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Office of Pipeline Safety

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OPS Alert Notice: 02-2024

Date: October 29, 2024

Purpose:

During the 2024 Regular Session, the Minnesota Legislature made several revisions to Minnesota Statute 216D, the state excavation law. This alert notice provides information regarding "performance reporting," which was part of the changes made. Additional resources regarding MS 216D changes can be found on the Gopher State One Call home page.

<https://www.gopherstateonecall.org/>

Applicable regulations:

1. Minnesota Statute 216D.01 Subd. 2
2. Minnesota Statute 216D.01 Subd. 9
3. Minnesota Statute 216D.01 Subd. 10
4. Minnesota Statute 216D.01 Subd. 11
5. Minnesota Statute 216D.03 Subd. 5 has been added

Minnesota Statute 216D.03

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.

Frequently asked questions (FAQs) on performance reporting

How will performance reporting be collected?

The Minnesota Department of Public Safety Office of Pipeline Safety (OPS) will collect performance reporting through an online form. The form can be found on the OPS webpage at the link below. Instructions for submitting a performance report are on the following pages.

<https://www.cognitofrms.com/MNOPS1/MNOPSQuarterlyUtilityPerformanceReporting>

Who is required to submit performance reporting?

A person who owns or operates an underground facility, as defined per [MS216D.01 Subd. 9 & Subd 10](#), is an operator and must submit performance reporting if they received 5,000 or more notifications in the previous calendar year. These are notifications received from the notification center (Gopher State One Call) to perform locates per the requirements of [MS216D.04 Subd 3\(a\)](#). This is not the number of notifications the operator has submitted to perform excavation in the previous calendar year.

All pipeline operators subject to [Chapter 299F](#) or [299J](#) must submit performance reporting regardless of the number of notifications received in the previous calendar.

If a contract locating company locates an operator's underground utilities, must the operator still submit performance reporting?

Yes, the statute requires the operator to submit the performance report. An operator may have a contracted company submit the report, but the information must be specific to the operator's utility, with their name and corresponding data.

What is a notification?

A notification is a locate request made by an excavator to the notification center, Gopher State One Call (GSOC). GSOC takes the notification and sends it to all affected utility operators so they can locate underground utilities within the excavation area. Notifications are commonly referred to as one-call tickets, excavation tickets, locate requests, or tickets.

When must performance reporting be submitted?

Performance reporting is required every annual quarter per the statute. OPS would like all data submitted within one month after the quarter ending. This should allow operators time to gather accurate data and submit it. The corresponding quarter and due dates for performance reporting can be seen below.

1st Quarter – Due May 1
2nd Quarter – Due Aug. 1
3rd Quarter – Due Nov. 1
4th Quarter – Due Feb. 1

OPS will look to start receiving data for the fourth quarter of 2024, meaning the first submission of performance reporting data should be submitted before Feb. 1, 2025.

Can a utility operator submit data for multiple utility types?

Yes, multiple utility types may be submitted simultaneously by clicking the “+Add a Utility” button near the bottom of the form.


Instructions for submitting performance reporting

The performance reporting form can be found [here](#). Fill out the form according to the directions below.

Part A – Contact Information and General Data

Fill out the utility name and contact information as listed on the form. The contact does not necessarily have to be the individual filling out the form. The contact information will be used to provide updates regarding this form and the performance reporting. The contact should be someone who will continue to ensure the submission of the performance report.

Select the year and the quarter for which the data is being submitted.

Fill out the utility type. If your organization operates more than one utility type, multiple utilities may be submitted by clicking the  button near the bottom of the form.

Part B – Notifications (Gopher State One-Call Tickets)

Fill in the total number of notifications received this quarter. If clarification is needed, see the FAQ on notifications above.

Fill in the total notifications occurring this quarter by ticket type. Gopher State One Call has eight ticket types: Normal, Update, Meet, Emergency, Boundary Survey, Non-Excavation, Eng/Pre-Construction, and Extended Start Time. Gopher State One-Call can assist operators in breaking out ticket volumes by ticket type.

Part C – On-Time Ticket Reporting

Fill in the percentage of normal, update, and boundary survey tickets marked by the start time on the notice for this quarter. The statute requires that tickets marked by the start time on the notice be included. Tickets marked later due to agreement provisions in the statute should not be included in this count.

Part D – Root Causes of Excavation-Related Damages

Fill in the total for each cause of damage for all excavation-related damages, using only a single primary cause for each damage. Pay close attention to the definition of excavation per [MS216D.01 subd. 2](#), as shown below.

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.*

The primary cause is the most fundamental cause that can reasonably be identified, which, when fixed, would prevent future recurrence. Multiple violations of MS216D/MN Rule 7560 could occur during a damage, but the primary cause would be the violation directly related to the damage occurring. For example, an excavator may have failed to use white markings to show a proposed excavation location; however, if the utility was correctly located and the excavator failed to determine the precise location of the utility before excavating, the primary cause would be the excavator failing to determine the precise location of the utility.

Place damages not caused by excavation-related work in the following section for non-excavation damages. Following is a brief description of each cause.

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.*

Notification Not Made – The excavator did not make a notification to Gopher State One Call (i.e., no locate ticket).

Excavation Outside Request – The excavator performed excavation outside the limits described in the excavation notification.

Prior to Start Time— The excavator began excavation before the notification's start time.

Expired Notification— The excavator previously had a notification, but the notification had expired, and a new notification was not made.

Failed to Determine Precise Location— The excavator failed to determine the precise location of the marked facility, within 2 feet on each side of the located marks, before starting excavation (e.g., damaged by excavation equipment, not potholing, no hand digging).

Failed to Maintain Marks— The excavator failed to maintain, preserve, or protect marks (i.e., marks destroyed after work started).

No White Markings – The excavator failed to provide white or black marks in winter conditions before utility locating, which led directly to an error in marking the facilities, causing the corresponding damage.

Failed to Maintain Clearance— The excavator failed to maintain clearance between the underground utility and cutting edge of equipment (e.g., damaged by bucket, damaged by directional drill, damaged by trencher).

Failure to Protect and Support During Excavation— The excavator failed to support or protect exposed facilities (e.g., no supports under the utility causing damage, soil damaged utility during excavation).

Damaged by Hand Dig – The excavator had a valid locate request and was exposing the facility with non-mechanized equipment, which caused damage (e.g., damage with a shovel, spade, or pickaxe).

Incorrect Records or Maps -The facility record or map was incorrect, leading to facilities not being marked or mismarked.

Not Marked – The facility was not marked as shown on records or maps (i.e., the locator did not see utility on mapping, above-ground facilities were not noticed in the field, and could not be found or marked).

Mis-Marked – The facility was marked as shown on records or maps, but marks were outside the 2 foot tolerance zone (i.e., the signal bled off onto another utility).

Part E - Root Causes of Exempted/Non-Excavation Related Damages

Fill in the total for each cause of damage for all non-excavation related damages, using only a single primary cause for each damage. This section only applies to damages made during work not requiring a locate request by law. Place close attention to the definition of excavation per MS 216D.01 as shown in the previous section. Following is a brief description of each cause.

Damaged by Non-Excavation Equipment – No locate notification was needed or made, and the damage was caused by non-mechanized equipment (e.g., damage caused by a shovel, stake, post, or forming rods).

Extraction of Minerals – Damage was caused during the extraction of minerals not requiring notification to Gopher State One Call (i.e., damage while mining).

Cemetery Grave Opening – Damage was caused during the opening of a grave in a cemetery, not requiring notification to Gopher State One Call.


Roadway Maintenance – Damage caused during the normal maintenance of roads and streets not changing the original grade or ditch and not requiring notification to Gopher State One Call (e.g., snow plowing).

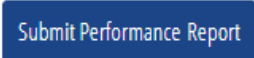
Agriculture Work – Damage was caused during plowing, cultivating, planting, harvesting, or similar work during crop growth, tree planting unless depth is greater than 18 inches, and not requiring notification to Gopher State One Call.

Gardening Work – Damage was caused during gardening unless depth greater than 12 inches and not requiring notification to Gopher State One Call.

Planting of Windbreaks – Damage was caused during the planting of windbreaks, shelterbelts, and tree plantations unless depth greater than 18 inches and not requiring notification to Gopher State One Call.

Complete Form

Add additional utilities if needed by clicking the  button near the bottom of the form. Another section for performance reporting will appear, and parts B through E may be filled in for another utility.

Review the report for accuracy and click the  button at the bottom of the form once completed.

Once the report has been submitted a completion window will appear. The submitted performance report details will be shown in this window with a unique report number to reference. A copy of the submitted performance report will be sent to the contact email provided at the beginning of the report.

Please let us know if we can assist with the completion of this report in any way or if you have any general questions about performance reporting requirements.

[Office of Pipeline Safety](#)

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