators (Specific Language)</b>	<p>Nebraska Revised Statutes § 76-2325. Any person who violates the provisions of section 76-2320, 76-2321, 76-2322, 76-2323, 76-2326, or 76-2330 shall be subject to a civil penalty as follows: (1) For a violation related to a gas or hazardous liquid underground pipeline facility, an amount not to exceed ten thousand dollars for each violation for each day the violation persists, up to a maximum of five hundred thousand dollars; and (2) For a violation related to any other underground facility, an amount not to exceed five hundred dollars for each day the violation persists, up to a maximum of five thousand dollars.</p>
<b>Penalties / Fines Operators (Yes / No)</b>	Yes
<b>Penalties / Fines Operators (Specific Language)</b>	<p>Nebraska Revised Statutes § 76-2325. Any person who violates the provisions of section 76-2320, 76-2321, 76-2322, 76-2323, 76-2326, or 76-2330 shall be subject to a civil penalty as follows: (1) For a violation related to a gas or hazardous liquid underground pipeline facility, an amount not to exceed ten thousand dollars for each violation for each day the violation persists, up to a maximum of five hundred thousand dollars; and (2) For a violation related to any other underground facility, an amount not to exceed five hundred dollars for each day the violation persists, up to a maximum of five thousand dollars.</p>
<b>Penalties / Fines Other (Yes / No)</b>	Yes
<b>Penalties / Fines Other (Specific Language)</b>	<p>Nebraska Revised Statutes § 76-2325.01. Any person who willfully and maliciously breaks, injures, destroys, or otherwise interferes with the poles, wires or other facilities of any telecommunications or railroad company or electric light and power company in this state or who willfully and purposely interrupts or interferes with the transmission of telecommunications messages or the transmission of light, heat, and power in this state shall be subject to the action and penalty prescribed in section 28-519.</p>
<b>Enforcement Authority Identified</b>	<p>Nebraska Revised Statutes § 76-2325. ... An action to recover a civil penalty shall be brought by the Attorney General or a prosecuting attorney on behalf of the State of Nebraska in any court of competent jurisdiction .</p>
<b>Damage Investigation Required by Enforcement Authority (Yes / No)</b>	No
<b>Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)</b>	No

Mandatory Reporting by Excavators to State Entity or Department (Yes / No)	No
Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)	Yes. (Nebraska Administrative Code, Title 155, Chapter 1, § 02.)
<b>Law and Regulation</b>	
Statute / Law (Name & Link)	<a href="http://nebraskalegislature.gov/laws/statutes.php?statute=76-2301">Nebraska Revised Statutes, §§ 76-2301 to 76-2331; One-Call Notification System Act</a> ( <a href="http://nebraskalegislature.gov/laws/statutes.php?statute=76-2301">http://nebraskalegislature.gov/laws/statutes.php?statute=76-2301</a> ) <a href="http://nebraskalegislature.gov/laws/statutes.php?statute=28-519">Also § 28-519, Criminal Penalties</a> ( <a href="http://nebraskalegislature.gov/laws/statutes.php?statute=28-519">http://nebraskalegislature.gov/laws/statutes.php?statute=28-519</a> ) Also see One-Call Center Website for Information on State Law.
Date of Last Revision to Statute / Law	July 18, 2014
Administrative Rules / Regulations (Yes / No)	Yes
Administrative Rules / Regulations (Name & Link)	<a href="http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Fire_Marshal_State/Title-155/Title-155.pdf">Nebraska Administrative Code, Title 155 - State Fire Marshal, Chapter 2 - Requirements for Statewide One-Call Notification Center</a> ( <a href="http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Fire_Marshal_State/Title-155/Title-155.pdf">http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Fire_Marshal_State/Title-155/Title-155.pdf</a> )
State One Call Center(s) (Name & Link)	<a href="http://www.ne1call.com/">Nebraska 811</a> ( <a href="http://www.ne1call.com/">http://www.ne1call.com/</a> )
<b>Miscellaneous Notes</b>	
Notes	0
State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates	0