

**State Damage Prevention Law Summary**  
**State: South Dakota**  
(Link to State law provided in Law & Regulation section below)  
Summary Date: 8/7/2017

<b>Excavator Requirments</b>	
<b>Excavation: Definition</b>	South Dakota Codified Laws (SDCL), § 49-7A-1. (4) "Excavation," any operation in which earth, rock, or other material in or below the ground is moved or otherwise displaced by means of tools, equipment, or explosives, and includes grading, trenching, digging, ditching, drilling, augering, tunneling, scraping and cable or pipe plowing or driving, except: (a) Tilling of soil and gardening to a depth of twelve inches and the tilling of soil for agricultural purposes to a depth of eighteen inches; (b) Pot hole repair and grading of an existing public road if the pot hole repair and grading does not extend more than eighteen inches below the finished roadway; (c) Any vehicle operation or operation involving the use of any hand tool, other than a power tool, so long as such operation does not extend more than eighteen inches below the surface of the groundline within the right-of-way; (d) Any road and ditch repair or road and ditch activity that does not extend more than eighteen inches below the surface of the original groundline within the right-of-way; (e) Digging in a cemetery (f) Digging in a planned sanitary landfill; and (g) Any bar test survey deemed necessary by an operator in response to a suspected natural gas, propane, or other combustible liquid or gas leak that is necessary to ensure public safety in an emergency;
<b>Excavator: Definition</b>	SDCL § 49-7A-1. (5) "Excavator," any person who performs excavation;
<b>Excavator Notice to One Call Required (Yes / No)</b>	Yes
<b>Excavator Notice Minimum # Working Days Before Digging</b>	2
<b>Excavator Notice (Specific Language)</b>	SDCL § 49-7A-5. No excavator may begin any excavation without first notifying the one-call notification center of the proposed excavation. The excavator shall give notice by telephone or by other methods approved by the board pursuant to rules promulgated pursuant to chapter 1-26 to the one-call notification center at least forty-eight hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays of the state. The board may promulgate rules to reduce the forty-eight-hour interval for emergency or subsequent inquiries to the original locate request and may lengthen the forty-eight-hour interval for nonexcavation requests.
<b>Ticket Life (# of days)</b>	21 (South Dakota Administrative Rules (ARSD) § 20:25:03:05:01)
<b>White-Line Required (Yes / No)</b>	Yes. (ARSD § 20:25:03:04 (8))
<b>Tolerance Zone</b>	18"
<b>Special Digging Requirements Within Tolerance Zone (Specific Language)</b>	ARSD § 20:25:03:05:03. If excavation is required within eighteen inches, horizontally, of the marked facility, the excavator shall expose the facility only by use of hand excavation, air cutting, water cutting, or vacuum excavation in a manner that does not damage the underground facilities. Also see ARSD § 20:25:03:10:02. Procedures for excavation near high profile underground facilities.
<b>Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)</b>	Yes. (ARSD § 20:25:03:05:03)
<b>Preserve / Maintain Marks Required (Yes / No)</b>	Yes. (ARSD § 20:25:03:05:02)
<b>Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)</b>	No. (Related, see SDCL §§ 49-7A-9 and 49-7A-13)
<b>Notify One-Call if Marks Moved or No Longer Visible (Yes / No)</b>	No. (Not addressed in law or rules. However, SD One Call Operations Manual notes "If during the valid period of the ticket, marks become faded or are inadvertently removed during excavation or by other means, the excavator should call the South Dakota 811 Center and request the site to be remarked." (see <a href="http://www.sdonecall.com/wp-content/uploads/2015/06/Operations-Manual-2017.pdf">http://www.sdonecall.com/wp-content/uploads/2015/06/Operations-Manual-2017.pdf</a> ))
<b>Special Language Regarding Trenchless Technology (Yes / No)</b>	No

<b>Separate Locate Request Required for Each Excavator (Yes / No)</b>	Yes. (SDCL § 49-7A-5)
<b>Notify Operator of Damage (Yes / No)</b>	Yes. (SDCL § 49-7A-12)
<b>Notify One Call Center of Damage (Yes / No)</b>	Yes. If operator unknown. (SDCL § 49-7A-12)
<b>Call 911 if Hazardous Materials Released (Yes / No)</b>	No
<b>Notice Exemptions (Yes / No)</b>	Yes
<b>Notice Exemptions (Specific Language)</b>	SDCL § 49-7A-1. Terms used in this chapter mean: ... (4) "Excavation," any operation ... except: (a) Tilling of soil and gardening to a depth of twelve inches and the tilling of soil for agricultural purposes to a depth of eighteen inches; (b) Pot hole repair and grading of an existing public road if the pot hole repair and grading does not extend more than eighteen inches below the finished roadway; (c) Any vehicle operation or operation involving the use of any hand tool, other than a power tool, so long as such operation does not extend more than eighteen inches below the surface of the groundline within the right-of-way; (d) Any road and ditch repair or road and ditch activity that does not extend more than eighteen inches below the surface of the original groundline within the right-of-way; (e) Digging in a cemetery; (f) Digging in a planned sanitary landfill; and (g) Any bar test survey deemed necessary by an operator in response to a suspected natural gas, propane, or other combustible liquid or gas leak that is necessary to ensure public safety in an emergency;
<b>Operator Response</b>	
<b>Minimum # Days for Operator to Respond After Receiving Notice (Generally)</b>	2
<b>Operator Requirements to Respond to Locate Notification (Specific Language)</b>	<p>SDCL § 49-7A-8. An operator shall, upon receipt of the notice, advise the excavator of the location of underground facilities in the proposed excavation area by marking the location of the facilities ... The response time shall be no later than forty-eight hours after the receipt of the notice, excluding Saturdays, Sundays, and legal holidays of the state or the excavation start time provided by the excavator, whichever is later. The response time may be less than forty-eight hours for emergency or subsequent inquiries to the original locate request and may be longer than forty-eight hours for nonexcavation requests.</p> <p>ARSD § 20:25:03:05.04. 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 ... (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. ... (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;</p> <p>§ 20:25:03:09. If it is impractical to flag, mark, or describe an excavation site the following procedures shall be followed: ... (1) An excavator may request an appointment from the one-call notification center for the purpose of meeting the operator at the excavation site. ... (3) If the excavation site is not identified on the ticket, the operator shall complete the marking within 48 hours of the conclusion of the appointment.</p> <p>§ 20:25:03:10. Each operator required by SDCL 49-7A-2 to join the one-call system must respond to notification of excavation as required by SDCL chapter 49-7A or by the response intervals listed below. If an excavation is being made in a time of emergency ... (1) The operator shall respond as soon as possible but not longer than two hours from the notification time during the business day and not longer than four hours from the notification time outside of the business day or by the start time on the ticket, whichever is later; (2) Any operator, who determines that its facilities will not be impacted by the notification, shall immediately notify the excavator that the operator's facilities are clear from the excavation; ... If a modified routine ticket is issued because it has been determined that the one-call notification center entered inaccurate information on the original request or the operator provided inaccurate marking at the original excavation site, each operator shall respond in accordance with the response intervals provided for emergencies or the original start date of the ticket, whichever is later. If a routine ticket is reissued to remark the excavation site due to obliteration, destruction, or removal of the markings, the underground facility operator shall respond within 24 hours from the notification time or by the start time on the ticket, whichever is later.</p> <p>§ 20:25:03:10.02. Prior to the legal excavation start date and time, the operator shall communicate with the excavator if, based on information in the ticket, the operator believes a high profile underground facility is in close proximity to the excavation site.</p>
<b>Minimum Standards for Locator Qualifications (Yes / No)</b>	No
<b>Minimum Standards for Locator Qualifications (Specific Language)</b>	Not Addressed

<b>Law Specifies Marking Standards Other Than Color (Yes / No)</b>	Yes
<b>Law Specifies Marking Standards Other Than Color (Specific Language)</b>	ARSD § 20:25:03:05.04. Each operator who is required to mark its underground facilities pursuant to SDCL 49-7A-8 shall identify the underground facilities using the following minimum standards: (1) The underground facility must be marked in the most suitable manner ... 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. ... (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;
<b>Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)</b>	Yes. [See Notes regarding SD Attorney General Opinion 08-07, regarding responsibility to mark underground facilities as is required by SDCL 49-7A.]
<b>Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)</b>	No
<b>Operator Must Locate Abandoned Facilities (Specific Language)</b>	Not Addressed
<b>Positive Response Required - Operator Contact Excavator (Yes / No)</b>	Yes
<b>Positive Response Required - Operator Contact Excavator (Specific Language)</b>	ARSD § 20:25:03:10.02. Prior to the legal excavation start date and time, the operator shall communicate with the excavator if, 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 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.
<b>Positive Response Required - Operator Contact One Call Center (Yes / No)</b>	No
<b>Positive Response Required - Operator Contact One Call Center (Specific Language)</b>	Not Addressed
<b>Positive Response - One-Call Automated (Yes / No)</b>	No
<b>Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Yes / No)</b>	Yes
<b>Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Specific Language)</b>	ARSD § 20:25:03:01. 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.... Each facility operator shall identify and list its high profile underground facilities in such a way it can provide the center with a separate database;
<b>Operator Must Update Information On Locations of Buried Facilities (Yes / No)</b>	Yes
<b>Operator Must Update Information On Locations of Buried Facilities (Specific Language)</b>	ARSD § 20:25:03:01. 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.... Each facility operator shall identify and list its high profile underground facilities in such a way it can provide the center with a separate database;

<b>New Facilities Must Be Locatable Electronically (Yes / No)</b>	Yes
<b>New Facilities Must Be Locatable Electronically (Specific Language)</b>	ARSD § 20:25:03:01. Each operator required by SDCL 49-7A-2 to join the one-call system: ... (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.
<b>Design Request (Yes / No)</b>	Yes. (ARSD § 20:25:03:04:01 and § 20:25:03:04:02)
<b>One Call, Enforcement, and Reporting</b>	
<b>Mandatory One Call Membership (Yes / No)</b>	Yes. (SDCL § 49-7A-2 and ARSD § 20:25:03:01)
<b>One Call Membership Exemptions (Yes / No)</b>	Yes
<b>One Call Membership Exemptions (Specific Language)</b>	SDCL § 49-7A-15. Underground facilities owned or operated by the landowner on his own land which do not extend beyond the boundary of the private property are not subject to the provisions of this chapter.
<b>One-Call Law Addresses Board Make-Up (Yes / No)</b>	Yes
<b>One-Call Law Addresses Board Make-Up (Specific Language)</b>	SDCL § 49-7A-3. The one-call notification center shall be governed by an eleven member board who shall serve without pay. The board shall consist of one member representing telecommunication companies offering local exchange service to less than fifty thousand subscribers; one member representing telecommunication companies offering local exchange service to fifty thousand or more subscribers; one member representing rural water systems; one member representing rural electric cooperatives; one member representing investor-owned electric utilities; one member representing investor-owned natural gas utilities; one member representing community antenna television systems; one member representing municipalities; one member representing underground interstate carriers of gas or petroleum; and two members representing contractors who perform excavation services. The board shall be appointed by the Governor and shall serve staggered three-year terms.
<b>Separate Body Designated to Advise Enforcement Authority (Yes / No)</b>	Yes
<b>Separate Body Designated to Advise Enforcement Authority (Specific Language)</b>	SDCL § 49-7A-22. Upon the initiation of a complaint pursuant to § 49-7A-17, a panel of three or five members of the Statewide One-Call Notification Board shall be appointed by the chair for the purpose of determining whether there is probable cause to believe there has been a violation of any statute or rule of the board. A determination of whether there is probable cause to believe there has been a violation shall be determined by a majority vote of the panel. The panel shall then recommend to the board that the complaint be dismissed for lack of probable cause, or recommend to the board that there is probable cause to believe that there has been a violation and recommend what penalty, if any, should be imposed pursuant to the provisions of § 49-7A-18 or 49-7A-19.
<b>Penalties / Fines Excavators (Yes / No)</b>	Yes
<b>Penalties / Fines Excavators (Specific Language)</b>	SDCL § 49-7A-18. Except as provided in § 49-7A-19 and in addition to all other penalties provided by law, any person who violates or who procures, aids or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 may be assessed a penalty of up to one thousand dollars for the first violation and up to five thousand dollars for each subsequent violation that occurs within twelve months of the initial violation. § 49-7A-19. In addition to all other penalties provided by law, any person who intentionally violates or who intentionally procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 may be assessed a penalty of up to five thousand dollars for the first violation and up to ten thousand dollars for each subsequent violation that occurs within twelve months of the initial violation. § 49-7A-20. Each violation as separate offense. Each violation of any statute or rule of the Statewide One-Call Notification Board constitutes a separate offense. In the case of a continuing violation, each day that the violation continues constitutes a separate violation.
<b>Penalties / Fines Operators (Yes / No)</b>	Yes

<b>Penalties / Fines Operators (Specific Language)</b>	<p>SDCL § 49-7A-18. Except as provided in § 49-7A-19 and in addition to all other penalties provided by law, any person who violates or who procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 may be assessed a penalty of up to one thousand dollars for the first violation and up to five thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.</p> <p>§ 49-7A-19. In addition to all other penalties provided by law, any person who intentionally violates or who intentionally procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 may be assessed a penalty of up to five thousand dollars for the first violation and up to ten thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.</p> <p>§ 49-7A-20. Each violation as separate offense. Each violation of any statute or rule of the Statewide One-Call Notification Board constitutes a separate offense. In the case of a continuing violation, each day that the violation continues constitutes a separate violation.</p>
<b>Penalties / Fines Other (Yes / No)</b>	No
<b>Penalties / Fines Other (Specific Language)</b>	Not addressed.
<b>Enforcement Authority Identified</b>	South Dakota Statewide One-Call Notification Board (SDCL § 49-7A-2)
<b>Damage Investigation Required by Enforcement Authority (Yes / No)</b>	Yes. (SDCL § 49-7A-22)
<b>Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)</b>	No
<b>Mandatory Reporting by Excavators to State Entity or Department (Yes / No)</b>	Yes. (SDCL § 49-7A-12)
<b>Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)</b>	No
<b>Law and Regulation</b>	
<b>Statute / Law (Name &amp; Link)</b>	<a href="http://sdlegislature.gov/statutes/DisplayStatute.aspx?Statute=49-7a&amp;Type=Statute">South Dakota Codified Laws (SDCL), Chapter 49-7A, One-Call Notification System for Excavation Activities</a> ( <a href="http://sdlegislature.gov/statutes/DisplayStatute.aspx?Statute=49-7a&amp;Type=Statute">http://sdlegislature.gov/statutes/DisplayStatute.aspx?Statute=49-7a&amp;Type=Statute</a> ) Also see <a href="#">One-Call Center Website for Information on State Law</a> .
<b>Date of Last Revision to Statute / Law</b>	May 1, 2010
<b>Administrative Rules / Regulations (Yes / No)</b>	Yes
<b>Administrative Rules / Regulations (Name &amp; Link)</b>	<a href="http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=20:25">South Dakota Administrative Rules (ARSD), Article 20:25, One Call Notification</a> ( <a href="http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=20:25">http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=20:25</a> )
<b>State One Call Center(s) (Name &amp; Link)</b>	<a href="http://www.sdonecall.com">South Dakota One Call</a> ( <a href="http://www.sdonecall.com">http://www.sdonecall.com</a> )
<b>Miscellaneous Notes</b>	

<p><b>Notes</b></p>	<p>Attorney General's Opinions</p> <p>(1) South Dakota Attorney General Larry Long issued official opinion No. 08-07 in August 2008 regarding responsibility to mark underground facilities as is required by SDCL 49-7A. (<a href="http://www.sdonecall.com/wp-content/uploads/2015/06/Official-Opinion-08-07.pdf">http://www.sdonecall.com/wp-content/uploads/2015/06/Official-Opinion-08-07.pdf</a>)</p> <p>(2) South Dakota Attorney General Marty J. Jackley issued official opinion No. 10-01 in January 2010 regarding the applicability of one call notification requirements to railroads. (<a href="http://www.sdonecall.com/wp-content/uploads/2015/06/Official-Opinion-10-01.pdf">http://www.sdonecall.com/wp-content/uploads/2015/06/Official-Opinion-10-01.pdf</a>)</p> <p>(3) South Dakota Attorney General Marty J. Jackley issued an opinion on Feb. 22, 2011, regarding the use of federal grant funds by the South Dakota One Call Notification Board. (<a href="http://www.sdonecall.com/Law/agusegrantfunds.pdf">http://www.sdonecall.com/Law/agusegrantfunds.pdf</a>)</p> <p>Declaratory Rulings</p> <p>(1) October 2010 – Declaratory ruling regarding how close an underground facility can be placed on either side of a marked facility and regarding facility operator marking the outside edge of its facility to ensure excavator maintains a minimum horizontal clearance of eighteen inches from both sides of a facility. (<a href="http://www.sdonecall.com/Complaints/2010/oc10-002/order.pdf">http://www.sdonecall.com/Complaints/2010/oc10-002/order.pdf</a>)</p> <p>(2) December 2000 – Declaratory ruling regarding when excavation can begin following notification to South Dakota One Call. (<a href="http://www.sdonecall.com/Law/Declaratory%20Ruling.pdf">http://www.sdonecall.com/Law/Declaratory%20Ruling.pdf</a>)</p>
<p><b>State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates</b></p>	<p>0</p>