IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

IDAHO DAMAGE PREVENTION BOARD

24.39.90 – Rules of the Damage Prevention Board

Who does this rule apply to?
This rule applies to those who own underground facilities, and those who may engage in excavation, including the general public. It also applies to (811) one-number notification services who provide notice to facility owners of planned excavation activities.

What is the purpose of this rule?
The rule prescribes the requirements related to educational programs regarding the protection of underground facilities, and underground facility locating practices. It also prescribes fees for (811) one-number notification services, as well as a complaint process and civil penalties related to the enforcement of the statutory damage prevention requirements.

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statutes passed by the Idaho Legislature:

Property in General -
- Title 55, Chapter 22, Idaho Code – Underground Facilities Damage Prevention
- 55-2203, Idaho Code – Damage Prevention Board

Who do I contact for more information on this rule?

Idaho Damage Prevention Board
Division of Occupational and Professional Licenses
8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except state holidays
11341 W Chinden Blvd, Bldg 4, Boise, ID 83714
Phone: (208) 334-3233
E-mail: DOPLboardsupport@dopl.idaho.gov
Website: https://dopl.idaho.gov/dpb/

This rule chapter will be reviewed in compliance with Section 67-5292, Idaho Code, and in accordance with the 8-year rule review schedule linked here.

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000. LEGAL AUTHORITY.
These rules are promulgated pursuant to Sections 55-2203, 67-2604, 67-2614, 67-9409, and 67-9406, Idaho Code. (7-1-25)

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. -- 099. (RESERVED)

100. 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. (7-1-25)

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. (7-1-25)

03. Accessibility of Training and Educational Programs. The Division maintains and periodically updates a database of approved educational materials and training programs. (7-1-25)

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. (7-1-25)

101. -- 299. (RESERVED)

300. DISCIPLINE.

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, as outlined in the board-approved complaint form. (7-1-25)

02. 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. (7-1-25)

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. (7-1-25)

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. (7-1-25)

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. (7-1-25)

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. (7-1-25)

03. 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. (7-1-25)

04. 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. (7-1-25)

05. Violations of Title 55, Chapter 22, Idaho Code. The following acts subject a person to civil penalties: (7-1-25)

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. (7-1-25)

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, as applicable within the prescribed time as required by Section 55-2205(1)(c), Idaho Code, is subject to a civil penalty. (7-1-25)

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. (7-1-25)

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. (7-1-25)

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. (7-1-25)

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. (7-1-25)

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. (7-1-25)

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. (7-1-25)

i. Reporting of Damage to Facility. An excavator who fails to report to a facility owner and a one-number 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. (7-1-25)

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. (7-1-25)

k. Failure to Participate. Any person, as defined in Section 55-2206 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. (7-1-25)

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). (7-1-25)

06. 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. (7-1-25)

07. 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. (7-1-25)

301. -- 349. (RESERVED)

350. 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 Building Safety 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)

351. -- 399. (RESERVED)

400. FEES.
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: (7-1-25)

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 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. (3-28-23)

04. 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 Occupational and Professional Licenses. (7-1-25)

401. -- 999. (RESERVED)