CHAPTER 216D

EXCAVATION NOTICE SYSTEM

216D.01	DEFINITIONS.	216D.06	DAMAGE TO FACILITY.
216D.02	NOTICE TO EXCAVATOR OR OPERATOR.	216D.07	EFFECT ON LOCAL ORDINANCES.
216D.03	NOTIFICATION CENTER.	216D.08	CIVIL PENALTIES; PROCEEDS TO SAFETY ACCOUNT; RULES.
216D.04	EXCAVATION; LAND SURVEY.		
216D.05	PRECAUTIONS TO AVOID DAMAGE.	216D.09	INJUNCTIVE RELIEF.

216D.01 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 216D.01 to 216D.07.

Subd. 1a. **Commissioner.** "Commissioner" means the commissioner of public safety.

Subd. 1b. **Boundary survey.** "Boundary survey" means a survey made to establish or to reestablish a boundary line on the ground or to obtain data for preparing a map or plat showing boundary lines.

Subd. 2. **Damage.** "Damage" means:

(1) the substantial weakening of structural or lateral support of an underground facility;

(2) penetration, impairment, or destruction of any underground protective coating, housing, or other protective device; or

(3) impact with or the partial or complete severance of an underground facility to the extent that the facility operator determines that repairs are required.

Subd. 2a. **Electronic positive response.** "Electronic positive response" means an electronic notification from an operator to the notification center regarding the status of a locate in the area of a proposed excavation or boundary survey.

Subd. 3. **Emergency.** "Emergency" means a condition that poses a clear and immediate danger to life or health, or a significant loss of property.

Subd. 4. **Emergency responder.** "Emergency responder" means a fire department or company, a law enforcement official or office, an ambulance or other emergency rescue service, or the Division of Emergency Management created by section 12.04, subdivision 1.

Subd. 5. **Excavation.** "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.

Subd. 6. **Excavator.** "Excavator" means a person who conducts excavation in the state.

Subd. 6a. **Land surveyor.** "Land surveyor" means a person licensed to practice land surveying under sections 326.02 to 326.15.

Subd. 7. **Local governmental unit.** "Local governmental unit" means a county, town, or statutory or home rule charter city.

Subd. 7a. **Locate.** "Locate" means an operator's markings of an underground facility.

Subd. 7b. **Locate period.** "Locate period" means:

(1) the period among the following that ends farthest from now:

(i) the 48-hour period beginning at 12:01 a.m. on the day after a locate request is submitted to the notification center, excluding any Saturday, Sunday, or holiday; or

(ii) the period between the date of submission of a locate request to the notification center and the identified date and time of excavation; or

(2) if applicable, and notwithstanding clause (1), a period of time that is mutually agreed to between the excavator and operator, as specified in written documentation provided to the notification center.

Subd. 8. **Notification center.** "Notification center" means a center that receives notice from excavators of planned excavation or other requests for location and transmits this notice to participating operators.

Subd. 8a. **On-site meet.** "On-site meet" means meeting at the site of a proposed excavation requested at the time of notice by the excavator with all affected underground facility operators to further clarify the precise geographic location of excavation, schedule the locating, propose future contacts, and share other information concerning the excavation and facilities.

Subd. 9. **Operator.** "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.

Subd. 10. **Person.** "Person" means the state, a public agency, a local governmental unit, an individual, corporation, partnership, association, or other business or public entity or a trustee, receiver, assignee, or personal representative of any of them.

Subd. 11. **Underground facility.** "Underground facility" means an underground line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, water including stormwater, steam, sewage, and other similar substances.

Subd. 12. **Utility quality level.** "Utility quality level" means a professional opinion about the quality and reliability of utility information. There are four levels of utility quality information, ranging from the most precise and reliable, level A, to the least precise and reliable, level D. The utility quality level must be determined in accordance with guidelines established by the Construction Institute of the American Society

of Civil Engineers in the document entitled "Standard Guideline for Investigating and Documenting Existing Utilities," ASCE/UESI/CI 38-22, or in a successor document.

History: *1987 c 71 s 2; 1987 c 353 s 7; 1988 c 624 s 2; 1989 c 244 s 3-5; 1991 c 214 s 7; 1991 c 234 s 3; 1992 c 381 s 7; 1992 c 493 s 1-4; 1993 c 341 art 1 s 20; 2004 c 163 s 1; 2024 c 104 art 1 s 85-88; 2026 c 112 s 1*

216D.02 NOTICE TO EXCAVATOR OR OPERATOR.

Subdivision 1. **Display and distribution.** Local governmental units that issue permits for an activity involving excavation must continuously display an excavator's and operator's notice at the location where permits are applied for and obtained. An excavator and operator's notice and a copy of sections 216D.03 to 216D.07 must be furnished to each person obtaining a permit for excavation.

Subd. 2. **Form.** The notification center shall prescribe an excavator and operator's notice. The notice must inform excavators and operators of their obligations to comply with sections 216D.03 to 216D.07. The center shall furnish to local governmental units:

(1) a copy of the notice and sections 216D.03 to 216D.07 in a form suitable for photocopying;

(2) a copy of the display and distribution requirements under subdivision 1; and

(3) the telephone number and mailing address of the notification center.

History: *1987 c 353 s 8*

216D.03 NOTIFICATION CENTER.

Subdivision 1. **Participation.** An operator shall participate in and share in the costs of one statewide notification center operated by a vendor selected under subdivision 2.

Subd. 2. **Establishment of notification center; rules.** (a) The notification center services must be provided by a nonprofit corporation approved in writing by the commissioner. 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. In deciding to approve a nonprofit corporation, the commissioner shall consider whether it meets the requirements of this paragraph and whether it demonstrates that it has the ability to contract for and implement the notification center service.

(b) The commissioner shall adopt rules:

(1) establishing a notification process and competitive bidding procedure for selecting a vendor to provide the notification service;

(2) governing the operating procedures and technology needed for a statewide notification center; and

(3) setting forth the method for assessing the cost of the service among operators.

(c) The commissioner shall select a vendor to provide the notification center service. The commissioner may advertise for bids as provided in section 16C.06, subdivisions 1 and 2, and base the selection of a vendor on best value as provided in section 16C.06, subdivision 6. The commissioner shall select and contract with the vendor to provide the notification center service, but all costs of the center must be paid by the operators. The commissioner may at any time appoint a task force to advise on the renewal of the contract or any other matter involving the center's operations.

(d) An operator may submit a bid and be selected to contract to provide the notification center service under paragraph (a) or (c). The commissioner shall annually review the services provided by the nonprofit corporation approved under paragraph (a) or the vendor selected under paragraph (c).

Subd. 3. **Cooperation with local government.** In establishing operating procedures and technology for the statewide notification center, the board of directors or the commissioner must work in cooperation with the League of Minnesota Cities, the Association of Minnesota Counties, and the Township Officers' Association. The purpose of this cooperation is to maximize the participation of local governmental units that issue permits for activities involving excavation to assure that excavators receive notice of and comply with the requirements of sections 216D.01 to 216D.07.

Subd. 4. **Notice to local government.** The notification center shall provide local governmental units with a master list, by county, of the operators in the county who are participants in the notification center, and the telephone number and mailing address of the notification center.

Subd. 5. **Performance reporting.** (a) Each operator must submit a report to the Office of Pipeline Safety on a quarterly basis, using a form or database entry designated by the Office of Pipeline Safety. The report must contain the following information:

(1) the total number of notifications and the number of notifications, itemized by type;

(2) for each notification type, the percentage of notifications marked by the start time on the notice; and

(3) the number of utility damages, itemized by the cause of the damages.

(b) Except for a pipeline operator that is subject to chapter 299F or 299J, an operator with fewer than 5,000 notifications received during the previous calendar year is exempt from the reporting requirement under paragraph (a).

(c) The data collected under this subdivision may not be used to initiate an enforcement action by the Office of Pipeline Safety.

(d) The commissioner must annually publish a report on the data collected under this subdivision and make the report available on the Office of Pipeline Safety website.

Subd. 6. **Electronic positive response.** The notification center must make an electronic positive response from an operator available to the relevant excavator through electronic means.

History: *1987 c 353 s 9; 1997 c 187 art 1 s 15; 1998 c 386 art 2 s 69; 2024 c 104 art 1 s 89; 2026 c 112 s 2*

216D.04 EXCAVATION; LAND SURVEY.

Subdivision 1. **Notice required; contents.** (a) Except in an emergency, an excavator must and a land surveyor may contact the notification center and provide notice at least 48 hours, excluding the day of notification, 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.

(b) The notice may be oral or written, and must contain the following information:

(1) the name of the individual providing the notice;

(2) the precise location of the proposed area of excavation or survey;

(3) the name, address, and telephone number of the individual or individual's company;

(4) the field telephone number, if one is available;

(5) the type and extent of the activity;

(6) whether or not the discharge of explosives is anticipated;

(7) the date and time when the excavation or survey is to commence; and

(8) the estimated duration of the activity.

Subd. 1a. **Plans for excavation.** (a) Any person, prior to soliciting bids or entering into a contract for excavation, must provide a proposed notice to the notification center to obtain from the affected operators of underground facilities the type, size, and general location of underground facilities. Affected operators must provide the information within 15 working days. An operator who provides information to a person who is not a unit of government may indicate any portions of the information which are proprietary and may require the person to provide appropriate confidentiality protection. The information obtained from affected operators must be submitted on the final drawing used for the bid or contract and must depict the utility quality level of that information. This information must be updated not more than 90 days before completion of the final drawing used for the bid or contract.

(b) This subdivision does not apply to bids and contracts for:

(1) routine maintenance of underground facilities or installation, maintenance, or repair of service lines;

(2) excavation for operators of underground facilities performed on a unit of work or similar basis; or

(3) excavation for home construction and projects by home owners.

(c) A person required by this section to show existing underground facilities on its drawings must conduct one or more preliminary design meetings during the design phase to communicate the project design and project scope and timeline and to coordinate utility relocation. Affected facility operators must attend these meetings. Project owners must provide project start dates, duration information, and scope of work.

(d) A person required by this section to show existing underground facilities on its drawings must conduct one or more preconstruction meetings to communicate the project design and project scope and timeline and to coordinate utility relocation. Affected facility operators and contractors must attend these meetings.

(e) This subdivision does not affect the obligation to provide a notice of excavation as required under subdivision 1.

Subd. 1b. **On-site meet.** (a) An on-site meet may be requested for any excavation at the discretion of the excavator. The meet request must include the entire geographic area of the proposed excavation and the specific location of the meet.

(b) Unless otherwise agreed to between an excavator and operator, an on-site meet is required for:

(1) an excavation notice that involves excavation of one mile or more in length; or

(2) any combination of notices provided for adjacent geographic sections that, when combined, meet or exceed the minimum excavation length under clause (1).

(c) The excavator must provide a precise geographic area of the proposed excavation and use markings as specified under section 216D.05, clause (2).

(d) An affected operator must (1) attend the on-site meet at the proposed date and time, or (2) contact the excavator before the meet and (i) reschedule the meet for a mutually agreed date and time, or (ii) reach an agreement with the excavator that a meet is not required. At the meet, the operator and the excavator must reach an agreement on any subsequent planned meets or further communication.

(e) The on-site meet date and time must occur at least 48 hours after the notice, excluding Saturdays, Sundays, and holidays. The excavation start time must be at least 48 hours after the proposed meet date and time specified on the notice, excluding Saturdays, Sundays, and holidays.

(f) The excavator and the operator must submit documentation of each on-site meet to the notification center, in the manner specified by the notification center. The documentation must include:

(1) the date and time of the meet;

(2) the names, company affiliations, and contact information of the attendees of each meet;

(3) a diagram, sketch, or description of the precise excavation locations, dates, and times; and

(4) the agreed schedule of any future on-site meets or communications.

Subd. 2. **Duties of notification center; regarding notice.** The notification center must assign an inquiry identification number to each notice and retain a record of all notices received for at least six years. The center must immediately transmit the information contained in a notice to every operator that has an underground facility in the area of the proposed excavation or boundary survey.

Subd. 3. **Locating underground facility; operator.** (a) Prior to the conclusion of the locate period, an operator must 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, without cost to the excavator. Prior to the conclusion of the locate period, an operator must provide an electronic positive response through the notification center for the notice of excavation. The excavator must 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, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the land surveyor and operator, an operator must locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator, without cost to the land surveyor. Prior to the conclusion of the time period under this paragraph, an operator must provide an electronic positive response through the notification center for the notice for boundary survey.

(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.

(d) Markers used to designate the approximate horizontal location of underground facilities are subject to the following requirements:

(1) markers must be a combination of paint markings and at least one of the following: (i) a flag or flags, (ii) a stake or stakes, or (iii) a whisker or whiskers;

(2) all markers under clause (1) must follow the current color code standard used by the American Public Works Association;

(3) markers must be located within a plus or minus two-foot tolerance; and

(4) the name of the operator must be indicated on each flag, stake, or whisker.

If the surface being marked is hard, markers without flags, stakes, or whiskers may be used but must comply with the color code standard and tolerance requirement under clauses (2) and (3).

(e) If the operator cannot complete marking of the excavation or boundary survey area before the excavation or boundary survey start time stated in the notice, the operator must promptly contact the excavator or land surveyor.

(f) Operators must maintain maps, drawings, diagrams, or other records of any underground facility abandoned or out-of-service after December 31, 1998.

(g) An operator or other person providing information pursuant to this subdivision is not responsible to any person, for any costs, claims, or damages for information provided in good faith regarding abandoned, out-of-service, or private or customer-owned underground facilities.

(h) An operator must use geospatial location information or an equivalent technology to develop as-built drawings of newly installed or newly abandoned facilities if exposed in the excavation area. The requirements under this paragraph apply (1) on or after January 1, 2026, or (2) on or after January 1, 2027, for an operator that provided services to fewer than 10,000 customers in calendar year 2025.

(i) An operator must provide up-to-date contact information to the notification center (1) as the contact changes occur, to the extent practicable, and (2) on at least a quarterly basis following a change in contact information. The contact information must include at least one telephone number designated by the operator to reach a person or persons regarding locates.

Subd. 4. **Locating underground facility; excavator or land surveyor.** (a) The excavator or land surveyor must determine the precise location of the underground facility, without damage, before excavating within two feet on either side of the marked location of the underground facility.

(b) Activities in the proposed area of excavation or boundary survey must take place before the expiration date and time on the notification. If the excavator or land surveyor cancels the excavation or boundary survey, the excavator or land surveyor must cancel the notice through the notification center.

(c) The notice is valid for 14 calendar days from the start time stated on the notice. If the activity will continue after the expiration time, then the person responsible for the activity must serve an additional notice at least 48 hours, excluding Saturdays, Sundays, and holidays, before the expiration time of the original notice, unless the excavator makes arrangements with the operators affected to periodically verify or refresh the marks, in which case the notice is valid for six months from the start time stated on the notice.

(d) The excavator is responsible for reasonably protecting and preserving the marks until no longer required for proper and safe excavation near the underground facility. If the excavator has reason to believe the marks are obliterated, obscured, missing, or incorrect, the excavator must notify the facility operator or notification center in order to have an operator verify or refresh the marks.

History: *1987 c 353 s 10; 1992 c 493 s 5; 1993 c 341 art 1 s 21; 1997 c 196 s 1; 1998 c 348 s 1-3; 2004 c 163 s 2-6; 2024 c 104 art 1 s 90; 2026 c 112 s 3*

216D.05 PRECAUTIONS TO AVOID DAMAGE.

(a) An excavator must:

(1) plan the excavation to avoid damage to and minimize interference with underground facilities in and near the construction area;

(2) for proposed excavations, use (i) white markings or black markings in wintery conditions, or (ii) electronic marking as provided in paragraph (b);

(3) maintain a clearance between an underground facility and the cutting edge or point of any mechanized equipment, considering the known limit of control of the cutting edge or point to avoid damage to the facility;

(4) provide support for underground facilities in and near the construction area, including during backfill operations, to protect the facilities; and

(5) conduct the excavation in a careful and prudent manner.

(b) An excavator may use electronic marking under paragraph (a), clause (2), if:

(1) the marking provides at least as much proposed excavation information as equivalent physical markings; and

(2) electronic marking used prior to January 1, 2026, is accompanied by equivalent physical markings as provided under paragraph (a), clause (2).

(c) Following submission of electronic marking, an operator may require the excavator to use physical markings.

History: *1987 c 353 s 11; 1998 c 348 s 4; 2004 c 163 s 7; 2024 c 104 art 1 s 91*

216D.06 DAMAGE TO FACILITY.

Subdivision 1. **Notice; repair.** (a) If any damage occurs to an underground facility or its protective covering, the excavator shall notify the operator promptly. When the operator receives a damage notice, the operator shall promptly dispatch personnel to the damage area to investigate. If the damage results in the escape of any flammable, toxic, or corrosive gas or liquid or endangers life, health, or property, the excavator responsible shall immediately notify the operator and the 911 public safety answering point, as defined in section 403.02, subdivision 19, and take immediate action to protect the public and property. The excavator shall also attempt to minimize the hazard until arrival of the operator's personnel or until emergency responders have arrived and completed their assessment. The 911 public safety answering point shall maintain a response plan for notifications generated by this section.

(b) An excavator shall delay backfilling in the immediate area of the damaged underground facilities until the damage has been investigated by the operator, unless the operator authorizes otherwise. The repair of damage must be performed by the operator or by qualified personnel authorized by the operator.

(c) An excavator who knowingly damages an underground facility, and who does not notify the operator as soon as reasonably possible or who backfills in violation of paragraph (b), is guilty of a misdemeanor.

Subd. 2. **Cost reimbursement.** (a) If an excavator damages an underground facility, the excavator shall reimburse the operator for the cost of necessary repairs, and for a pipeline the cost of the product that was being carried in the pipeline and was lost as a direct result of the damage.

(b) Reimbursement is not required if the damage to the underground facility was caused by the sole negligence of the operator or the operator failed to comply with section 216D.04, subdivision 3.

Subd. 3. MS 2022 [Repealed, 2024 c 104 art 1 s 110]

History: *1987 c 353 s 12; 1999 c 43 s 1*

216D.07 EFFECT ON LOCAL ORDINANCES.

(a) Sections 216D.01 to 216D.07 do not affect or impair local ordinances, charters, or other provisions of law requiring permits to be obtained before excavating.

(b) A person with a permit for excavation from the state or a public agency is subject to sections 216D.01 to 216D.07. The state or public agency that issued a permit for excavation is not liable for the actions of an excavator who fails to comply with sections 216D.01 to 216D.07.

History: *1987 c 353 s 13*

216D.08 CIVIL PENALTIES; PROCEEDS TO SAFETY ACCOUNT; RULES.

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. The district court may hear, try, and determine actions commenced under this section. Trials under this section must be to the court sitting without a jury. If the fine exceeds the maximum limit for conciliation court, the person appealing the fine may request the commissioner to conduct an administrative hearing under chapter 14.

Subd. 2. **Settlement.** The commissioner may negotiate a compromise settlement of a civil penalty. In determining the amount of the penalty, or the amount of the compromise settlement, the commissioner shall consider the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation. Unless the commissioner chooses to proceed in district court under subdivision 1, the contested case and judicial review provisions of chapter 14 apply to the orders of the commissioner imposing a penalty under sections 216D.01 to 216D.07. The amount of the penalty, when finally determined, may be deducted from sums owing by the state of Minnesota to the person charged.

Subd. 3. **Credited to pipeline safety account; appropriation.** Penalties collected under this section must be deposited in the state treasury and credited to the pipeline safety account to be applied to the reduction of expenses or costs assessed by the commissioner against persons regulated under this chapter. Penalties collected under this section are annually appropriated to the commissioner of public safety.

Subd. 4. **Rules.** The commissioner shall adopt rules establishing reasonable guidelines for imposing penalties. The rules must provide for notice that a penalty is assessed and may exempt activities from penalties unless the excavator or operator as defined in this section has evidenced a course of action in disregard of this chapter.

History: *1989 c 244 s 6; 1998 c 348 s 5,6; 2005 c 136 art 8 s 4,5*

216D.09 INJUNCTIVE RELIEF.

Subdivision 1. **Jurisdiction.** The district courts of the state of Minnesota have jurisdiction, subject to the provisions of the statutes and the rules of practice and procedure of the state of Minnesota relative to civil actions in the district courts, to restrain violations of sections 216D.01 to 216D.07, on petition by the attorney general on behalf of the state of Minnesota. When practicable, the commissioner shall give notice to a person against whom an action for injunctive relief is contemplated and afford the person an opportunity to present views and, except in the case of a knowing and willful violation, shall afford the person reasonable opportunity to achieve compliance. However, the failure to give the notice and afford an opportunity to present views does not preclude the granting of appropriate relief.

Subd. 2. **Venue.** Actions under this section must be brought in district court in the district where the defendant's principal place of business in the state is located, and process in these cases may be served in any other district in the state of Minnesota where the defendant may be found or in which the defendant is an inhabitant or transacts business.

History: *1989 c 244 s 7*