

Idaho's Guide to Safe Digging 2026 – 2027



Idaho State Law and Industry Best Practices



Brought to you by:
The Division of Occupational and Professional Licenses
and the Damage Prevention Board

Preface

This manual was created to educate excavators and the public on excavating safely to help prevent damage to underground utilities, protect workers and the public from injuries and fatalities, protect property and the environment, and avoid interruption of service.

This manual contains Idaho statutes and rules that are current as of July 1, 2024. Users of this manual are advised to ensure they are consulting the most current statutes and rules, as they may be amended or updated periodically.

Would you like to provide feedback on this manual?

We want to create a manual that serves your needs. We are looking for feedback to improve its value and ease of use. What information is useful or not useful? Is there an error that needs to be investigated? What information would you like to see in the next version?

Please send your feedback and suggestions to: bcre-education@dopl.idaho.gov.

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Useful Numbers and Websites

811 Notification Centers

Dig Safe North Idaho 811

Counties served: Boundary, Bonner, Kootenai

digsafenorthidaho811.com

800-428-4950

North Idaho 811

Counties served: Benewah, Shoshone

nid811.com

866-242-5844

Digline, Inc.

Serving all other Idaho counties

www.digline.com

800-342-1585 or 208-342-1585

Unsure of the 811 notification center?

Dial: 8-1-1

Visit: 811beforeyoudig.com/

Common Ground Alliance

Visit CGA's website to access valuable educational and informational resources such as their Best Practices Guide and the DIRT report.

commongroundalliance.com

Damage Information Reporting Tool (DIRT)

by Common Ground Alliance

A secure web-based application for stakeholders to anonymously report damages and near miss events.

form.cga-dirt.com/

NOTE: This application is separate from the Idaho Damage Prevention Board Complaint Process. Visit dopl.idaho.gov/dpb/ to file a complaint against an alleged violator.

Useful Numbers and Websites

Idaho Division of Occupational and Professional Licenses and the Damage Prevention Board

Visit the Damage Prevention Board's website to access training and education resources, review the most current Idaho Code and Administrative Rules, and file a complaint.

dopl.idaho.gov/dpb/

208-817-6103

Idaho Utility Coordinating Council

Visit their website to find and connect with your local utility coordinating council.

iducc.org/

Guidelines for a Safe Excavation

Excavating safely is the responsibility of all stakeholders: excavators, underground facility owners, and locators.

The guidelines for a safe excavation are designed to prevent damage to underground facilities, protect workers and the public, protect the environment, and prevent customer outages.

5 Steps to a Safe Excavation

- STEP 1** | **Pre-Mark the Excavation Area**
- STEP 2** | **Request Locates**
- STEP 3** | **Confirm Locate Marks are Present
Survey the Area for Unmarked Facilities**
- STEP 4** | **Maintain Locate Marks**
- STEP 5** | **Excavate Safely**

Continue reading to learn about requirements and best practices for each step of the safe excavation process.

Did You Know?

ALL excavators must call in a locate request before excavating. This includes:

- Subcontractors working under a general contractor
- Multiple excavators working on the same site

Guidelines for a Safe Excavation

STEP 1

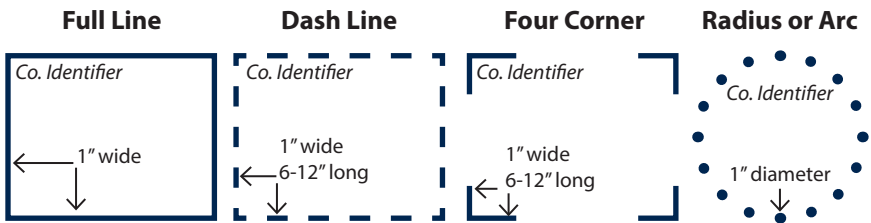
Pre-Mark the Excavation Area

Pre-mark on-site the path of excavation with white paint or, as the circumstances require, other reasonable means that will set out clearly the path of excavation. — Idaho Code 55-2205(1)(b)

Idaho Code requires excavators to “mark the path of excavation with white paint or...other reasonable means,” but it does not provide methods or standards for how to mark the excavation area.

The example illustrations in this section are from Common Ground Alliance’s Best Practices Version 20.0 guidebook. The features of each example make it easier for the locator to find and follow the excavation area.

Single Point Excavation Marking Examples:



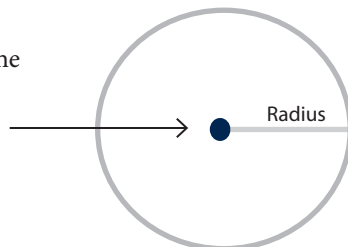
Features:

- Company identifier: Use the same company name that is on the locate request ticket.
- Solid lines: 1 inch wide
- Dash lines: 1 inch wide, 6 - 12 inches long, 4-50 feet apart — depending on the terrain and visibility of the excavation site. Place marks so they can reasonably be seen by the locator.
- Dots: 1 inch diameter, 4 feet or less apart

Single Stake Marking Center Point of Excavation Site:

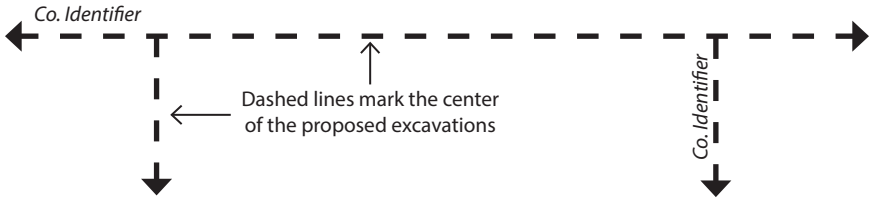
Place white flag or stake at the center of the excavation site. Write in dark permanent ink:

- Company name
- Radius of the excavation



Guidelines for a Safe Excavation

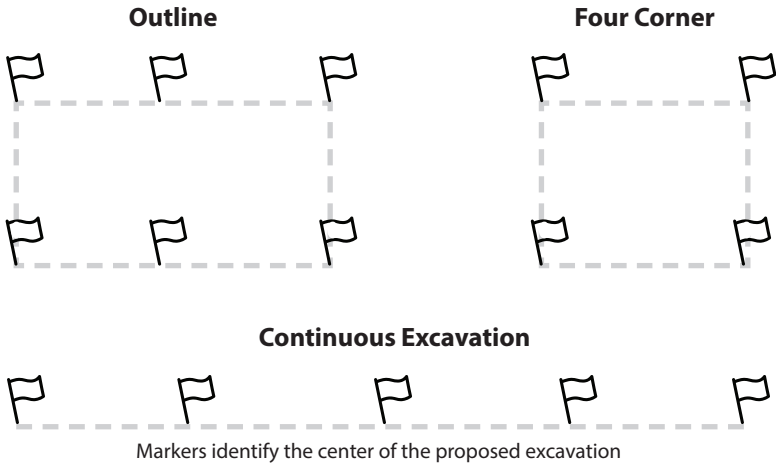
Trenching, Boring, and Other Continuous Excavations:



Features:

- Company identifier: Use the same company name that is on the locate request ticket. Place at all proposed excavation lines - mains and laterals.
- Dash lines: 1 inch wide, 6 - 12 inches long, 4-50 feet apart — depending on the terrain and visibility of the excavation site. Place marks so they can reasonably be seen by the locator.
- Arrows: Use occasional arrows to show direction

Excavation Markings with Stakes, Flags, and Whiskers:



Features:

- Use white markers
- Display company name on marker
- Placement depends on terrain and visibility. Place markers so they can reasonably be seen by the locator.

Guidelines for a Safe Excavation

STEP 2

Request Locates

Before commencing excavation, the excavator shall... Provide notice of the scheduled commencement of excavation to all underground facility owners through a one-number notification service. — Idaho Code 55-2205(1)(c)

All counties in Idaho have access to an 811 notification center. There are three notification centers that serve specific counties. Each center offers locate requests via phone or their online ticketing system. See page 4 for contact information.

When an excavator submits a locate request, the notification center alerts all member utilities whose underground facilities may be affected by the proposed excavation.

Each notification center offers several types of locate requests depending on the excavator's needs. Review the table to learn more:

Types of Locate Requests:

Request Type	When to Use	Utility Response Time
Emergency	<ul style="list-style-type: none"> • Clear and present danger to life, health, or property • Unplanned customer outage • Unplanned blockage of roads or transportation facilities 	<ul style="list-style-type: none"> • Telephone call within one hour of receiving notice • Arrive onsite within two hours
Priority	<ul style="list-style-type: none"> • Situation meets Emergency Request requirements • Excavator is not able to excavate immediately • Two hour response time is not necessary 	<ul style="list-style-type: none"> • Between two hours and two business days • Excavator provides the anticipated excavation timeline
Standard	Planned excavation that begins after two business days, but no later than 10 business days	Two full business days, excluding the day of the call, weekends, and holidays
Meet request	<ul style="list-style-type: none"> • Access restrictions at the excavation site • Large project footprint • Multiple excavation sites • Complex directions 	<ul style="list-style-type: none"> • Meeting: Two business days or as scheduled • Locates: Two business days after the meeting

Guidelines for a Safe Excavation

Types of Locate Requests continued:

Request Type	When to Use	Utility Response Time
Design request	Engineering or survey companies request utility maps from utilities.	<ul style="list-style-type: none"> Up to seven business days to receive maps Site may be marked if requested
Second request	<ul style="list-style-type: none"> Known facilities are not marked after the deadline has passed Must be submitted within five business days of the original request 	Eight hours
Update request	<ul style="list-style-type: none"> Extend the expiration date of an active ticket Expand the excavation area When site conditions change Request a refresh of locate marks 	Treated as a new standard ticket: Two full business days, excluding the day of the call, weekends, and holidays

Best Practices for Submitting Locate Requests

- Provide the underground facility owner and locator with clear and precise directions and instructions.
When the locator has clear directions, coupled with pre-marks on the site, it can reduce locate errors.
- Provide contact information for an individual who has first-hand knowledge of the site. If locators have questions about the excavation or issues such as delayed arrival time or inability to locate a line, who is the best person to contact?
- Include special instructions for the locator:
 - Is there a gate code?
 - Does locator need to check in at the front office?
 - Does the locator need to call the property owner before going onsite? Is there a dog that needs to be contained?
- Submit locate requests with a true intent to excavate.
Opening and renewing locate tickets with no scheduled excavation date is outside the intent of the law. And it expends valuable locator resources.

Guidelines for a Safe Excavation

STEP 3

Confirm Locate Marks are Present

Survey the Area for Unmarked Underground Facilities

... the underground facility owner or the owner's agent shall locate and mark its locatable underground facilities with reasonable accuracy...

Excavators shall not excavate until all known facilities have been marked.

— Idaho Code 55-2205(2)

Confirm Locate Marks are Present:

1. Wait the required time for utility owners to locate and mark their underground facilities. Review the locate request ticket for the start date.
2. Compare the utility owners on the locate ticket with the marks on the ground. All 811 notification centers list the utility owners that were notified of the excavation. With the ticket in hand, survey the excavation area to confirm all locate marks are present.
 - Use the American Public Works Association's (APWA) Uniform Color Code to identify the types of underground utilities:

White	Proposed excavation
Pink	Temporary survey markings
Red	Electric power line, cables, conduit, and lightening cables
Yellow	Gas, oil, steam, petroleum, or gaseous materials
Orange	Communication, alarm or signal lines, cables, or conduit
Blue	Potable (Drinking) water
Purple	Reclaimed water, irrigation, and slurry lines
Green	Sewers and drain lines

Guidelines for a Safe Excavation

Confirm Locate Marks are Present continued:

3. If any marks are missing, do not begin excavating. Contact the 811 notification center to submit a second request for the utilities that are not marked. Provide the center with your original locate request ticket number.

Survey the Area for Unmarked Underground Facilities:

- Survey the excavation area for clues of underground facilities that are not listed on the locate request ticket.
- Do not assume that an unmarked or unidentified facility will not be affected by the excavation.
- Contact the 811 notification center to report any unmarked or unidentified facilities that may be affected by the excavation.

Common Underground Facilities to Look For:

Electric

- Vaults/Manholes
- Padmount transformers
- Risers on utility poles that run underground
- Street lights

Natural Gas

- Markers/Poles
- Onsite propane tanks with lines that run underground

Communication

- Markers/Poles
- Vaults/Manholes
- Pedestals

Potable Water

- Fire hydrants
- Water meter vaults

Irrigation

- Control boxes
- Vaults

Sewer and Drain Lines

- Manholes
- Storm drains

Guidelines for a Safe Excavation

STEP 4

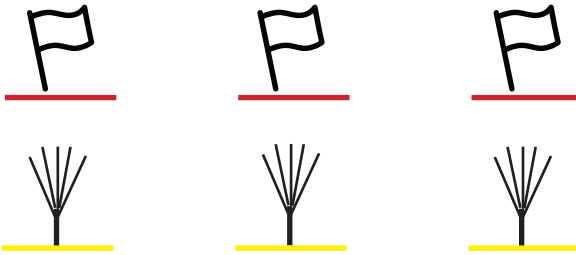
Maintain Locate Marks

Once marked by the owner of the underground facility..., the excavator is responsible for maintaining the markings. — Idaho Code 55-2205(2)

Best Practices for Maintaining Locate Marks:

While Idaho Code requires excavators to maintain locate marks for the life of the locate request ticket, it does not provide guidance for how to maintain the marks. Continue reading to explore best practices.

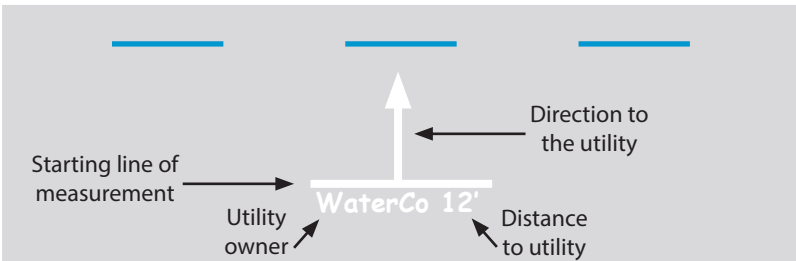
Insert flags or whiskers (stake chasers) over the painted marks:



Paint white circles or brackets around the painted marks:



Create offsets of the marks using white paint:



Guidelines for a Safe Excavation

Best Practices for Maintaining Locate Marks continued:

Take pictures and videos of the marks:

- Take pictures of the marks that show the surrounding area and points of reference.
- Videos provide a continuous and complete image of the path of locate marks. Like pictures, include the surrounding area and points of reference.

Did You Know?

Excavators must NOT paint over the original marks and labels laid down by the facility owners.

STEP 5

Excavate Safely

An excavator shall use reasonable care to avoid damaging underground facilities.

An excavator shall:

(a) Determine by hand digging, in the area twenty-four (24) inches or less from the facilities, the precise actual location of underground facilities that have been marked;

(b) Plan the excavation to avoid damage to or minimize interference with underground facilities in and near the excavation area; and

(c) Provide such support for underground facilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such facilities. — Idaho Code 55-2207(2)

Step 5 includes several elements to excavate safely:

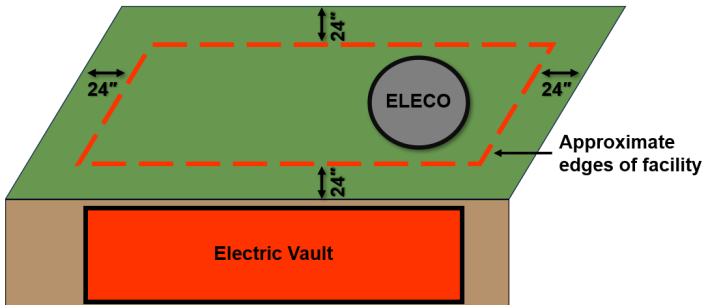
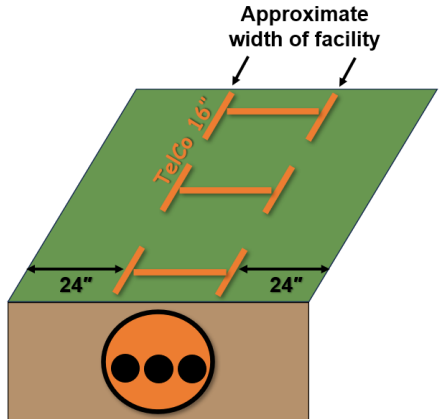
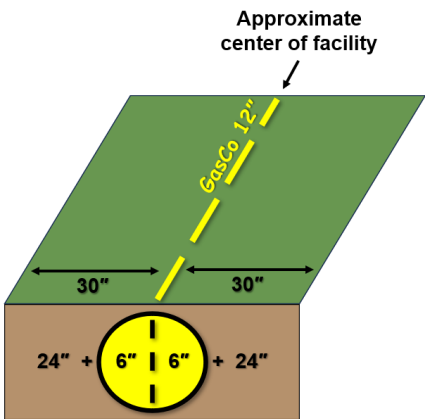
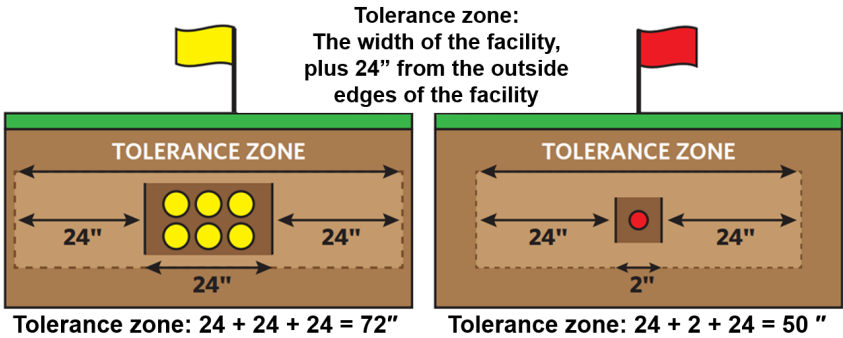
- Identifying the tolerance zone
- Digging in the tolerance zone
- Supporting exposed underground facilities
- Backfilling around underground facilities

Continue reading to explore each element.

Guidelines for a Safe Excavation

Identifying the Tolerance Zone

In Idaho, the tolerance zone is 24 inches from the outside edges of an underground facility. Review the graphics below to learn how to identify the tolerance zone based on the facility owner's locate marks.



Guidelines for a Safe Excavation

Digging in the Tolerance Zone

Idaho Code 55-2207(2)(a) requires excavators to hand dig in the tolerance zone. Hand digging is defined as: “Any excavation involving nonmechanized tools or equipment that when used properly will not damage underground facilities.”

Acceptable “hand digging” methods include:

Hand tools

- Shovel
- Posthole digger

IMPORTANT NOTE: Take special care even with hand tools. The sharp blade of a shovel can easily cut through a gas or electric facility.

Soft Digging:

- Hydrovac excavation
- Vacuum extraction

Test-Holing to Locate Underground Utilities:

Test-holing, daylighting, and potholing all refer to the practice of using vacuum extraction or hydrovac to find the precise location of an underground facility.

While locators use reasonable care to locate and mark underground facilities, this practice uncovers the exact location, reducing the possibility of striking and damaging a line.

IMPORTANT NOTE: Hand-digging methods must still be used in the tolerance zone even though the facility location is known. A test hole does not reveal pipe fittings or shifts in the pipe’s location.

Guidelines for a Safe Excavation

Supporting Exposed Underground Facilities

Providing support for exposed underground facilities helps protect them from damage and protects employees working nearby.

When facilities are exposed, they are no longer supported or protected by the soil around them. They can shift, separate, or collapse under their weight.

Methods for Supporting Underground Utilities:

- Supporting or bracing exposed facilities can be accomplished in different ways, For example:
 - Shore the facility from below using wood supports, sandbags, and other means that will not damage the facility, such as scratches, nicks, and cuts.
 - Place heavy timber or pipe across the top of the trench, then tie a chain, rope, or strap from the timber or pipe to the facility to support its weight. Use material that will not damage a facility's protective cover or coating.
- Always work with the utility owner to determine the best method for supporting the facility.
- Instruct workers not to climb on, strike, or attempt to move exposed facilities that could damage protective coatings, bend conduit, separate pipe joints, damage cable insulation, damage fiber optics, or otherwise affect the integrity of the facility.

Backfilling Around Underground Facilities

Backfilling around underground facilities requires the same care and caution as excavating around them. Using acceptable materials and practicing proper backfill methods can help prevent damages.

Acceptable Backfill Materials:

- Sand
- Rock-free soil
- Flowable fill: Do not encase the facility in flowable fill. Use a bond-breaking backfill such as sand or rock-free soil around the facility before using flowable fill.
- Always check with the utility owner to confirm acceptable materials for their facilities.

Guidelines for a Safe Excavation

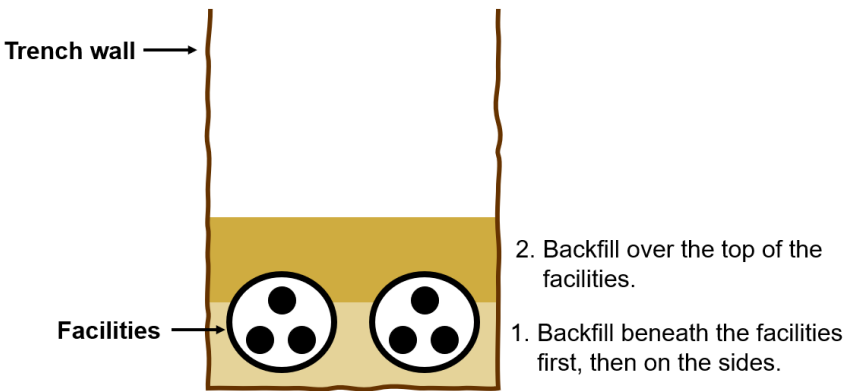
Backfill Materials to AVOID:

- Trash, debris, coiled wire, or abandoned lines could damage the facilities or interfere with the accuracy of future locates.
- Large rocks and large chunks of hard-packed clay or dirt can cause damage to the facility during the backfill process.

Backfilling Procedures

Backfill the area beneath the facility first, then on the sides, before backfilling over the top. The backfill beneath and on the sides will support the facility and keep it from shifting and breaking.

IMPORTANT NOTE: Avoid dumping a large load of backfill directly onto an unsupported facility. The weight coupled with the lack of support beneath the facility could cause it to shift and break.



Escalation Procedures

Idaho Code 55-2202(4) defines “damage” as:

Any impact or exposure that results in the substantial weakening of structural or lateral support of an underground facility, or the penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the partial or complete destruction of the facility, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected underground facility owner determines that repairs are required.

Any time there is contact with an underground facility, it must be inspected by the utility owner to determine if it was damaged.

Process for Uncovering Unidentified and Unlocated Facilities

If a facility is uncovered, but NOT damaged, perform the following:

1. Stop excavating.
2. Contact the 811 notification center and the facility owner, if known.
3. Secure the area, but do not backfill the facility. Wait for direction from the facility owner.

Process for Damaged Facilities

The response will depend on the severity of the damage and the risk to workers and the public.

If there is NO danger to workers or the public, perform the following:

1. Stop excavating.
2. Contact the 811 notification center and the facility owner, if known.
3. Secure the area, but do not backfill the facility. Wait for direction from the facility owner.

If the damaged facility places workers and the public in danger, such as a leaking or blowing gas line, perform the following:

1. Stop excavating.
2. Call 911. Evacuate and secure the area.
3. Contact the 811 notification center and the facility owner, if known.
4. Do not try to backfill the facility. Wait for direction from the facility owner.

Reporting Violations

Why Report Violations?

All stakeholders play a part in protecting underground facilities. Reporting violations helps the Damage Prevention Board to:

- Enforce Idaho Code.
- Identify training and outreach needs.
- Educate stakeholders on Idaho's damage prevention laws and safe digging best practices.

What Violations Can Be Reported?

Report any violation of the provisions set out in Idaho Code Title 55, Chapter 22.

All violations of Chapter 22 are subject to a penalty. Penalties are based on the violation and any additional violations accrued within an 18-month window.

These include:

- Mandatory damage prevention training
- Civil penalties ranging from \$100 to \$5,000

How are Violations Reported?

1. Report a potential violation within 30 days of discovering the violation. Even if it occurred four weeks or four months earlier, the 30-day window does not begin until discovery.
Go to dopl.idaho.gov/dpb/ and click on the File a Complaint link to complete the form.
2. The Division of Occupational and Professional Licences (DOPL) performs an investigation of the alleged violation and makes a determination. DOPL notifies the alleged violator (respondent) of the determination.
3. If DOPL determines the respondent is in violation of the law, the respondent can accept or contest the violation and the penalty.
If the respondent contests it, DOPL will investigate their response.
4. If DOPL again determines the respondent is in violation, the respondent can accept or appeal the violation and the penalty. The respondent must appear before the Damage Prevention Board to appeal the violation.
The Damage Prevention Board makes the final determination.

Idaho Statutes and Rules

Title 55 Property in General

Chapter 22 Underground Facilities Damage Prevention

55-2201. LEGISLATIVE INTENT.

It is the intent of the legislature in enacting this chapter to create a system of stakeholder-driven education and enforcement addressing the prevention of damage to underground facilities, to assign responsibilities for locating and keeping accurate records of underground facility locations, for preventing and repairing damage to existing underground facilities, for collecting, storing, analyzing and disseminating data related to underground facility damage and excavator downtime events, and for protecting the public health and safety from great personal harm including death, property damage and interruption in vital services caused by damage to existing underground facilities. It is further the intent of the legislature that the state of Idaho, by adopting this chapter, reaffirms its primacy over underground facility damage prevention programs that protect the health, safety and property of its citizens and that, by adopting this chapter, Idaho precludes the pipeline and hazardous materials safety administration of the United States department of transportation from determining that Idaho's damage prevention enforcement is inadequate pursuant to 49 CFR part 198, as adopted on July 9, 2015, and effective on January 1, 2016, and prevents any subsequent federal administrative enforcement actions that would result from such a formal determination.

[55-2201, added 1990, ch. 351, sec. 1, p. 940; am. 2016, ch. 325, sec. 1, p. 894.]

55-2202. DEFINITIONS.

As used in this chapter:

- (1) "Administrator" means the administrator of the division of occupational and professional licenses.
- (2) "Board" means the damage prevention board.
- (3) "Business day" means any day other than Saturday, Sunday, or a legal, local, state, or federal holiday.

Idaho Statutes and Rules

- (4) “Damage” means any impact or exposure that results in the substantial weakening of structural or lateral support of an underground facility, or the penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the partial or complete destruction of the facility, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected underground facility owner determines that repairs are required.
- (5) “Emergency” means any sudden or unforeseen condition that compels immediate action to prevent or resolve:
- (a) A clear and present danger to life, health, or property;
 - (b) An unplanned customer service outage; or
 - (c) The blockage of roads or transportation facilities.
- (6) “Emergency excavation” means an excavation performed in response to an emergency.
- (7) “End user” means any customer or consumer of any utility service or commodity provided by an underground facility owner.
- (8) “Excavation” means any operation in which earth, rock, or other material in the ground is moved or otherwise displaced by any means including, but not limited to, explosives.
- (9) “Excavator” means any person who engages directly in excavation.
- (10) “Excavator downtime” means lost time for an excavation project due to failure of one (1) or more stakeholders to comply with applicable damage prevention regulations.
- (11) “Hand digging” means any excavation involving nonmechanized tools or equipment that when used properly will not damage underground facilities. Hand digging includes, but is not limited to, hand shovel digging, manual posthole digging, vacuum excavation, and soft digging.
- (12) “Identified but unlocatable underground facility” means an underground facility that has been identified but cannot be located with reasonable accuracy.
- (13) “Identified facility” means any underground facility that is indicated in the project plans as being located within the area of proposed excavation.
- (14) “Locatable underground facility” means an underground facility that can be field-marked with reasonable accuracy.

Idaho Statutes and Rules

- (15) “Locator” means a person who identifies and marks the location of an underground facility owned or operated by an underground facility owner.
- (16) “Marking” means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American Public Works Association. Markings shall include identification letters indicating the specific type of the underground facility.
- (17) “Notice of emergency excavation” means an excavator call to a one- number notification service not less than two (2) hours prior to commencing the emergency excavation to provide a description of the emergency, the location of the emergency excavation area, contact information for an individual with the excavator who may be reached throughout the emergency, and expected time and date of the emergency excavation.
- (18) “One-number notification service” means a service through which a person can notify owners of underground facilities and request field-marking of their underground facilities.
- (19) “Person” means an individual, partnership, association, corporation, a state, a city, a county, or any subdivision or instrumentality of a state, and its employees, agents, or legal representatives.
- (20) “Public right-of-way” means the area on, below, or above a public roadway, highway, street, lane, path, sidewalk, alley, or other right-of-way dedicated for compatible uses.
- (21) “Reasonable accuracy” or “reasonably accurate” means location within twenty-four (24) inches horizontally of the outside dimensions of each side of an underground facility.
- (22) “Rural underground facility owner” means an underground facility owner that is a public utility or a member-owned cooperative that serves fewer than five thousand (5,000) total customers in a county or counties with populations that do not exceed fifty thousand (50,000) people.
- (23) “Service lateral” means any underground facility located in a public right-of-way or underground facility easement that is used to convey water (unless being delivered primarily for irrigation), stormwater, or sewage and connects an end user’s building or property to an underground facility owner’s main utility line.

Idaho Statutes and Rules

(24) “Soft digging” means any excavation using tools or equipment that utilize air or water pressure as the direct means to break up soil or earth for removal by vacuum excavation.

(25) “Stakeholder” means any party with an interest in protecting underground facilities including, but not limited to, persons, property owners, underground facility owners, excavators, contractors, cities, counties, highway districts, railroads, public entities that deliver irrigation water and those engaged in agriculture.

(26) “Underground facility” means any item buried or placed below ground for use in connection with the storage or conveyance of water (unless being delivered primarily for irrigation), stormwater, sewage, electronic, telephonic or telegraphic communications, cable television, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and includes but is not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground.

(27) “Underground facility easement” means a nonpossessory right to operate, control, bury, install, maintain, or access an underground facility.

(28) “Underground facility owner” means any person who owns or operates an underground facility or who provides any utility service or commodity to an end user via an underground facility.

[55-2202, added 1990, ch. 351, sec. 1, p. 940; am. 1991, ch. 170, sec. 1, p. 409; am. 2016, ch. 325, sec. 2, p. 895; am. 2019, ch. 182, sec. 1, p. 587; am. 2019, ch. 256, sec. 1, p. 764; am. 2020, ch. 82, sec. 35, p. 205; am. 2023, ch. 15, sec. 74, p. 115; am. 2023, ch. 191, sec. 1, p. 521.]

55-2203. DAMAGE PREVENTION BOARD.

(1) The Idaho Damage Prevention Board is hereby created and made a part of the Division of Occupational and Professional Licenses. The principal purpose of the board is to reduce damages to underground facilities and to promote safe excavation practices through education directed toward excavators, underground facility owners and the public at large. The board also shall review complaints of alleged violations of this chapter. It shall be the responsibility and duty of the administrator to administer this chapter, and the administrator shall exercise such powers and duties as are reasonably necessary to enforce the provisions of this chapter.

Idaho Statutes and Rules

(2) The board shall consist of eleven (11) members, each of whom shall be appointed by and serve at the pleasure of the governor. All members of the board shall be qualified by experience, knowledge and integrity in formulating rules, reviewing complaints referred to it, assessing penalties, and properly performing the functions of the board. Of the eleven (11) members, one (1) each shall represent the interests of the following designated groups and be:

- (a) A city official or a county official;
- (b) An employee or elected official of a highway district;
- (c) An employee of the Idaho public utilities commission;
- (d) An employee or officer of a one-number notification service entity or a member of the Idaho utility coordinating council or similar cooperative statewide nonprofit organization created to coordinate the protection of underground facilities in specific geographic portions of the state;
- (e) An employee or officer of an underground facility owner;
- (f) An employee or officer of an underground pipeline facility owner;
- (g) An employee or officer of a rural underground facility owner;
- (h) An employee or officer of a contractor;
- (i) An employee or officer of a building contractor;
- (j) An employee or officer of an excavator; and
- (k) An employee or owner of an agricultural enterprise, a representative of the agriculture industry, or an employee or an official of a public entity that delivers water for irrigation.

(3) Each member of the board shall serve a term of four (4) years, and such terms shall be staggered. The initial board shall have three (3) members whose terms expire July 1, 2018; four (4) members whose terms expire July 1, 2019; and four (4) members whose terms expire July 1, 2020. Thereafter, each board member shall be appointed for a term of four (4) years. No member of the board may be appointed to more than two (2) consecutive terms. A member may continue to serve until a successor is appointed. A successor must represent the same designated group that his predecessor was appointed to represent.

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(4) The board shall meet within thirty (30) days after the appointment of all its members and thereafter at such other times as may be expedient and necessary for the proper performance of its duties, but the board shall hold at least two (2) regular meetings per year. At the board's first meeting, the members shall elect one (1) of their number to be chairman and one (1) to serve as the vice chairman. The chairman may serve in such capacity for a one (1) year term and may not serve in such capacity for more than two (2) consecutive terms. A majority of the board shall constitute a quorum for the transaction of business. The administrator shall serve as the secretary to the damage prevention board.

(5) Each member of the board shall be compensated as provided by section 59-509(n), Idaho Code.

(6) Each member of the board who is a contractor shall be registered in accordance with chapter 52, title 54, Idaho Code, and shall be in good standing.

(7) The activities of the board shall be funded by a fee established by the board and promulgated in rule. Such fee shall be adopted by the board by no less than eight (8) affirmative votes at a meeting duly called for such purpose at which a quorum is present and shall be imposed uniformly upon all of the underground facility owners required by the provisions of this chapter to participate in and cooperate with the one-number notification service. The fee shall be assessed upon an underground facility owner each time such owner receives notice from a one-number notification service as required by section 55-2205, Idaho Code. The fee is established to defray the expenses of the board and the division in supervising, regulating and administering the provisions of this chapter, and the provision of services hereunder. The fee assessed upon an underground facility owner shall be collected by a one-number notification service and payable to the board in accordance with a schedule and in a manner established by the board in rule. All fees collected by the board shall be deposited with the state treasurer to be credited to the occupational licenses fund.

(8) The board shall cause educational materials regarding safe digging practices and the dangers of failing to provide notice prior to excavating to be prepared and distributed statewide on an ongoing basis. The board may enter into agreements with other entities for this purpose.

(9) The board, by rule, may adopt or create training programs on all pertinent underground damage prevention topics, which may include, but are not limited to, safe excavation, locating and marking of facilities, determining facility damage, emergency procedures, excavator downtime, pre-marking of intended excavation areas, and procedures used when encountering unmarked facilities,

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for general use or for remedial training that may be ordered by the board pursuant to section 55-2211, Idaho Code.

(10) The board shall periodically review the effectiveness of the methods used for maintaining effective communications among stakeholders from receipt of an excavation notification until successful completion of the excavation and may adopt, by rule, methods to maintain or improve these communications among stakeholders.

(11) The board shall review complaints alleging violations of this chapter by any party against any other party subject to the jurisdiction of the board involving practices related to public safety and underground facilities damage prevention, including but not limited to notification procedures, pre-marking of areas to be excavated, marking of facilities, excavation practices, excavator downtime, inaccurate location of facilities, untimely location of facilities, untimely commencement of excavation, failure of a permitting entity to reinstate a permit in a timely manner, failure of an underground facility owner to participate in a one-number notification service as required, or failure by a party to report damage data when required, and may impose appropriate training requirements or enforcement discipline as authorized by this chapter. The proceedings shall be governed by the provisions of section 55-2211 and chapter 52, title 67, Idaho Code. Any party aggrieved by the action of the board shall be entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

(12) To continually evaluate and improve program effectiveness, the board shall analyze the data collected pursuant to section 55-2208, Idaho Code, including the number of reported damage and downtime events and trends, the causes of such damage and any recommendations to further reduce the number of damage or downtime events annually. The board shall make its analysis publicly available.

(13) The board shall adopt, by rule, a process for reviewing the adequacy of underground facility owners' use of internal performance measures for those locating underground facilities and recommending changes to improve such performance.

(14) The board shall adopt, by rule, a process for reviewing and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground facility locating capability and the gathering and analysis of appropriate data.

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(15) The board is authorized and directed to promulgate rules consistent with this act for the administration of this chapter and to effectuate the purpose thereof, except as may be limited or prohibited by law and the provisions of this chapter.

(16) The board may exercise such powers and duties as are reasonably necessary to carry out the provisions of this chapter. The board is authorized to and may, among other activities:

(a) Hold meetings and attend or be represented at such meetings, prepare and publish rules pertaining to this section, make investigation or inquiry, conduct hearings, report findings and enter orders in matters over which the board has authority;

(b) Summon witnesses to appear and testify before it on any matter within the provisions of this chapter. No person shall be required to testify outside the county wherein he resides or where his principal place of business is located. A summons to testify shall be issued and served in like manner as a subpoena of a witness issued from the district court, or in any other manner consistent with the procedures of the Division of Occupational and Professional Licenses;

(c) Administer oaths and take affirmations of witnesses appearing before the board and appoint competent persons to issue subpoenas, administer oaths and take testimony, and appoint hearing officers;

(d) Impose civil penalties and conduct hearings related thereto for violations of this chapter or the rules of the board;

(e) Enter into agreements with any vendor or contractor to provide services or administer any obligation imposed on the board or the administrator by law, as well as the authority to make expenditures, and to make purchases in accordance with chapter 57, title 67, Idaho Code, to effectuate such agreements; and

(f) Delegate to the administrator the power to perform ministerial functions, conduct investigations, recommend and collect civil penalties on its behalf and appoint hearing officers.

(17) The board may establish by administrative rule the fines to be paid for penalties issued for violations of this chapter. In no case shall the penalty exceed the limits prescribed in section 55-2211, Idaho Code.

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(18) The board may receive contributions, gifts and grants on behalf of and in aid of the program. Such contributions, gifts and grants shall be deposited in the occupational licenses fund.

[55-2203, added 2016, ch. 325, sec. 3, p. 896; am. 2021, ch. 222, sec. 43, p. 654; am. 2021, ch. 224, sec. 79, p. 691.]

55-2205. PERMIT COMPLIANCE — NOTICE OF EXCAVATION — RESPONSE TO NOTICE — COMPENSATION FOR FAILURE TO COMPLY — EXEMPTIONS.

(1) Before commencing excavation, the excavator shall:

(a) Comply with other applicable law or permit requirements of any public agency issuing permits;

(b) Pre-mark on-site the path of excavation with white paint or, as the circumstances require, other reasonable means that will set out clearly the path of excavation. An excavator need not pre-mark as required in this subsection if:

(i) The underground facility owner or its agent can determine the location of the proposed excavation by street address or lot and block by referring to a locate ticket; or

(ii) The excavator and underground facility owner have had a meeting prior to the beginning of the proposed excavation at the excavation site for the exchange of information required under this subsection.

(c) Provide notice of the scheduled commencement of excavation to all underground facility owners through a one-number notification service. If no one-number notification service is available, notice shall be provided individually to those owners of underground facilities known to have or suspected of having underground facilities within the area of proposed excavation. The notice shall be communicated by the excavator to the one-number notification service or, if no one-number notification service is available, to the owners of underground facilities not less than two (2) business days nor more than ten (10) business days before the scheduled date for commencement of excavation, unless otherwise agreed in writing by the parties.

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(2) Upon receipt of the notice provided for in this section, the underground facility owner or the owner's agent shall locate and mark its locatable underground facilities with reasonable accuracy, as defined in section 55-2202, Idaho Code, by surface-marking the location of the facilities. If there are identified but unlocatable underground facilities, the owner of such facilities or the owner's agent shall locate and mark the underground facilities in accordance with the best information available to the owner of the underground facilities. The owner of the underground facility or the owner's agent providing the information shall respond no later than two (2) business days after the receipt of the notice or before the excavation time set forth in the excavator's notice, at the option of the underground facility owner, unless otherwise agreed in writing by the parties. Excavators shall not excavate until all known facilities have been marked. Once marked by the owner of the underground facility, or the owner's agent, the excavator is responsible for maintaining the markings. Unless otherwise agreed in writing by the parties, maintained markings shall be valid for purposes of the notified excavation for a period of no longer than four (4) consecutive weeks following the date of notification as long as it is reasonably apparent that site conditions have not changed so substantially as to invalidate the markings. If excavation has not commenced within three (3) weeks from the original notice to underground facility owners through the one-number notification service, the excavator shall reinitiate notice in accordance with this section.

(a) Excavators shall have the right to receive compensation from the owner of the underground facility for costs incurred if the owner of the underground facility does not locate its facilities in accordance with this chapter.

(b) An owner of an underground facility shall have the right to receive compensation for costs incurred in responding to an excavation notice given less than two (2) business days prior to the excavation except for notices given for emergency excavations under subsection (4) of this section and unidentified facilities discovered under subsection (5) of this section.

(3) An end user shall not be required to locate or mark any service lateral. An underground facility owner who provides any utility service or commodity via a service lateral shall locate and mark the service lateral in accordance with the provisions of subsection (2) of this section. Nothing in this subsection shall be construed to impose an indemnification obligation prohibited by law on any public agency as defined in section 67-2327, Idaho Code, or to alter the liability of any public agency as provided by law, including article VIII of the constitution of the state of Idaho.

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(4)

(a) Emergency excavations are exempt from the time requirements for notice as provided in this section when an excavator determines a delay caused by providing notice would cause an imminent risk to life, health, or property; however, an excavator is required to provide notice of emergency excavation in all other emergency situations.

(b) Upon receiving notice of an emergency excavation, an underground facility owner or its designated agent shall:

(i) Within one (1) hour of receiving the notice of emergency excavation, attempt to contact the excavator at the telephone number provided in the notice of emergency excavation to provide any information concerning underground facilities within the emergency excavation area and the anticipated response time of the underground facility owner or its designated agent; and

(ii) Unless the underground facilities owner informs the excavator that it is impossible or impracticable under the circumstances and provides the excavator with an expected arrival time that is as soon as reasonably feasible, or if the parties agree to a different arrival time, arrive at the emergency excavation site within two (2) hours of receiving the notice of emergency excavation to locate and mark underground facilities within the emergency excavation area.

(c) If an underground facility owner or its designated agent is unable to locate and mark underground facilities identified in the notice of emergency excavation, the underground facility owner shall immediately attempt to notify the excavator at the telephone number provided in the notice of emergency excavation.

(5) If the excavator, while performing the excavation, discovers underground facilities (whether active or abandoned) that are not identified or were not located in accordance with subsection (2) of this section, the excavator shall cease excavating in the vicinity of the facility and immediately notify the owner or operator of such facilities, or the one-number notification service. The excavator shall have the right to receive compensation from the underground facility owner for standby cost (based on standby rates made publicly available) incurred as a result of waiting for the underground facility owner or the owner's agent to arrive at the work site to identify the unidentified facilities and provided

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that if the underground facility owner or the owner's agent supplies the locate information required under subsection (2) of this section within eight (8) hours of the time that the excavator notifies the underground facility owner of facilities not previously located, the excavator's compensation for delay of the excavation project shall be limited to actual costs or two thousand dollars (\$2,000), whichever is less.

[(55-2205) 55-2203, added 1990, ch. 351, sec. 1, p. 941; am. 1991, ch. 170, sec. 2, p. 411; am. 2002, ch. 351, sec. 1, p. 1001; am. and redesisg. 2016, ch. 325, sec. 5, p. 899; am. 2019, ch. 182, sec. 2, p. 588; am. 2019, ch. 256, sec. 2, p. 766; am. 2023, ch. 191, sec. 2, p. 523.]

55-2206. ONE-NUMBER NOTIFICATION SERVICE — ESTABLISHMENT — PARTICIPATION REQUIRED — FUNDING.

Two (2) or more persons who own or operate underground facilities in a county may voluntarily establish or contract with a third person to provide a one-number notification service to maintain information concerning underground facilities within a county. Upon the establishment of the first such one-number notification service, all underground facility owners with underground facilities within said county shall participate and cooperate with the service, and no duplicative service shall be established pursuant to this chapter. The activities of the one-number notification service shall be funded by all of the underground facility owners required by the provisions of this section to participate in and cooperate with the service. Each underground facility owner required to participate in a one-number notification service is subject to the jurisdiction of the damage prevention board established in section 55-2203, Idaho Code, and shall maintain accurate contact information, updated at least annually, with the one-number notification service for individuals responsible for the operation of the underground facilities of the underground facility owner, including contact information for individuals responsible for responding to an emergency.

[(55-2206) 55-2204, added 1990, ch. 351, sec. 1, p. 942; am. and redesisg. 2016, ch. 325, sec. 6, p. 900; am. 2019, ch. 256, sec. 3, p. 766; am. 2023, ch. 191, sec. 3, p. 526.]

55-2207. EXCAVATION CONTRACTS — LIMITATIONS — PRECAUTIONS TO AVOID DAMAGE — LIABILITY FOR DAMAGE.

(1) Project owners shall indicate in bid or contract documents the existence of underground facilities known by the project owner to be located within the proposed area of excavation.

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(2) An excavator shall use reasonable care to avoid damaging underground facilities. An excavator shall:

(a) Determine by hand digging, in the area twenty-four (24) inches or less from the facilities, the precise actual location of underground facilities that have been marked;

(b) Plan the excavation to avoid damage to or minimize interference with underground facilities in and near the excavation area; and

(c) Provide such support for underground facilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such facilities.

(3) If an underground facility is damaged and such damage is the consequence of the failure to fulfill an obligation under this chapter, the party failing to perform that obligation shall be liable for the damage to the underground facility. Nothing in this chapter prevents the parties to an excavation contract from contracting with respect to the allocation of risk for changed or differing site conditions.

(4) In any action brought under this section, the prevailing party is entitled to reasonable attorney's fees.

[(55-2207) 55-2205, added 1990, ch. 351, sec. 1, p. 942; am. and redesisg. 2016, ch. 325, sec. 7, p. 901; am. 2023, ch. 191, sec. 4, p. 526.]

55-2208. DAMAGE TO UNDERGROUND FACILITIES — DUTIES OF EXCAVATOR AND OWNER — REPORTING OF DATA.

(1) An excavator who, in the course of excavation, contacts or damages an underground facility shall notify the underground facility owner and the one-number notification service. If the damage causes an emergency condition or an actual breach of an underground facility that releases gas or hazardous liquids into the surrounding environment, the excavator causing the damage shall also alert the appropriate local public safety agencies by, at a minimum, calling 911, and take all appropriate steps to ensure the public safety. No damaged underground facility may be buried until it is repaired or relocated.

(2) The owner of the underground facilities damaged shall arrange for repairs or relocation as soon as is practical or may permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

(3) Any party responsible for damages to an underground facility shall be liable for the cost of repairs.

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(4) The board shall adopt by rule a procedure for the processing of claims related to damages to underground facilities.

(5) Underground facility owners who observe or suffer damage to an underground facility and excavators who observe or suffer excavator downtime related to a failure of one (1) or more stakeholders to comply with applicable damage prevention regulations shall report such information to the board in accordance with the rules promulgated by the board. Reporting of such data does not constitute a complaint provided for in section 55-2211, Idaho Code.

[(55-2208) 55-2206, added 1990, ch. 351, sec. 1, p. 943; am. 2002, ch. 351, sec. 2, p. 1003; am. and redesisg. 2016, ch. 325, sec. 8, p. 901; am. 2019, ch. 182, sec. 3, p. 589.]

55-2209. DUTIES OF PUBLIC AGENCY ISSUING EXCAVATION, BUILDING OR OTHER SIMILAR PERMITS.

(1) Any public agency, as defined in section 67-2327, Idaho Code, that has the authority to issue excavation, building or other similar permits shall notify persons seeking such permits of the existence of this chapter and the one-number notification service telephone number.

(2) A permit shall not be valid for excavation until or unless the notice provisions of this section have been complied with, and the portion of the permit directly relating to excavation may be suspended by the issuing public agency if the permit holder violates any provisions of this chapter. The issuing public agency shall reinstate the permit at no charge within forty-eight (48) hours of receiving evidence of compliance with the provisions of this chapter.

[(55-2209) 55-2207, added 1990, ch. 351, sec. 1, p. 943; am. 1991, ch. 170, sec. 3, p. 412; am. and redesisg. 2016, ch. 325, sec. 9, p. 902.]

55-2210. EXCAVATIONS EXEMPT FROM NOTICE REQUIREMENT.

Unless facts exist which would reasonably cause an excavator to believe that an underground facility exists within the depth of the intended excavation, the following excavations shall not require notice of the excavation pursuant to section 55-2205(1)(c), Idaho Code:

(1) An excavation of less than fifteen (15) inches in vertical depth outside the boundaries of an underground facility easement of public record on private property.

(2) The tilling of soil to a depth of less than fifteen (15) inches for agricultural practices.

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(3) The extraction of minerals within recorded mining claims or excavation within material sites legally located and of record, unless such excavation occurs within the boundaries of an underground facility easement.

(4) Normal maintenance of roads, streets and highways, including cleaning of roadside drainage ditches and clear zones, to a depth of fifteen (15) inches below the grade established during the design of the last construction of which underground facility owners were notified and which excavation will not reduce the authorized depth of cover of an underground facility.

(5) Replacement of highway guardrail posts, sign posts, delineator posts, culverts, and traffic control device supports in the same approximate location and depth of the replaced item within public highway rights-of-way.

(6) Normal maintenance of railroad rights-of-way, except where such rights-of-way intersect or cross public roads, streets, highways, or rights-of-way adjacent thereto, or recorded underground facility easements.

[(55-2210) 55-2208, added 1990, ch. 351, sec. 1, p. 943; am. 1991, ch. 170, sec. 4, p. 412; am. 2002, ch. 351, sec. 3, p. 1003; am. and redesisg. 2016, ch. 325, sec. 10, p. 902.]

55-2211. VIOLATION — CIVIL PENALTY — DUTIES OF THE BOARD AND THE ADMINISTRATOR — OTHER REMEDIES UNIMPAIRED.

(1) The damage prevention board established in section 55-2203, Idaho Code, may hear, but may not initiate, contested cases of alleged violations of this chapter involving practices related to underground facilities as set forth in rule by the board. Persons who violate the provisions of this chapter are subject to civil penalties in accordance with this section. Complaints regarding an alleged violation of this chapter may be made by any individual and shall be made to the administrator. Complaints shall include the name and address of the complainant and the alleged violator and the violation alleged. If the alleged violation involves facility damage or a downtime event, the complaint must be submitted on such forms and contain such information as required by the board in rule. Upon review of the complaint, and any investigation conducted therewith, the administrator shall notify the person making the complaint and the alleged violator, in writing, of the administrator's recommended course of action to the board. The administrator shall recommend that a training course adopted by the board, by rule, be successfully completed for a first violation of this chapter, except that if the complaint is for a first violation of this chapter wherein a residential homeowner or residential tenant excavating on the lot of

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his residency failed to provide notice as required in section 55-2205, Idaho Code, and caused damage to underground facilities, the board shall direct the administrator to deliver to the violator a written warning and educational materials to prevent a future violation. The administrator may recommend the imposition of a civil penalty in an amount not to exceed one thousand dollars (\$1,000) for a second violation of this chapter and in addition may recommend successful completion of a training course adopted by the board, by rule, and issue a notice of intent to impose such penalty on behalf of the board. If the administrator recommends the imposition of a civil penalty, the violator may pay the fine to the board upon receipt of such notice. If, upon the expiration of twenty-one (21) days, the violator has not responded in writing to the division, the board may impose the penalty provided for in the notice. A violator shall also have the right to contest the imposition of a civil penalty to the board and the opportunity to produce evidence in his behalf. Notice of the time and place of such hearing shall be provided by the board, and such proceeding shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) In the event the board determines that a person has violated the provisions of this chapter a subsequent time within eighteen (18) months from an earlier violation, and where facility damage has occurred, the board may impose a civil penalty of not more than five thousand dollars (\$5,000) for each separate violation in accordance with the process described in subsection (1) of this section.

(3) All civil penalties recovered shall be deposited in the occupational licenses fund.

(4) The penalties provided in this section are in addition to any other remedy at law or equity available to any party subject to the jurisdiction of the damage prevention board established in section 55-2203, Idaho Code.

(5) Unless expressly provided herein, nothing in this chapter eliminates, alters or otherwise impairs common law, statutory or other preexisting rights and duties of persons affected by the provisions of this chapter; nor does anything in this chapter, unless expressly so provided, eliminate, alter or otherwise impair other remedies, state or federal, including those at common law, of an underground facility owner whose facility is damaged; nor do the provisions of this chapter affect any civil remedies for personal injury or property damage except as expressly provided for herein. The court in its discretion may award attorney's fees and costs to the prevailing party.

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[(55-2211) 55-2209, added 1990, ch. 351, sec. 1, p. 943; am. 2002, ch. 351, sec. 4, p. 1004; am. and redesisg. 2016, ch. 325, sec. 11, p. 902; am. 2021, ch. 224, sec. 81, p. 694.]

55-2212. WAIVER PERMITTED BY OWNER OF UNDERGROUND FACILITY.

The notification and marking provisions of this chapter may be waived for one or more designated persons by an underground facility owner with respect to all or part of that underground facility owner's own underground facilities.

[(55-2212) 55-2210, added 1990, ch. 351, sec. 1, p. 944; am. and redesisg. 2016, ch. 325, sec. 12, p. 904.]

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IDAPA 24 — Division of Occupational and Professional Licenses — Idaho Damage Prevention Board

24.39.90 — Rules of the Damage Prevention Board

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 55-2203, Idaho Code. (3-28-23)

001. SCOPE.

These rules are applicable to underground facilities, and facility owners as established in Title 55, Chapter 22, Idaho Code. (3-28-23)

002. ADMINISTRATIVE APPEALS.

01. Appeal Bond. Upon notice of the imposition of training or a civil penalty, the notified party may contest the imposition of such before the Damage Prevention Board in accordance with Section 018 of these rules. An appeal bond in the amount of two hundred dollars (\$200) must accompany the request for hearing to contest the matter. In the case of training, the Division of [Occupational and Professional Licenses] will refund the bond if the contesting party appears at the hearing. In the case of a civil penalty, the Division will refund any portion of the bond not used to satisfy the penalty imposed by the Board or the entire bond if the contesting party prevails at the hearing. (3-28-23)

002. — 006. (RESERVED)

007. FUNDING OF BOARD ACTIVITIES.

Each owner of an underground facility must pay a fee of ten cents (\$.10) each time such owner receives notice from a one-number notification service as prescribed by Section 55-2205, Idaho Code. The fee assessed upon the underground facility owner is collected by the one-number notification service, and is payable to the board in accordance with the following schedule: (3-28-23)

01. Fee Assessed. The fee will be assessed on an underground facility owner for each notification issued by the one-number notification service to the underground facility owner, with the one-number notification service required to submit a summary of the number of notices issued in a given month to the board no later than fifteen (15) days following the end of the month in which the notices were issued. (3-28-23)

02. Payment Submission. The one-number notification service must submit payment to the board for all payments received from underground facility

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owners no later than seventy (70) days following the end of the month in which the notices were issued to the facility owners. In those cases where the payment from the underground facility owner is received after the seventy-day (70) period, the one-number service must include late payments in its next payment to the board. (3-28-23)

03. Notices Issued. The one-number notification service must also submit a detailed list of notices issued, including the facility owner's contact information, for which payment has not been received within the seventy (70) day period following the end of the month in which the notices were issued. Such list must be updated on a monthly basis to reflect the status of all past-due payments due from underground facility owners that have not been received.

008. AUDIT OF ONE-NUMBER SERVICE RECORDS.

The Board has the right to review and audit the payment records of any one-number notification service relating to the collection of the fee imposed on underground facility owners. In the event the board wishes to conduct a review and/or audit of a one-number notification service, the board will provide no less than a five (5) business day advance notice of the intended action. The board may delegate any responsibilities contained herein this chapter to the Division of Building Safety. (3-28-23)

009. — 014. (RESERVED)

015. EDUCATIONAL AND TRAINING MATERIALS.

01. Approval of Training and Educational Programs. The Board approves acceptable training courses or programs and educational materials on relevant underground facility damage prevention topics pertaining to safe excavation, locating and marking of facilities, determining facility damage, emergency procedures, excavator downtime, pre-marking of intended excavation areas, and appropriate procedures when encountering unmarked facilities. (3-28-23)

02. Scope of Training and Educational Programs. Such training programs and educational materials must relate to various aspects of underground facility damage prevention, and contain practices, information, and standards generally accepted and recognized among stakeholders in Idaho. (3-28-23)

03. Accessibility of Training and Educational Programs. The Division maintains and periodically updates a database of approved educational materials and training programs. (3-28-23)

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04. Purposes of Training and Educational Programs. Such programs may be used for general educational use by stakeholders or for remedial training that may be ordered by the board or the administrator pursuant to Section 55-2211, Idaho Code. (3-28-23)

016. ADEQUACY OF FACILITY OWNERS LOCATING UNDERGROUND FACILITIES.

The board reviews all stakeholder complaints of violations related to underground facility line locating, as well as generally accepted practices and procedures related to locating. Stakeholders must take remedial actions to improve line-locating performance and monitor and report performance improvements to the board. (3-28-23)

017. IMPROVEMENT OF TECHNOLOGY AND COMMUNICATIONS BY STAKEHOLDERS.

01. Adoption of Technology and Communications Materials. On an annual basis the board reviews and adopts any available technology and communications materials which promote effective underground facility locating. The board will make available any such appropriate technology and communications materials as it may determine to all stakeholders on the Division website. (3-28-23)

02. Availability of Technology and Communications Materials. The board may request that stakeholders provide it with information or data related to procedures, methods, or technologies utilized by such stakeholders to enhance communications among other stakeholders, or that enhances underground facility locating capabilities, or enhances the stakeholder's ability to gather and analyze data related to underground facility damage. The board will review such technologies, methods, or materials adopted by stakeholders to ensure that such use is adequate, as well as to provide stakeholders with best practices. The Division of Building Safety must maintain an approved database of such referenced stakeholder data for public viewing and analysis on its website. (3-28-23)

018. DAMAGE PREVENTION COMPLAINTS.

01. Complaint Forms. Persons may submit written complaints to the administrator regarding an alleged violation of Title 55, Chapter 22, Idaho Code, on such forms as required by the Division. Notice of the complaint may be served concurrently on the alleged violator by the person submitting the complaint. Verifiable proof of such notification of a complaint provided to the alleged violator must also be provided to the administrator. (3-28-23)

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02. Contents. Complaints must include the name and address of the complainant and the alleged violator, the date and location of the alleged violation, as well as a complete description of the nature of the violation alleged, including whether it resulted in damage to an underground facility or an excavator downtime event. Complainants may also provide additional documentation in support of a complaint. Complaints must be accompanied by a sworn declaration from the complainant declaring that the information contained therein is true and accurate. The administrator may request additional information or documents in support of the complaint. (3-28-23)

03. Complaint Procedures and Timelines. The following timelines and procedure govern the process of filing and administering complaints related to violations of Title 55, Chapter 22, Idaho Code, and the rules of the Board. (3-28-23)

a. Initial Filing. Complaints must be filed with the administrator not later than thirty (30) days from the date of the alleged violation giving rise to the complaint or from the date the violation should have reasonably been discovered by the complainant, whichever is later. (3-28-23)

b. Response. The administrator must notify the alleged violator of the complaint and request a response and any additional information from the alleged violator as may be necessary. The alleged violator may provide a response to the administrator within thirty (30) days from the date they are notified of the complaint by the administrator. (3-28-23)

c. Recommendation. Within thirty (30) days of receipt of the response, or if no response is received, within fifteen (15) days from the deadline for filing a response, the administrator must notify the complainant and the alleged violator of his recommended course of action. The administrator may extend the period of time in which to determine a recommended course of action, and so notify the parties, if he determines it is necessary to further review or investigate the complaint. (3-28-23)

d. Contest. The alleged violator has the right to contest the imposition of a civil penalty before the damage prevention board. Notice of such contest must be provided by the alleged violator not more than thirty (30) days after receipt of the administrator's recommended course of action. Recommendations of the administrator regarding complaints may be reviewed by the board at its next regularly scheduled meeting. (3-28-23)

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019. CLAIMS AND REPORTS OF DAMAGE OR EXCAVATOR DOWNTIME.

01. Claims. Claims for the cost of repairs for damaged underground facilities are enforced by the affected underground facility owner in accordance with procedures as may be established by the facility owner, and in accordance with applicable law. Underground facility owners must provide notice to excavator contractors of such procedures, along with sufficient information supporting the basis for the amount of a claim within six (6) months from the date of the event giving rise to the claim or from the date the event should have reasonably been discovered by the underground facility owner, whichever is later. (3-28-23)

02. Reports. Underground facility owners and excavators who observe, suffer or cause damage to an underground facility or observe, suffer or cause excavator downtime related to a failure of one (1) or more stakeholders to comply with applicable damage prevention statutes or regulations must report such information to the board on forms or by such method adopted for such by the board. Forms are available at the Division offices and electronically on the Division's website. (3-28-23)

020. CIVIL PENALTIES.

The Idaho Damage Prevention Board is authorized under Section 55-2203(17), Idaho Code, to establish by administrative rule the fines to be paid for civil penalties issued for violations of Title 55, Chapter 22, Idaho Code. To the extent authorized by Section 55-2211, Idaho Code, the acts described in this section subject the violator to a civil penalty of not more than one thousand dollars (\$1,000) for a second offense and a civil penalty of not more than five thousand dollars (\$5,000) for each offense that occurs thereafter within eighteen (18) months from an earlier violation, and where facility damage has occurred. (3-28-23)

01. Violations of Title 55, Chapter 22, Idaho Code. The following acts subject a person to civil penalties: (3-28-23)

a. Pre-marking Excavation Site. Any person who fails to adequately pre-mark onsite the path of proposed excavation as reasonably required under the circumstances in accordance with Section 55-2205(1)(b), Idaho Code, is subject to a civil penalty. (3-28-23)

b. Notice of Excavation. Any person who fails to provide notice of the scheduled commencement of excavation to any underground facility owner through a one-number notification service, or directly to a facility owner,

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as applicable within the prescribed time as required by Section 55-2205(1)(c), Idaho Code, is subject to a civil penalty.

c. One-Number Notification to Facility Owner. A one-number notification service that fails to provide notice of a scheduled excavation upon notification from an excavator is subject to a civil penalty. (3-28-23)

d. Failure to Locate or Mark. An underground facility owner, owner's agent, or locator who fails to locate or mark underground facilities when responsible to do so in accordance with Section 55-2205(2), Idaho Code, or within the prescribed time provided therein, is subject to a civil penalty. (3-28-23)

e. Failure to Wait for Locate or Maintain Markings. An excavator who commences excavation prior to waiting the time prescribed by Section 55-2205(2), Idaho Code, for all known facilities to be located and marked, or an excavator who fails to maintain the markings of underground facilities previously so marked subsequent to the commencement of excavation in accordance with Section 55-2205(2), Idaho Code, is subject to a civil penalty. (3-28-23)

f. Failure to Cease Excavation or Report Unidentified Facilities. An excavator who does not cease excavation in the immediate vicinity upon the discovery of underground facilities therein, whether such facilities be active or abandoned, which were not previously identified or located with reasonable accuracy, or does not notify the owner or operator of the facilities, or a one-number notification service in accordance with Section 55-2205(4), Idaho Code, is subject to a civil penalty. (3-28-23)

g. Failure to Identify Facilities in Contract Documents. Project owners who fail to indicate in bid or contract documents the existence of underground facilities known by the owner to be located within the proposed area of excavation in accordance with Section 55-2207, Idaho Code, is subject to a civil penalty. (3-28-23)

h. Precautions to Avoid Damage. An excavator who does not engage in any of the activities required by Section 55-2207(2), Idaho Code, or use reasonable care to avoid damage to underground facilities is subject to a civil penalty. (3-28-23)

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i. Reporting of Damage to Facility. An excavator who fails to report to a facility owner and a onenumber notification service any contact or damage to an underground facility caused by such excavator in the course of excavation, or fails to alert an appropriate authority upon an actual breach of a facility which causes the release of gas or hazardous liquids as required by Section 55-2208(1), Idaho Code, is subject to a civil penalty. (3-28-23)

j. Reporting to the Board. An excavator or underground facility owner who observes, suffers or causes damage to an underground facility or excavator downtime related to the failure of one (1) or more stakeholders to comply with the damage prevention regulations and fails to report such information to the board as required by Section 55-2208(5), Idaho Code, is subject to a civil penalty. (3-28-23)

k. Failure to Participate. Any person who fails to participate or cooperate with a one-number notification service as prescribed by Section 55-2206, Idaho Code, is subject to a civil penalty. (3-28-23)

l. False Notification of Emergency. Any person who provides notice of an emergency excavation when there is not an emergency as defined in Idaho Code Section 55-2202(5). (3-28-23)

02. Second Offense. For the purpose of this section, a second offense is deemed to be any violation of Title 55, Chapter 22, Idaho Code, for which a civil penalty may be imposed in accordance with this section which occurs within eighteen (18) months of a previous violation of any provision. (3-28-23)

03. Multiple Violations. Each day that a violation of Title 55, Chapter 22, Idaho Code, occurs for which a civil penalty may be imposed as provided herein constitutes a separate offense. (3-28-23)

021. -- 999. (RESERVED)

Notes

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