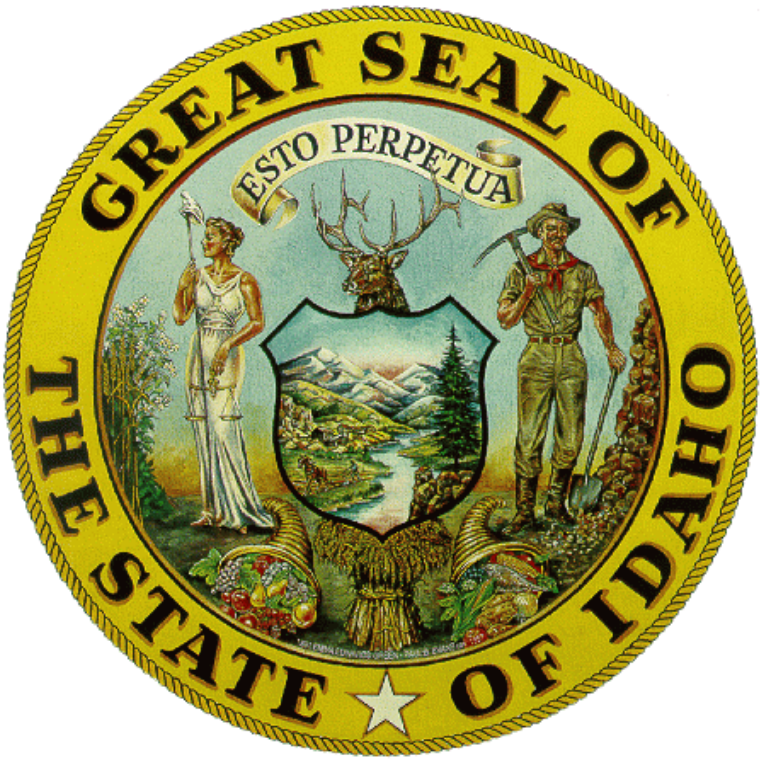
DIVISION OF BUILDING SAFETY

DAMAGE PREVENTION BOARD
VIDEOCONFERENCE MEETING

JULY 26, 2018



DAMAGE PREVENTION BOARD

Agenda Item No. 01 **Agenda**

PRESENTER: Mark Van Slyke, Chairman

OBJECTIVE: Approve agenda for the July 26, 2018 Damage Prevention Board meeting.

ACTION: Consent

BACKGROUND:

PROCEDURAL HISTORY:

ATTACHMENTS: Tentative Agenda

TENTATIVE AGENDA

NOTICE OF PUBLIC MEETING

DAMAGE PREVENTION BOARD
VIDEOCONFERENCE MEETING

Division of Building Safety
1090 East Watertower Street, Suite 150, Meridian
1250 Ironwood Drive, Suite 220, Coeur d'Alene
2055 Garrett Way, Building 1, Suite 4, Pocatello
dbs.idaho.gov – (208) 332-7137

Thursday, July 26, 2018
9:30 a.m. – 3:30 p.m. (MDT)

(Note: North Idaho - Meeting Commences @ 8:30 a.m. PDT)

9:30 a.m. **CALL TO ORDER** – Mark Van Slyke, Chairman

- Roll Call & Introductions
- Recognition – Board Member Linda Phillips
- Welcome – New Board Member Julie Maki
- Open Forum

CONSENT AGENDA

1. Approval of the July 26, 2018 Agenda – Mark Van Slyke
2. Approval of the May 24, 2018 Board Meeting Minutes – Mark Van Slyke

ACTION AGENDA

3. Administrative Appeals Hearing – Amy Kohler, Compliance Program Specialist
   a. Titanium Excavation--DAM1803-0026 – Intermountain Gas
   b. King Concrete Construction, LLC--DAM1806-0008 – Intermountain Gas
4. 2019 Proposed Legislation – Patrick J. Grace, Regional Manager and Spencer Holm, Deputy Attorney General
   a. Definitions--§ 55-2202
   b. Division Imposition--§ 55-2211
   c. Double Reporting--§ 55-2208(5)
   d. Identified but Unlocatable Underground Facility--§ 55-2205
   e. Right to Appeal Training--§ 55-2211

f. Service Laterals--§ 55-2202

g. Subsequent Violations--§ 55-2211

5. PUBLIC HEARING--Negotiated Rulemaking – Patrick J. Grace and Spencer Holm
   a. IDAPA 07.10.01.008.02 & 03--Replace "Utility Owner" With "Facility Owner"
   b. IDAPA 07.10.01.003--Require Payment Of An Appeal Bond
   c. IDAPA 07.10.01.020.01--Make Locators Eligible For Civil Penalties

6. Financial Subcommittee – Mark Van Slyke

7. Virtual Dirt--Update – Jeffrey Diehl, Board Member

INFORMATIONAL AGENDA

8. Education and Training (E & T) Updates--Current and Forecasted – Vaughn Rasmussen, Vice-Chairman
   a. Training Programs – Jerry Peterson, Energy Program Manager
   b. Safe Digging Manual – Amy Kohler
   c. Advertising – Ron Whitney, Deputy Administrator
   d. E & T Financial – Ron Whitney
   e. E & T Subcommittee Changes – Mark Van Slyke

9. PHMSA Report--Update– Mark Van Slyke

10. e-TRAKiT System – Amy Kohler

11. Compliance Report – Amy Kohler
    a. Damage Prevention Case Report

12. Administrator Report – Chris L. Jensen, Administrator
    a. Financial Report

3:30 p.m. ADJOURN

For additional agenda information, refer to the packet, available one week prior to this meeting, at the DBS's central and regional offices and https://dbs.idaho.gov/boards/dpboard/dpmeetings.html.

All times, other than beginning, are approximate and scheduled according to Mountain Daylight Time (MDT), unless otherwise noted. Agenda items may shift depending on Board preference. 07/20/2018rb

DAMAGE PREVENTION BOARD

Agenda Item No. 02 **Minutes**

PRESENTER: Mark Van Slyke, Chairman

OBJECTIVE: Approve the May 24, 2018 Damage Prevention Board meeting minutes.

ACTION: Consent

BACKGROUND:

PROCEDURAL HISTORY:

ATTACHMENTS: Draft Minutes

DAMAGE PREVENTION BOARD
VIDEOCONFERENCE MEETING

Thursday – May 24, 2018 – 9:30 a.m. (MDT)

Division of Building Safety
1090 East Watertower Street, Suite 150, Meridian
1250 Ironwood Drive, Suite 220, Coeur d'Alene
2055 Garrett Way, Building 1, Suite 4, Pocatello

*DRAFT MINUTES OF THE MAY 24, 2018 MEETING

NOTE: The following report is not a verbatim transcript of the discussions at the meeting; however, it is intended to record the significant features of those discussions.

Chairman Mark Van Slyke called the meeting to order at 9:30 a.m. (MDT)

Board Members Present:
Mark Van Slyke, Chairman
Jerry Piper
Joe Leckie
Bob Chandler
Jeffrey Diehl
Roy Ellis
Nichole Rush
Scott Spears
Jeanna Anderson
Linda Phillips

DBS Staff Members Present:
Chris L. Jensen, Administrator
Ron Whitney, Deputy Administrator
Spencer Holm, Deputy Attorney General
Jerry Peterson, Energy Program Manager
Larry Jeffres, Regional Manager, Region 1
Patrick J. Grace, Regional Manager, Region 2
Adam Bowcutt, Regional Supervisor, Region 3
Amy Kohler, Compliance Program Specialist
Renee Bryant, Administrative Assistant 2

- **Open Forum**
  Audit – The Board received a ruling of inadequacy on its 2016 audit by PHMSA.

- **Approval of the May 24, 2018 Agenda**
  An updated agenda with the new topic *Training Report* was distributed less than 48 hours to the commencement of the May 24, 2018 Damage Prevention Board meeting. The topic was already a part of agenda item 04 *DPB/DBS Informational Seminar*; therefore, it was not necessary to add it to the agenda. Therefore, the Chairman requested the Board vote to approve the original agenda in the packet.

  MOTION: Roy Ellis made a motion to approve the agenda as presented in the packet. Joe Leckie seconded. All in favor, motion carried.

- **Approval of the March 22, 2018 Board Meeting Minutes**
  MOTION: Jeffrey Diehl made a motion to approve the minutes as written. Roy Ellis seconded. All in favor, motion carried.

- **Administrative Appeal Hearing**

Titanium Excavation--DAM1712-0105 – Steve Vandermeer represented Titanium Excavation, Compliance Program Specialist Amy Kohler represented DBS, Idaho Power Representative Cody Herrmann was a witness, and Deputy Attorney General Spencer Holm was the facilitator. The Board did not object to the introduction of Exhibits A through V into the record. All parties were sworn in and provided testimony to DAM1712-0105, violation of IDAPA 07.10.01.020.01.b *Notice of Excavation*.

MOTION: Mark Van Slyke made a motion to affirm DBS's recommendation to impose training. Joe Leckie seconded. All in favor, motion carried.

The Board rejected the appeal. The Deputy Attorney General explained to Mr. Vandermeer his rights, and that the violation will be on his record.

ACTION: The Deputy Attorney General will generate a Final Order on Appeal for the Chairman's signature, and provide a signed copy to Mr. Vandermeer.

On April 20, 2018, Jerry Peterson, Energy Program Manager, provided a one-hour training course to Titanium Excavation employees. Deputy Attorney General Holm clarified the civil penalties process as it pertains to the 18-month rule.

All Valley Fire Protection--DAM1802-0003 – Prior to the hearing, the appeal was resolved.

Adams Construction--DAM1712-0055 – Randy Adams represented Adams Construction, Compliance Program Specialist Amy Kohler represented DBS, Terry Harpt with Intermountain Gas Company was a witness, and Deputy Attorney General Spencer Holm was the facilitator. The Board did not object to the introduction of Exhibits A through L into the record. All parties were sworn in and provided testimony to DAM1712-0055, violation of IDAPA 07.10.01.020.01.b *Notice of Excavation*.

MOTION: Roy Ellis made a motion that if a person is willing to make the effort to come before the Board to plead his case, and has taken the required training, then the Board should be able to choose whether to waive the notice of violation (NOV) so it is not on the individual's record.

Discussion ensued before there was a second made on the motion. Therefore, Board Member Roy Ellis had the opportunity to compose his motion once more.

MOTION: Roy Ellis made a motion to reject DBS's recommendation for training. Motion died due to lack of a second.

MOTION: Jeffrey Diehl made a motion to affirm the Division's recommendation for the imposition of training. Bob Chandler seconded. All in favor, motion carried.

The Board rejected the appeal. Jerry Peterson confirmed Mr. Adams fulfilled the training requirement. The Deputy Attorney General explained to Mr. Adams his rights, and the violation will be on his record.

DRAFT

ACTION: The Deputy Attorney General will generate a Final Order on Appeal for the Chairman's signature, and provide a signed copy to Mr. Adams.

- **DPB/DBS Informational Seminars**

  2018 & 2019 Education and Training Plan – The responsibility and scope of the Education and Training Subcommittee, and the Board, is to execute the current rules, as well as provide education and training materials to the industry and citizens of the state of Idaho.

  Due to retirement, effective July 1, 2018, Board Member Linda Phillips will no longer be a member of the Board.

  Training Report – The training calendar, and fillable training request form, are on the DBS/DPB website. Jerry Peterson has developed a training flyer, and is working to modify an on-line course based on the one-hour presentation. The Subcommittee will view the on-line course prior to its placement on the DBS/DPB website. Since the March meeting, Mr. Peterson has provided training to approximately 135 individuals.

  Excavator Handbook – The Compliance Program Specialist is working on a Safe Digging Practice Book and anticipates 1,000 copies will be available in June 2018.

  Advertising and Promotional Items – Board Member Joe Leckie has ordered or will order the following items with the 811 logo for distribution at training events: Bumper stickers, pens, key chains, luggage wraps, fidget spinners, hats, and bags. Mr. Leckie will provide the supplier's information to the Board.

  Jerry Peterson will manage an 811 table during registration for the June 3-6, 2018 Western Conference of Public Service Commissioners.

  Grant – Deputy Administrator Ron Whitney clarified that although the grant from October 2017 runs through August 2018, the Division only has spending authority through June 30, 2018 (FY 2018).

  Code Books – Upon the finalization of the draft statute and rules book, DBS will order 1,000 copies upfront. Prior to the end of June 2018, the Division will make another major purchase of 5,000 copies while it has the ability to spend the grant money.

  TV Advertisement – KBOI Representatives met with the Subcommittee and brought a proposal to use Connected TV for advertising. Connected TV refers to any TV that can be connected to the internet and access content beyond what is available via the normal offering from a cable provider; i.e., Hulu, Amazon, etc. The advantage of Connected TV, which KBOI has the ability to broadcast across the state, is the audience cannot fast forward and bypass commercials. In addition, KBOI can broadcast advertisements through its station in the Treasure Valley and station in Lewiston. A recommendation was to advertise on regular TV during the broadcast of the news since people typically watch it live.

DRAFT

The Subcommittee approved, and the Division will sign, a contract with KBOI to use both options for eight months, June 2018 through January 2019.

Damage Prevention Board FY2018 and FY2019 Worksheets – (Disclosure, the worksheets provided are not part of the accounting system; however, are to assist the Board with advance planning and forecasting of its finances.) Deputy Administrator Whitney reviewed Administration and Training/Education revenue/expenses for FY 2018, as well as projected revenue/expenses for FY 2019.

Board Member Ellis stated a portion of the city of Idaho Falls' license fees go to education and continuing education. If Mr. Peterson works with the city of Idaho Falls on training, the city should reimburse a portion of the expenses.

Board Member Jeffrey Diehl suggested it might be appropriate to contemplate the creation of a financial subcommittee to guide and provide financial recommendations on behalf of the Board. The Chairman agreed, and requested the topic *Financial Subcommittee* be an action item on the July Board meeting agenda.

ACTION: The topic *Financial Subcommittee* to be added to the agenda for the July Board meeting as an action item.

The Education and Training Subcommittee will review whether to spend more money and/or if it needs the Board's authority. Submit suggestions to Deputy Administrator Whitney, Subcommittee Chairman Rasmussen, and/or Board Chairman Van Slyke. For clarification, discussed was the time line on the approval process and spending authority of the Division's budget.

- **Compliance Report**

  Damage Prevention Case Report – For better viewing, provided was a graph rather than a pie chart on violation counts/types in the report, which Compliance Program Specialist Kohler reviewed for the period of March 21, 2018 to May 14, 2018. The Compliance Program Specialist explained the process for assessing fines, and offered to provide the Board with a list of the code descriptions and fees for each violation.

  ACTION: Prior to the July meeting, the Compliance Program Specialist to provide the Board a breakdown of the assessment of violation fees.

- **2019 Proposed Legislation**

  Regional Manager Patrick J. Grace brought forth the following proposals to refine statutes and rules. As part of the negotiated rulemaking process, they will need to be placed as action items on the agenda for the July Board meeting.

  ACTION: The topic *2019 Proposed Legislation* to be added to the agenda for the July Board meeting as an action item.

  - Complainant Right to Contest--§ 55-2211 – The Division determined, and the Association of General Contractors agreed, there is no merit in adding "complainant" to

the statute to contest the imposition of a civil penalty. Therefore, the topic *Complainant Right to Contest--§ 55-2211* will not move forward.

- Definitions--§ 55-2202 – There are definitions in both statute and rule; however, the majority are in statute. For consistency, definitions should be in statute only. Therefore, the definitions for "Soft digging" and "Hand digging" need removed from rule and added to statute.

  A lengthy discussion ensued on whether to add locators to those stakeholders who can receive civil penalties for failure to locate or mark an underground facility. Board Member Nichole Rush brought up this subject to better understand the Board's position.

- Division of Imposition--§ 55-2211 – Rather than the Division recommend training or civil penalties to the Board for approval; DBS would have the authority to impose training or civil penalties. The alleged violator would then have the right to appeal to the Board.

- Double Reporting--§ 55-2208(5) – Eliminate double reporting of the same incident by only requiring facility owners to report damages to facilities or downtime to the Board.

- Identified but Unlocatable Underground Facility--§ 55-2205 – In subsection two (2), move the language "and with reasonable accuracy as defined in section 55-2202(15), Idaho Code" from the second sentence to the first sentence. This will clarify the owner or owner's agent of identified but unlocatable underground facilities shall locate and mark in accordance with the best information available, and the owner or owner's agent of locatable underground facilities shall locate and mark with reasonable accuracy.

  Board Member Diehl further stated the meaning "~~Utility~~underground facility owner", subcategory 21~~19~~ of the draft proposal, is well defined and should resolve this matter as it is well defined.

- Right to Appeal Training--§ 55-2211 – The alleged violator to have the ability to appeal training, as well as civil penalties.

- Service Laterals--§ 55-2202 – New definitions were added to clarify terms used when addressing service laterals. Due to confusion among the Board, the Deputy Attorney General stated all owners are operators; however, not all operators are owners. After a lengthy discussion, it was suggested an operator, distinguished from the owner, is responsible, and leave the verbiage "owner/operator" in the statute.

  Board Member Diehl explained this issue developed because the Board was trying to reconcile who the responsible party is for locating wet utility service laterals. Mr. Diehl further stated the meaning "Utility facility owner", subcategory 19 of the draft proposal, is well defined, and it should resolve this matter.

DRAFT

The Deputy Attorney General and Board Member Diehl agreed to will meet and further amend the proposed statute change for the Board's review at its next meeting.

Regional Manager Grace received an e-mail from Board Member Jerry Piper with questions about possible statute and rule changes. One question of interest is the replacement of highway guardrails, post signs, etc., and whether highway districts or Idaho Transportation Department need to call for locates. Based on Idaho Code 54-2210 (5) *Excavations Exempt from Notice Requirement*, they are exempt from the notice of excavation only.

- **Negotiated Rulemaking**
  - 07.10.01.008.02 & .03--Replace "Utility Owner" with "Facility Owner" – The rule is very limited when using "utility" as the type of owner in *Payment Submission* and *Notices Issued*. Therefore, to broaden the rule, the word "facility" will replace "utility".

  - 07.10.01.018.03--Extend 30-Day Complaint Requirement – Extending the complaint requirement to 60 days means it could take second, third and/or fourth offenses a year to obtain a ruling. It was determined no further action needed at this time.

  - 07.10.01.003--Require Payment of an Appeal Bond – Other Boards within DBS impose appeal bonds. This proposal would require the amount of the penalty or $200.00, whichever is less. If appeal denied, the bond goes toward the penalty fee, and if appeal approved, the money refunded to the alleged violator.

  - 07.10.01.020.01--Make Locators Eligible for Civil Penalties – Added was the definition of "locater", as well as "owner's agent", and "when responsible to do so" to subsection d *Failure to Locate or Mark*.

  - 07.10.01.007 & .021--Sewer/Water Lines in Right-of-Way – This is actually duplicative of the statutory proposal as earlier addressed in the topic *Service Laterals--§ 55-2202*.

  - 07.10.01.020.03--Clarify Multiple Violations in One Day – At the March 2018 meeting, the Board decided not to move forward with this topic.

  - 07.10.01.008--Ten Cent (.10¢) Per Call Fee – At the March 2018 meeting, the Board decided not to move forward with this topic.

Regional Manager Grace received an electronic comment from Scot Hattenburg, President of M & L Construction, Inc., to increase the ticket duration from three to four weeks. As of today, DBS has not officially received any rule changes as required in the negotiated rulemaking process.

- **Virtual DIRT Update**

The DIRT Subcommittee has not met since the March Board meeting. Deputy Administrator Whitney asked Board Members Phillips and Rush to assist the Compliance Program

Specialist and himself with understanding what goes into DIRT and the reports DBS needs to generate for the Board's review.

Board Member Rush stated the Board has identified DIRT as the reporting tool to use statewide; however, has not included a procedure for processing claims related to damages of underground facilities. Upon further discussion, it was determined that although statute refers to rule, IDAPA 07.10.01.019.02 *Reports*, does not require instructions in rule.

For the July meeting, the Subcommittee will bring a recommendation to the Board as an action item to decide the form of education required for individuals reporting to DIRT.

ACTION: The topic *Virtual Dirt Update* to be added to the agenda for the July Board meeting as an action item.

- **Compliance Report (Cont'd)**

  Schedule of Fines – As addressed earlier, the Compliance Program Specialist provided a general guideline of the fines DBS use for its trades that issue civil penalties.

  e-TRAKiT System Presentation – Another company has bought the rights to e-TRAKiT. The Division has tried several times to contact the new company but has never received a call back. The Compliance Program Specialist offered to demonstrate the system; however, there are no new changes at this time.

- **Administrator Report**

  Statistics – The Administrator provided an overview of the Division's activities in 2017.

  Digline – Julie Maki, Digline Manager, has sent e-mails to all interested parties; notifying them about the change with regard to the term "business day", which becomes effective August 1, 2018. Since the first of April, four out of five days Digline has received over 700 inbound locator requests and is averaging 5.4 outbound tickets; an increase of 18% over 2017.

- **Adjournment**

  The Chairman adjourned the meeting at 2:55 p.m. (MDT)

MARK VAN SLYKE, CHAIRMAN DAMAGE PREVENTION BOARD	CHRIS L. JENSEN, ADMINISTRATOR DIVISION OF BUILDING SAFETY
DATE	DATE

***These DRAFT minutes are subject to possible correction and final approval by the Damage Prevention Board. 07/03/2018rb**

DRAFT

DAMAGE PREVENTION BOARD

Agenda Item No. 03a **Titanium Excavation – DAM1803-0026**

PRESENTER: Amy Kohler, Compliance Program Specialist

OBJECTIVE: Administer a ruling on Titanium Excavation – DAM1803-0026

ACTION: Affirm or reject the imposed penalties.

BACKGROUND: The Notice of Violation was issued based upon a proposed violation to IDAPA 07.10.01.20.01.c "One-Number Notification to Facility Owner".

PROCEDURAL HISTORY:

ATTACHMENTS: Documentation from Titanium Excavation and DBS

DAMAGE PREVENTION BOARD

Agenda Item No. 03b King Concrete Construction, LLC – DAM1806-0008

PRESENTER: Amy Kohler, Compliance Program Specialist

OBJECTIVE: Administer a ruling on King Concrete Construction, LLC – DAM1806-0008

ACTION: Affirm or reject the imposed penalties.

BACKGROUND: The Notice of Violation was issued based upon a proposed violation to IDAPA 07.10.01.20.01.h "Precautions to Avoid Damage".

PROCEDURAL HISTORY:

ATTACHMENTS: Documentation from King Concrete Construction, LLC and DBS

DAMAGE PREVENTION BOARD

Agenda Item No. 04a **Definitions--§ 55-2202**

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

---

OBJECTIVE: Redefine the existing statute.

ACTION: Affirm or reject the proposed statute change.

BACKGROUND: **January 2018** – Regional Manager Patrick J. Grace offered to present suggested changes, to refine existing statute and rules, at the March 2018 Board meeting. The Board agreed for DBS to submit a Notice to Engage in Negotiated Rulemaking to the Governor's office.

March 2018 – There are definitions in both statute and rule. Definitions can be in rule; however, if want more substance, definitions should be put in statute. Questioned was whether "Business Day" required further definition/revision. Digline is advising constituents they are adapting their practice of business day to better align with the state of Idaho's definition. No changes are necessary at this time.

May 2018 – There are definitions in both statute and rule; however, the majority are in statute. For consistency, definitions should be in statute only. Therefore, the definitions for "Soft digging" and "Hand digging" need removed from rule and added to statute.

A lengthy discussion ensued on whether to add locators to those stakeholders who can receive civil penalties for failure to locate or mark an underground facility. Board Member Nichole Rush brought up this subject to better understand the Board's position.

ATTACHMENTS: Definitions--§ 55-2202

55-2202. DEFINITIONS. As used in this chapter:

(1) "Administrator" means the administrator of the division of building safety.

(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.

(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 constituting a clear and present danger to life, health or property, or a customer service outage, or the blockage of roads or transportation facilities that requires immediate action.

(6) "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.

(7) "Excavator" means any person who engages directly in excavation.

(8) "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.

(9) "Hand digging" means any excavation involving non-mechanized tools or equipment that when used properly will not damage underground facilities. Hand digging includes but is not limited to hand shovel digging, manual post hole digging, vacuum excavation, or soft digging.

(10~~9~~) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.

(11~~0~~) "Identified facility" means any underground facility which is indicated in the project plans as being located within the area of proposed excavation.

(12~~1~~) "Locatable underground facility" means an underground facility which can be field-marked with reasonable accuracy.

(13) "Locator" means a person acting on behalf of an underground facility owner to designate the location of an underground facility owned or operated by such underground facility owner.

(14~~2~~) "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.

(15~~3~~) "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.

(16~~4~~) "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.

(17~~5~~) "Reasonable accuracy" or "reasonably accurate" means location within twenty-four (24) inches horizontally of the outside dimensions of each side of an underground facility.

(18~~16~~) "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.

(19) "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.

(20~~17~~) "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.

(21~~18~~) "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), sewage, electronic, telephonic or telegraphic communications, cable television, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground.

(22~~19~~) "Underground facility owner" means any person who owns or operates an underground facility.

DAMAGE PREVENTION BOARD

Agenda Item No. 04b **Division Imposition--§ 55-2211**

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

---

OBJECTIVE: Redefine the existing statute.

ACTION: Affirm or reject the proposed statute change.

BACKGROUND: **January 2018** – Regional Manager Patrick J. Grace offered to present suggested changes, to refine existing statute and rules, at the March 2018 Board meeting. The Board agreed for DBS to submit a Notice to Engage in Negotiated Rulemaking to the Governor's office.

March 2018 – Clarify DBS has the authority to impose training and civil penalties, while the Board retains the ability to impose training/penalties on appeals. Mr. Grace will modify the statute.

May 2018 – Rather than the Division recommend training or civil penalties to the Board for approval, DBS would have the authority to impose training or civil penalties. The alleged violator would then have the right to appeal to the Board.

ATTACHMENTS: Division Imposition--§ 55-2211

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 rules 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 findings~~recommended course of action to the board~~. The administrator shall order~~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 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 impose~~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 order~~recommend~~ successful completion of a training course adopted by the board, by rule, and issue a notice of imposition of~~intent to impose~~ such penalty~~ on behalf of the board~~. If the administrator imposes~~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 appeal~~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. The board is authorized to affirm or reject the training imposed or affirm, reject, decrease or increase the penalty imposed. However, the board shall not increase any penalty imposed to an amount exceeding one thousand dollars ($1,000) for each separate violation within eighteen (18) months from an earlier violation and where facility damage has not occurred or five thousand dollars ($5,000) for each separate violation within eighteen (18) months from an earlier violation and where facility damage has occurred.

(2) In the event the administrator~~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 administrator~~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 underground facility damage prevention board fund and used pursuant to section 55-2204(2), Idaho Code.

(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.

DAMAGE PREVENTION BOARD

Agenda Item No. 04c **Double Reporting--§ 55-2208(5)**

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

---

OBJECTIVE: Redefine the existing statute.

ACTION: Affirm or reject the proposed statute change.

BACKGROUND: **January 2018** – Regional Manager Patrick J. Grace offered to present suggested changes, to refine existing statute and rules, at the March 2018 Board meeting. The Board agreed for DBS to submit a Notice to Engage in Negotiated Rulemaking to the Governor's office.

March 2018 – Eliminate the double reporting requirement where excavators and owners are required to report damage to facilities or downtime to the Board. The concern is if both entities report the same event, it could double the Division's reporting figures. For the May meeting, Mr. Grace will provide a draft statute change requiring only the owner to report to the Board.

May 2018 – Eliminate double reporting of the same incident by only requiring facility owners to report damages to facilities or downtime to the Board.

ATTACHMENTS: Double Reporting--§ 55-2208(5)

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.

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

(5) Underground facility owners ~~and excavators~~ who observe, or suffer ~~or cause~~ damage to an underground facility, and excavators who ~~or~~ observe~~,~~ or suffer ~~or cause~~ 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.

DAMAGE PREVENTION BOARD

Agenda Item No. 04d Identified but Unlocatable Underground Facility-- § 55-2205

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

---

OBJECTIVE: Redefine the existing statute.

ACTION: Affirm or reject the proposed statute change.

BACKGROUND: **January 2018** – Regional Manager Patrick J. Grace offered to present suggested changes, to refine existing statute and rules, at the March 2018 Board meeting. The Board agreed for DBS to submit a Notice to Engage in Negotiated Rulemaking to the Governor's office.

March 2018 – This section requires owners to locate and mark, with accuracy, identified but unlocatable underground facilities. In § 55-2202(9), identified but unlocatable underground facility is a facility that has been identified but cannot be located with reasonable accuracy. These sections are not consistent with each other, causing confusion with facility owners. Board Member Diehl noted in § 55-2205(2) excavators shall not excavate until all known facilities have been marked. It is Mr. Diehl's interpretation if an identified facility is "known" but unlocatable then there can be no excavation, including soft dig. Deputy Attorney General Spencer Holm stated the problem could be solved by removing "… and with reasonable accuracy as defined in *section 55-2201(15), Idaho Code*." from § 55-2205(2). This would then require locating and marking underground facilities in accordance with the best information available to the owner of the underground facilities.

Idaho Code 55-2205(4) also references those locating with reasonable accuracy; however, does not specify, "locatable underground facility" or "identified but unlocatable underground facility." Another recommendation would be to change those references to "in accordance with subsection 2"; bringing it in line with the changes in the subsection. There was no definitive answer from the Board on this issue.

May 2018 – In subsection two (2), move the language "and with reasonable accuracy as defined in section 55-2202(15), Idaho Code" from the second sentence to the first sentence. This will clarify the owner or owner's agent of identified but unlocatable underground facilities shall locate and mark in accordance with the best information available, and the owner or owner's agent of locatable underground facilities shall locate and mark with reasonable accuracy. Board Member Diehl further stated the meaning "~~Utility~~underground facility owner", subcategory 21~~19~~ of the draft proposal, is well defined and should resolve this matter as it is well defined.

ATTACHMENTS: Identified but Unlocatable Underground Facility-- § 55-2205

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.

(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(15), Idaho Code, and 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 ~~and with reasonable accuracy as defined in section 55-2202(15), Idaho Code~~. 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 three (3) consecutive weeks following the date of notification so 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) The owner of the underground facility shall have the right to receive compensation for costs incurred in responding to excavation notices given less than two (2) business days prior to the excavation except for notices given for discovered facilities after the owner has identified facilities.

(3) Emergency excavations are exempt from the time requirements for notification provided in this section.

(4) If the excavator, while performing the excavation, discovers underground facilities (whether active or abandoned) which are not identified or were not located in accordance with section 55-2205(2), Idaho Code ~~reasonable accuracy~~, 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 that if the underground facility owner or the owner's agent supplies ~~reasonably accurate~~the locate information required under section 55-2205(2), Idaho Code, 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.

DAMAGE PREVENTION BOARD

Agenda Item No. 04e **Right to Appeal Training--§ 55-2211**

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

---

OBJECTIVE: Redefine the existing statute.

ACTION: Affirm or reject the proposed statute change.

BACKGROUND: **January 2018** – Regional Manager Patrick J. Grace offered to present suggested changes, to refine existing statute and rules, at the March 2018 Board meeting. The Board agreed for DBS to submit a Notice to Engage in Negotiated Rulemaking to the Governor's office.

March 2018 – Currently, the complainant can only contest the imposition of civil penalties. DBS has been extending the right to contest the imposition of training on the first offense. Mr. Grace will include the imposition of training in the statute.

May 2018 – The alleged violator to have the ability to appeal training, as well as civil penalties.

ATTACHMENTS: Right to Appeal Training--§ 55-2211

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 rules 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 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 and training on behalf of the board. If the administrator recommends the imposition of training or a civil penalty, the violator may complete the training or 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 training or 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 underground facility damage prevention board fund and used pursuant to section 55-2204(2), Idaho Code.

(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.

DAMAGE PREVENTION BOARD

Agenda Item No. 04f **Service Laterals--§ 55-2202**

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

---

OBJECTIVE: Redefine the existing statute.

ACTION: Affirm or reject the proposed statute change.

BACKGROUND: **January 2018** – Regional Manager Patrick J. Grace offered to present suggested changes, to refine existing statute and rules, at the March 2018 Board meeting. The Board agreed for DBS to submit a Notice to Engage in Negotiated Rulemaking to the Governor's office.

May 2018 – New definitions were added to clarify terms used when addressing service laterals. Due to confusion among the Board, the Deputy Attorney General stated all owners are operators; however, not all operators are owners. After a lengthy discussion, it was suggested an operator, distinguished from the owner, is responsible, and leave the verbiage "owner/operator" in the statute.

Board Member Diehl explained this issue developed because the Board was trying to reconcile who the responsible party is for locating wet utility service laterals. Mr. Diehl further stated the meaning "Utility facility owner", subcategory 19 of the draft proposal, is well defined, and it should resolve this matter.

The Deputy Attorney General and Board Member Diehl agreed to will meet and further amend the proposed statute change for the Board's review at its next meeting.

ATTACHMENTS: Service Laterals--§ 55-2202

55-2202. DEFINITIONS. As used in this chapter:

(1) "Administrator" means the administrator of the division of building safety.

(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.

(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 constituting a clear and present danger to life, health or property, or a customer service outage, or the blockage of roads or transportation facilities that requires immediate action.

(6) "End user" means any customer or consumer of any utility service or commodity provided by an underground facility owner.

(7) "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.

(8~~7~~) "Excavator" means any person who engages directly in excavation.

(9~~8~~) "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.

(10~~9~~) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.

(11~~0~~) "Identified facility" means any underground facility which is indicated in the project plans as being located within the area of proposed excavation.

(12~~1~~) "Locatable underground facility" means an underground facility which can be field-marked with reasonable accuracy.

(13~~2~~) "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.

(14~~3~~) "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.

(15~~4~~) "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.

(16) "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.

(17~~5~~) "Reasonable accuracy" or "reasonably accurate" means location within twenty-four (24) inches horizontally of the outside dimensions of each side of an underground facility.

(18~~16~~) "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.

(19) "Service lateral" means any underground water, stormwater, or sewer facility located in a public right-of-way or underground facility easement that connects an end user's building or property to an underground facility owner's main utility line.

(20~~17~~) "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.

(21~~18~~) "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), sewage, electronic, telephonic or telegraphic communications, cable television, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground.

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

(23~~19~~) "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.

. . .

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.

(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 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 and with reasonable accuracy as defined in section 55-2202(15), Idaho Code. 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 three (3) consecutive weeks following the date of notification so 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) The owner of the underground facility shall have the right to receive compensation for costs incurred in responding to excavation notices given less than two (2) business days prior to the excavation except for notices given for discovered facilities after the owner has identified facilities.

(3) End users shall not be required to locate or mark any service lateral. Underground facility owners who operate any service lateral or provide any utility service or commodity shall locate and mark service laterals in accordance with section 55-2205(2), Idaho Code.

(4~~3~~) Emergency excavations are exempt from the time requirements for notification provided in this section.

(5~~4~~) If the excavator, while performing the excavation, discovers underground facilities (whether active or abandoned) which are not identified or were not located with reasonable accuracy, 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 that if the underground facility owner or the owner's agent supplies reasonably accurate locate information 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.

55-2206. 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 others operating and maintaining 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 locator service shall be funded by all of the underground facility owners or /operators required by the provisions of this section to participate in and cooperate with the service. All underground facility owners or /operators who are required to participate in a one-number notification service are subject to the jurisdiction of the damage prevention board established in section 55-2203, Idaho Code.

DAMAGE PREVENTION BOARD

Agenda Item No. 04g **Subsequent Violations--§ 55-2211**

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

---

OBJECTIVE: Redefine the existing statute.

ACTION: Affirm or reject the proposed statute change.

BACKGROUND: Below are the recommended changes to Idaho Code § 55-2211:

"… the imposition of a civil penalty in an amount not to exceed one thousand dollars ($1,000) for a subsequent ~~second~~ violation of this chapter within eighteen (18) months from an earlier violation and where facility damage has not occurred and …"

ATTACHMENTS: Subsequent Violations--§ 55-2211

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 rules 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 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 subsequent~~second~~ violation of this chapter within eighteen (18) months from an earlier violation and where facility damage has not occurred 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 underground facility damage prevention board fund and used pursuant to section 55-2204(2), Idaho Code.

(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.

DAMAGE PREVENTION BOARD

Agenda Item No. 05a **IDAPA 07.10.01.008.02 & .03**

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

---

OBJECTIVE: Refine existing rule.

ACTION: Informational

BACKGROUND: IDAPA 07.10.01.008.02 & .03 – Replace "Utility Owner" with "Facility Owner"

March 2018 – For consistency, replace the term "utility owner" with "facility owner". Mr. Grace will provide a proposed rule change at the May 2018 Board meeting

May 2018 – The rule is very limited when using "utility" as the type of owner in *Payment Submission* and *Notices Issued*. Therefore, to broaden the rule, the word "facility" will replace "utility".

PROCEDURAL HISTORY:

ATTACHMENTS: IDAPA 07.10.01.008.02 & .03

---

008. FUNDING OF BOARD ACTIVITIES.

Each owner of an underground facility shall pay a fee of ten cents ($.10) each time such owner receives notice from a one-number notification service as required by Section 55-2205, Idaho Code. The fee assessed upon the underground facility owner shall be collected by the one-number notification service, and shall be payable to the board in accord with the following schedule: (3-24-17)

01. Fee Assessed. The fee shall 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. (3-24-17)

02. Payment Submission. The one-number notification service shall 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 ~~utility~~ owner is received after the seventy-day (70) period, the one-number service shall include late payments in its next payment to the board. ~~(3-24-17)~~( )

03. Notices Issued. The one-number notification service shall 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 shall be updated on a monthly basis to reflect the status of all past-due payments due from underground ~~utility~~ facility owners that have not been received. ~~(3-24-17)~~( )

04. Civil Penalties. Underground facility owners failing to submit payment to the one-number notification service in a timely manner shall be subject to the imposition of civil penalties and other remedies referenced in Title 55, Chapter 22, Idaho Code. (3-24-17)

DAMAGE PREVENTION BOARD

Agenda Item No. 05b **IDAPA 07.10.01.003**

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

---

OBJECTIVE: Create a new rule.

ACTION: Informational

BACKGROUND: IDAPA 07.10.01.003 – Require Payment of an Appeal Bond

March 2018 – Require payment of an appearance bond for individuals who wish to contest a civil penalty. The bond can be $200 or the amount of the penalty imposed, whichever is less. Other Boards under DBS have imposed appearance bonds to dispute the civil penalties. Regional Manager Grace will provide a proposed rule change at the May 2018 Board meeting.

May 2018 – Other Boards within DBS impose appeal bonds. This proposal would require the amount of the penalty or $200.00, whichever is less. If appeal denied, the bond goes toward the penalty fee, and if appeal approved, the money refunded to the alleged violator.

PROCEDURAL HISTORY:

ATTACHMENTS: IDAPA 07.10.01.003

---

003. ADMINISTRATIVE APPEALS.

01. Governing Procedural Requirements. IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Section 100, et seq., shall apply to contested cases, in addition to the provisions of Title 55, Chapter 22, Idaho Code. ~~(3-24-17)~~( )

02. 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 the penalty or two hundred dollars ($200), whichever is less, shall accompany the request for hearing to contest the matter. ( )

DAMAGE PREVENTION BOARD

Agenda Item No. 05c **IDAPA 07.10.01.020.01**

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

---

OBJECTIVE: Refine the existing rule.

ACTION: Informational

BACKGROUND: IDAPA 07.10.01.020.01 – Make Locators Eligible for Civil Penalties

March 2018 – Include locators as stakeholders who may be eligible for civil penalties for violations of the damage prevention statutes and rules.

Regional Manager Grace stated there is a duty to report damages and downtime to the Board, as well as a report those to DIRT; however, there is no civil penalty for causing the damage. Board Member Rush explained the subcommittee determined the downtime was a result of a violation already in rule. No changes are necessary at this time.

May 2018 – Added was the definition of "locater", as well as "owner's agent", and "when responsible to do so" to subsection d *Failure to Locate or Mark*.

PROCEDURAL HISTORY:

ATTACHMENTS: IDAPA 07.10.01.020.01

---

007. DEFINITIONS.

01. Hand Digging. Any excavation involving non-mechanized tools or equipment that when used properly will not damage underground facilities. Hand digging includes but is not limited to hand shovel digging, manual post hole digging, vacuum excavation, or soft digging. (3-28-18)

02. Locator. A person acting on behalf of an underground facility owner to designate the location of an underground facility owned or operated by such underground facility owner. ( )

03~~2~~. Soft Digging. 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. (3-28-18)

. . .

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 shall 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. (3-28-18)

01. Violations of Title 55, Chapter 22, Idaho Code. The following acts shall subject a person to civil penalties: (3-28-18)

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, shall be subject to a civil penalty. (3-28-18)

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, shall be subject to a civil penalty. (3-28-18)

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 shall be subject to a civil penalty. (3-28-18)

d. Failure to Locate or Mark. An underground facility owner, owner's agent, or locator who fails to locate or mark ~~its~~ underground facilities when responsible to do so in accordance with Section 55-2205(2), Idaho Code, or within the prescribed time provided therein shall be subject to a civil penalty. ~~(3-28-18)~~( )

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, shall be subject to a civil penalty. (3-28-18)

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, shall be subject to a civil penalty. (3-28-18)

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, shall be subject to a civil penalty. (3-28-18)

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 shall be subject to a civil penalty. (3-28-18)

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, shall be subject to a civil penalty. (3-28-18)

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, shall be subject to a civil penalty. (3-28-18)

k. Failure to Participate. Any person who fails to participate or cooperate with a one-number notification service as required by Section 55-2206, Idaho Code, shall be subject to a civil penalty. (3-28-18)

02. Second Offense. For the purpose of this section, a second offense shall be 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. (3-28-18)

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 shall constitute a separate offense. (3-28-18)

04. Judicial Review. Any party aggrieved by the final action of the Idaho Damage Prevention Board shall be entitled to a judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. (3-28-18)

DAMAGE PREVENTION BOARD

Agenda Item No. 06 **Financial Subcommittee**

PRESENTER: Mark Van Slyke, Chairman

OBJECTIVE: Establish a financial subcommittee.

ACTION: Vote to accept or reject the formation of a financial subcommittee.

BACKGROUND: **May 2018** – Board Member Jeffrey Diehl suggested it might be appropriate to contemplate the creation of a financial subcommittee to guide and provide financial recommendations on behalf of the Board. The Chairman agreed, and requested the topic *Financial Subcommittee* be an action item on the July Board meeting agenda.

The Education and Training Subcommittee will review whether to spend more money and/or if it needs the Board's authority. Submit suggestions to Deputy Administrator Whitney, Subcommittee Chairman Rasmussen, and/or Board Chairman Van Slyke. For clarification, discussed was the time line on the approval process and spending authority of the Division's budget.

ATTACHMENTS: No Documentation

DAMAGE PREVENTION BOARD

Agenda Item No. 07 **Virtual DIRT Update**

PRESENTER: Jeffrey Diehl, Board Member

OBJECTIVE: Inform the Board on the status of Idaho's Virtual Private DIRT reporting system.

ACTION: Informational

BACKGROUND: **May 2018** – The DIRT Subcommittee has not met since the March Board meeting. Deputy Administrator Whitney asked Board Members Phillips and Rush to assist the Compliance Program Specialist and himself with understanding what goes into DIRT and the reports DBS needs to generate for the Board's review.

Board Member Rush stated the Board has identified DIRT as the reporting tool to use statewide; however, has not included a procedure for processing claims related to damages of underground facilities. Upon further discussion, it was determined that although statute refers to rule, IDAPA 07.10.01.019.02 *Reports*, does not require instructions in rule.

For the July meeting, the Subcommittee will bring a recommendation to the Board as an action item to decide the form of education required for individuals reporting to DIRT.

ATTACHMENTS: No Documentation

DAMAGE PREVENTION BOARD

Agenda Item No. 08 Education & Training (E & T Updates--Current and Forecasted)

PRESENTER: Vaughn Rasmussen, Vice-Chairman

OBJECTIVE: Update the Board on the DPB E & T Subcommittee Activities.

ACTION: Informational

BACKGROUND:

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation

DAMAGE PREVENTION BOARD

Agenda Item No. 08a **Training Programs**

PRESENTER: Jerry Peterson, Energy Program Manager

OBJECTIVE: Update the Board on the DPB training programs.

ACTION: Informational

BACKGROUND: **May 2018** – The training calendar, and fillable training request form, are on the DBS/DPB website. Jerry Peterson has developed a training flyer, and is working to modify an on-line course based on the one-hour presentation. The subcommittee will view the on-line course prior to its placement on the DBS/DPB website. Since the March meeting, Mr. Peterson has provided training to approximately 135 individuals.

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation

DAMAGE PREVENTION BOARD

Agenda Item No. 08b **Safe Digging Manual**

PRESENTER: Amy Kohler, Compliance Program Manager

OBJECTIVE: Provide the Board on the status of the Safe Digging manual.

ACTION: Informational

BACKGROUND: **May 2018** – The Compliance Program Specialist is working on a Safe Digging Practice Book and anticipates 1,000 copies will be available in June 2018.

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation

DAMAGE PREVENTION BOARD

Agenda Item No. 08c **Advertising**

PRESENTER: Ron Whitney, Deputy Attorney General

OBJECTIVE: Update the Board on the status of advertising.

ACTION: Informational

BACKGROUND: **May 2018** – KBOI Representatives met with the Subcommittee and brought a proposal to use Connected TV for advertising. Connected TV refers to any TV that can be connected to the internet and access content beyond what is available via the normal offering from a cable provider; i.e., Hulu, Amazon, etc. The advantage of Connected TV, which KBOI has the ability to broadcast across the state, is the audience cannot fast forward and bypass commercials. In addition, KBOI can broadcast advertisements through its station in the Treasure Valley and station in Lewiston. A recommendation was to advertise on regular TV during the broadcast of the news since people typically watch it live.

The Subcommittee approved, and the Division will sign, a contract with KBOI to use both options for eight months, June 2018 through January 2019.

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation

DAMAGE PREVENTION BOARD

Agenda Item No. 08d **E & T Financial**

PRESENTER: Ron Whitney, Deputy Administrator

OBJECTIVE: Inform the Board of the current education and training financial plan.

ACTION: Informational

BACKGROUND: **May 2018** – Damage Prevention Board FY2018 and FY2019 Worksheets – (Disclosure, the worksheets provided are not part of the accounting system; however, are to assist the Board with advance planning and forecasting of its finances.) Deputy Administrator Whitney reviewed Administration and Training/Education revenue/expenses for FY 2018, as well as projected revenue/expenses for FY 2019.

Board Member Ellis stated a portion of the city of Idaho Falls' license fees go to education and continuing education. If Mr. Peterson works with the city of Idaho Falls on training, the city should reimburse a portion of the expenses.

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation

DAMAGE PREVENTION BOARD

Agenda Item No. 08e **E & T Subcommittee Changes**

PRESENTER: Mark Van Slyke, Chairman

OBJECTIVE: Inform the Board of changes to the Education and Training Subcommittee.

ACTION: Informational

BACKGROUND:

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation

DAMAGE PREVENTION BOARD

Agenda Item No. 09 **PHMSA Report--Update**

PRESENTER: Mark Van Slyke, Chairman

OBJECTIVE: Provide an overview of the 2016 PHMSA report.

ACTION: Informational

BACKGROUND:

PROCEDURAL HISTORY:

ATTACHMENTS: PHMSA Report

U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

May 18, 2018

OVERNIGHT EXPRESS MAIL

Mr. Mark Van Slyke
Chairman
Idaho Damage Prevention Board
c/o Intermountain Gas Company
555 South Cole Road
Boise, ID 83709

Dear Chairman Van Slyke:

On November 20, 2017, the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an adequacy evaluation of Idaho's enforcement of its excavation damage prevention law, commonly known as the State One-Call law. This letter serves as your official notice of our findings and determination. Based on the evaluation, PHMSA has determined that enforcement of Idaho's excavation damage prevention law is inadequate due to the State responding "no" to the following evaluation criterion:

> In the previous calendar year, did the State enforcement authority assess civil penalties and/or other sanctions for violations of the excavation damage prevention law involving regulated pipelines?

PHMSA conducted the evaluation pursuant to 49 United States Code (USC) § 60114 and 49 Code of Federal Regulations (CFR) Part 198, Subpart D -- State Damage Prevention Enforcement Programs. PHMSA spoke with Patrick Grace of the Idaho Division of Public Safety and other stakeholders, mostly from the recently-formed Damage Prevention Board. During the evaluation, PHMSA asked a series of standard questions regarding actions that the State has executed to enforce the Idaho excavation damage prevention law.

In accordance with 49 CFR § 198.55, there are seven federal criteria that PHMSA uses to assess the effectiveness of the State's damage prevention enforcement programs. These criteria specify if the State has the authority to enforce its excavation damage prevention law; that the State utilizes its authority to issue civil penalties and other appropriate sanctions for violations of the law; and, that the State can provide documented procedures, processes, and data that demonstrates an effective overall damage prevention enforcement program. The evaluation criteria are included in the enclosed brief.

Idaho was found to have inadequate enforcement during the PHMSA evaluation conducted in 2016. Based on PHMSA's 2017 determination, PHMSA continues to maintain enforcement

authority in Idaho, as defined in 49 CFR Part 196, against an excavator who damages a regulated hazardous liquid or natural gas pipeline in the State. It is important to note this does not mean that Idaho is unable to continue its enforcement efforts, only that PHMSA has the authority to enforce its own Federal minimum excavation damage standards alongside your current efforts. PHMSA continues to recognize the critical role Idaho officials play in the safety of their pipeline network and will continue to work together with Idaho officials going forward.

Please be advised States that fail to establish an adequate excavation damage prevention law enforcement program within five years from the date of a final PHMSA determination may be subject to a four percent reduction in PHMSA State Base Grant funding. This grant currently funds up to 80 percent of the cost of the pipeline safety program within the Idaho Public Service Commission.

Idaho has the right under 49 CFR § 198.59 to submit to PHMSA a written response contesting this inadequacy determination and request that the determination be withdrawn within 30 days of receiving this letter. Upon receipt of such notification, PHMSA will review all relevant information and will issue a final determination. Please send letters to my attention at the following address:

Alan K. Mayberry
Associate Administrator for Pipeline Safety
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Suite E22-321
Washington, DC 20590

PHMSA evaluation of State damage prevention law enforcement will occur annually; however, if Idaho acts to establish an adequate enforcement program prior to the annual evaluation, Idaho may request that PHMSA review and reconsider this designation.

Excavation damage continues to be a leading cause of hazardous liquid and natural gas pipeline incidents resulting in fatalities, serious injury, and environmental damage. Damaging a pipeline during excavation poses a serious safety risk to excavators, the public living or working in proximity to the excavation site, and the environment.

PHMSA strongly believes that effective damage prevention programs, including enforcement, are best addressed at the State level. Nationwide statistics show that effective enforcement of State excavation damage prevention laws reduces excavation damage and pipeline incidents, resulting in increased safety. PHMSA recognizes that Idaho damage prevention stakeholders took significant steps towards strengthening its damage prevention law when the Governor signed House Bill 454 on March 31, 2016. These new statutes became effective on July 1, 2016, and enforceable on a temporary basis September 1, 2017. They will become permanent when

the Idaho Legislative approves them and upon the adjournment of the Legislature in the spring of 2018.

PHMSA stands ready to assist Idaho stakeholders in improving enforcement of your excavation damage prevention law. If you have any questions or need additional information, please contact our Damage Prevention Team by email at excavation.enforcement@dot.gov or by telephone at (804) 556-4678.

Finally, we encourage you and your colleagues to support several safety education initiatives throughout the year. These efforts include National Safe Digging Month in April, National Safety Month in June, and National 811 Day in August. More information is available at www.call811.com and www.nsc.org/work-safety/get-involved/national-safety-month.

Sincerely,

Alan K. Mayberry
Associate Administrator for Pipeline Safety

Enclosure

cc: Chris Jenson, Administrator, Idaho Division of Building Safety
Paul Kjellander, President, Idaho Public Utilities Commission
Joe Leckie, Pipeline Safety Manager, Idaho Public Utilities Commission
Patrick Grace, Region 2 Manager, Idaho Division of Building Safety

United States Department of Transportation (USDOT)
Pipeline and Hazardous Materials Safety Administration (PHMSA)
Pipeline Safety: Pipeline Damage Prevention Programs
49 CFR 196 – Protection of Underground Pipelines from Excavation Activity
49 CFR 198 – Regulations for Grants to Aid State Pipeline Safety Programs
Effective January 1, 2016

BACKGROUND

49 USC § 60114 provides the United States Department of Transportation with back stop authority to conduct administrative civil enforcement proceedings against excavators who damage hazardous liquid and natural gas pipelines in a state that has failed to adequately enforce its excavation damage prevention or one-call laws. **Federal civil penalty levels are as high as $209,002 for each day the violation continues, with a maximum penalty of $2,090,022 for a related series of violations.**

On July 23, 2015, PHMSA published a Final Rule that established:

1. Criteria and procedures for determining the adequacy of state pipeline excavation damage prevention law enforcement programs,
2. An administrative process for making adequacy determinations,
3. Federal requirements PHMSA will enforce in states with inadequate excavation damage prevention law enforcement programs, and
4. The adjudication process for administrative enforcement proceedings against excavators where Federal authority is exercised.

CRITERIA TO BE USED TO EVALUATE STATE DAMAGE PREVENTION PROGRAMS

1. Does the state have enforcement authority, including civil penalties?
2. Is there a designated enforcement body?
3. Is the state using its authority and making enforcement records available to the public?
4. Does the state have a reliable means of learning about damages?
5. Does the state have damage investigation practices that are adequate to determine the at-fault party when damage occurs?
6. At a minimum, does state law require that:
    a. Excavators must call 811 before digging
    b. Excavators must "respect the marks"
    c. If damage to a pipeline occurs:
        i. Excavator must report damage to operator at earliest practical moment.
        ii. If release occurs, excavator must call 911.
7. Are exemptions from the damage prevention law limited? Written justification of exemptions is required.

ADMINISTRATIVE PROCESS FOR STATES TO CONTEST NOTICES OF INADEQUACY

1. PHMSA will issue a notice of inadequacy to the state in accordance with 49 CFR 190.5.
2. States have 30 days to submit written response by mail to:

   Alan Mayberry
   Associate Administrator for Pipeline Safety
   Pipeline and Hazardous Materials Safety Administration
   U.S. Department of Transportation
   1200 New Jersey Avenue, SE, Suite E22-321
   Washington, DC 20590
3. PHMSA will issue a final decision to states that contested a notice of inadequacy.
4. State may petition PHMSA to reconsider at any time following a finding of inadequacy; PHMSA will respond not later than the date of the next annual review.
5. States that fail to establish an adequate enforcement program within five years of effective date of the damage prevention final rule (January 1, 2016) may be subject to a 4 percent reduction in base grant funding.

FEDERAL STANDARDS FOR EXCAVATORS

1. Call 811 before excavating.
2. Wait for pipeline operators to establish and mark the location of underground pipelines before excavating.
3. Excavate with proper regard for the marks and take all practicable steps to prevent excavation damage.
4. Make additional use of one-call as necessary.
5. Any contact with pipelines must be reported to operator at the earliest practical moment.
6. If there is a release, the excavator must call 911.

There are no exemptions in the damage prevention regulation for calling 811 prior to excavation. PHMSA understands many states have one-call law exemptions and will be considerate of those exemptions when undertaking Federal enforcement action.

FOR MORE INFORMATION

www.phmsa.dot.gov/pipeline/excavator-final-rule/about-excavation-enforcement-final-rule

CONTACT OUR DAMAGE PREVENTION TEAM

Our team of damage prevention professionals, Sam Hall, Annmarie Robertson, Steve Fischer, and David Appelbaum are available to answer questions pertaining to this final rule, state one call laws, and damage prevention. They may be reached at excavation.enforcement@dot.gov.

U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

RECEIVED

MAY 25 2018

DIVISION OF BUILDING SAFETY

PRESORTED
FIRST CLASS

Hasler

016H26513990

$00.408

05/22/2018

Mailed From 20590

US POSTAGE

PHP-4
#E22-321

Mr. Patrick Grace
Region 2 Manager
Idaho Division of Building Safety
1090 E Watertower Street, #150
Meridian, ID 83642

005 DAA5AAB 83642

IDAHO DAMAGE PREVENTION BOARD
STATE OF IDAHO DIVISION OF BUILDING SAFETY
1090 East Watertower Street, Suite 150
Meridian, Idaho 83642
Ph: 800-955-3044
Fax: 877-810-2840
Website: dbs.idaho.gov

June 20, 2018

Alan K Mayberry
Associate Administrator for Pipeline Safety
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Ave, SE
Suite E22-321
Washington, DC 20590

Mr. Alan K. Mayberry:

In accordance with 49 CFR 198.59, the State of Idaho Damage Prevention Board ("DPB" or "board") and Division of Building Safety ("DBS") hereby contest the Pipeline and Hazardous Materials Safety Administration's (PHMSA) determination that enforcement of Idaho's excavation damage prevention law is inadequate. PHMSA conducted an adequacy evaluation of Idaho's enforcement on November 20, 2017. DBS was informed the evaluation was conducted based on enforcement activity that occurred in 2016. The DBS received notice of the PHMSA determination by first-class USPS mail on May 25, 2018 (See attached **Exhibit A**). In accordance with the notice from PHMSA, as well as 49 CFR 198.59, Idaho has thirty days in which to contest the PHMSA determination.

Additionally, and/or alternatively, the DPB and DBS seek reconsideration of the PHMSA determination in accordance with 49 CFR 198.63 based on changed circumstances, including improvements to Idaho's enforcement program.

The Idaho DPB and DBS contest PHMSA's determination and/or seek reconsideration of it based on the following information:

1. Since 2016 - the period for which PHMSA conducted its evaluation of Idaho's enforcement of damage prevention requirements, the State of Idaho and DPB/DBS has made tremendous progress in establishing state statutes, administrative rules, policies and procedures, training and outreach, and enforcement activities in the form of civil penalties and mandatory training to prevent the damage of underground facilities.

a. In July 2016, the Idaho legislature enacted significant revisions to the laws which prevent damage to underground facilities in Idaho, along with a regulatory scheme to provide education about

and enforcement of damage prevention requirements applicable to all stakeholders in Idaho. In those statutes, the Idaho DPB was established within the DBS and designated as the authority responsible for enforcement of excavation damage prevention laws, along with the authority to issue civil penalties and other sanctions for violations of the requirements. Those statutes are codified at sections 55-2201 *et seq.*, Idaho Code.

b. In September 2017, the DPB/DBS promulgated administrative rules (which were subsequently approved on a permanent basis by the Idaho Legislature on March 28, 2018) that provided many legal requirements to increase the effectiveness of Idaho's damage prevention program. Those rules may be found at IDAPA 07.10.01 - Rules Governing the Damage Prevention Board, Division of Building Safety. Included among those are a mandatory reporting requirement to the State of any damage to underground facilities by stakeholders, provisions regarding the adequacy of locating practices, as well as improvements to technology and communication used by stakeholders, and the establishment of publically accessible training and education programs approved by the DPB. Significantly, the rules also established a complaint process through which any "person" (as broadly defined at I.C. § 55-2202 (14)) may file a complaint against any stakeholder (also broadly defined at I.C. § 55-2202(17)) for any violation of the damage prevention requirements. The DBS has established a publically accessible process on its website https://damageprevention.dbs.idaho.gov/ for persons to file a complaint, or obtain information about complaints. Additionally, the rules provide for civil penalties and training which may be imposed by the DBS and DPB against any person who violates Idaho's statutes or rules related to the prevention of damage to underground facilities. Penalties up to $1,000 may be imposed against violators, and up to $5,000 for those who violate the requirements a subsequent time within 18 months and cause damage to a facility.

c. The DBS has established a dedicated process within the agency to handle and process complaints, including forms, dedicated email accounts, and FAQs. A compliance officer has also been designated who, with the assistance of approximately eighty field inspectors around the state may investigate any alleged violation of the damage prevention requirements, and determine the responsible party. Additionally, the DBS has conducted training with its inspection staff to educate it about damage prevention requirements, issues related to investigating damage prevention matters, and to disseminate education material to the public.

d. Between the statutes and rules established by the DPB/DBS and the Idaho Legislature, the enforcement requirements in Idaho include all the remaining criteria contained in 49 CFR 198.55 including requirements that all excavators participate in and use a one-call notification system; that excavators may not disregard marked facilities, that excavators must report any damage to the facility operator and the board, and they must call 911 if the damage results in the release of any gas or a hazardous materials. A copy of the State Excavation Damage Prevention Law Enforcement Program Evaluation Checklist with updated responses and commentary provided by the State of Idaho is attached to this letter as **Exhibit B**. Of particular note is item 7.a, in which the limited nature of exemptions for excavators is explained. Exemptions only for *certain types* of excavations exist, and only exist with respect to the requirement to *provide notice* through a one-number notification service, and then further narrowed if an excavator has reason to believe that an underground facility exists within the depth of the intended excavation.

2. Since the establishment of the legal authority for the DBS and DPB to impose training and civil penalties against those who violate the damage prevention requirements, the DBS and board have imposed a significant amount of both training and civil penalties through the complaint process. A summary of the civil penalty and training enforcement activity is attached to this letter as **Exhibit C**. Of note, the DBS and DPB received 143 complaints in 2017 and 189 complaints in 2018 (332 total) alleging various violations of the damage prevention requirements. While some complaints were either legally invalid or withdrawn, and some are still pending as of the date of this contested letter, Idaho has imposed a total of 217 mandatory training sessions, and 30 civil penalties in an aggregate amount of $8,000, as well as issued 46 letters of warning to homeowners. The board has also heard three contested cases by alleged violators that disputed the initial findings of the DBS. Additionally, complaints have been filed by both facility owners and contractors against other stakeholders.

3. Since the establishment of the administrative rules which provide for development of training and education for the public and all stakeholders to learn about the prevention of damage to underground facilities, the Board has designated a damage prevention training officer and established a training program within the DBS, as well as approved the training materials that are presented. Since the rules were promulgated, the DBS has engaged in a substantial amount of outreach and training throughout the State of Idaho. In 2018 alone, the DBS has presented seventeen separate training sessions in locations throughout Idaho with over 500 attendees. A brief summary of DBS training activities to date is attached to this letter as **Exhibit D**. Additionally, a subcommittee of the board has created and published a free 35-page guide to safe digging, as well as engaged with local vendors to create print material, and radio and television public service advertisements and a marketing strategy. The board is currently working through the legal process to accept donations, and use board (public) funds to make purchases of services to continue the public education and awareness campaign. Finally, the Idaho Public Utilities Commission has donated funds to develop promotional items printed with the "811" or DBS/DPB logo for free distribution to the public – including bumper stickers, pens, key chains, etc.

4. Over the course of the last year, the DBS and Board have engaged in the required legislative process to review its current statutes and rules, and with the input of the public and all stakeholders intend to make amendments to them in order to make the damage prevention program in Idaho more effective. More specifically, this includes additions or amendments to definitions in statute to clarify various key terms; amendments to the complaint process to expedite the resolution of cases and clarify the process, rights of the parties, and roles of the DBS and Board; the inclusion of certain stakeholders (locators) into the rules governing who may be subject to civil penalties; clarification to stakeholders regarding identified but unlocatable facilities; and obligations of various stakeholders related to the locating of service laterals in the public right-of-way. The statutes and rules will be adopted by the Board at its next regularly scheduled board meeting in July, and will be presented to the Idaho Legislature during its 2019 session for approval on a permanent basis. These proposals will be on the DBS website, and can be provided to PHMSA upon request.

For the reasons identified herein above, the Idaho Division of Building Safety and Damage Prevention Board contest the determination of inadequacy by PHMSA in its letter to Idaho dated May 18,

2018. Additionally, and/or alternatively, Idaho seeks reconsideration of the PHMSA determination. While Idaho has been informed that the next annual evaluation of its damage prevention program will not be conducted by PHMSA until approximately November of 2018, pursuant to 49 CFR 198.63, as well as the third full paragraph on page 2 of the PHMSA determination letter, the DPB and DBS request reconsideration based on changed circumstances which include improvements to Idaho's enforcement program as described above. The DBS and Board believe that since the evaluation of Idaho by PHMSA in November 2017, Idaho has acted to establish an adequate program. Accordingly, we request PHMSA's review and reconsideration of its findings and determination reflected in its letter of May 18, 2018.

Sincerely,

Mark Van Slyke
Chairman, Idaho Damage Prevention Board

Enclosure

cc: David Appelbaum, PHMSA State Evaluator – PHP50
Joe Leckie, Pipeline Safety Manager, Idaho Public Utilities Commission
Chris Jensen, Administrator, Division of Building Safety

U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety Administration**
1200 New Jersey Avenue SE
Washington, DC 20590

RECEIVED
MAY 25 2018
DIVISION OF BUILDING SAFETY

PRESORTED
FIRST CLASS

Hasler

$00.408
05 22 2018
Mailed From 20590
US POSTAGE

PHP-4
#E22-321

Mr. Patrick Grace
Region 2 Manager
Idaho Division of Building Safety
1090 E Watertower Street, #150
Meridian, ID 83642

005 DAASAAB 83642

4

STATE EXCAVATION DAMAGE PREVENTION LAW ENFORCEMENT PROGRAM EVALUATION CHECKLIST **State:** Click here to enter text. **Date:** Click here to enter text. **Final score:** Click here to enter text.	
General	
G.1.	What is the code citation for the State excavation damage prevention law/requirements? Title 55, Chapter 22 Idaho Administrative Rules at IDAPA 07.10.01 Comments: The new statutes became effective on July 1, 2016. The rules became effective on a temporary basis on September 1, 2017. They became permanent on March 28, 2018 after the Idaho legislative approved them.
G.2.	When was/were the State excavation damage prevention law/requirements most recently updated? The statutes became effective on July 1, 2016. A temporary rule allowing for the collection of fees to finance the operation of the Board was accepted by the 2017 Legislature. This rule allows the Board to collect a fee on each call ticket issued by the 811 call centers. A temporary rule regarding a complaint process and the imposition of civil penalties and training (among other items related to reporting and accessing damage data) became effective on September 1, 2017. Those rules became permanent on March 28, 2018 (*sine die*) after the Idaho legislative approved them. Comments:
G.3.	What recent changes have been made to the State excavation damage prevention law/requirements? No recent changes other than the above stated. Comments: The Board, with the assistance of the Division of Building Safety presented administrative rules to the 2018 Legislature to address the following: data collection, operational processes, education and training requirements, complaint processes, due process requirements, and civil penalty provisions. Additional amendments to statutes and rules are currently being approved by the Damage Prevention Board, and will be presented to the Idaho Legislature during its 2019 legislative session in January 2019. Those include additions or amendments to definitions in statute to clarify various key terms; amendments to the complaint process to expedite the resolution of cases and clarify the process, rights of the parties, and roles of the DBS and Board; the inclusion of certain stakeholders (locators) into the rules governing who is subject to civil penalties; clarification to stakeholders regarding identified but unlocatable facilities; and obligations of various stakeholders related to the locating of service laterals in the public right-of-way.
Guidance	G.3.: PHMSA is seeking to understand changes in the law pertaining to enforcement procedures, reporting, transparency, exemptions, and other relevant topics. Questions G.1. through G.3. are for information only.

B

Criterion 1 – Does the State have the authority to enforce its State excavation damage prevention law using civil penalties and other appropriate sanctions for violations?		
1.a.	Does the State have the authority to enforce its State excavation damage prevention law using civil penalties and other appropriate sanctions for violations? **If the answer is "No", enforcement of the State excavation damage prevention law is deemed inadequate.** ☒Yes ☐No Comments: The State (DBS/Board) has authority to issue warning letters, as well as impose training and civil penalties up to $1000 for a second offense, and up to $5000 for each offense thereafter which occurs within 18 months of an earlier offense.	Pass/Fail
1.b.	Cite the portion of the excavation damage prevention law/requirements that enables enforcement. § 55-2203 (16) (d), Idaho Code; §55-2211, Idaho Code. IDAPA 07.10.01 § 020 Comments: Click here to enter text.	Information Only
Guidance	1.a.: This question is pass/fail. If the answer to 1.a. is "No," the State excavation damage prevention law enforcement program is inadequate. PHMSA does not consider criminal penalties to be "other appropriate sanctions".	

Criterion 2 - Has the State designated a State agency or other body as the authority responsible for enforcement of the State excavation damage prevention law? Total Points: Click here to enter text.		
2.a.	Does the State excavation damage prevention law designate an authority or authorities responsible for State-wide enforcement of the State excavation damage prevention requirements? **If the answer is "No", enforcement of the State excavation damage prevention law is inadequate.** ☒Yes ☐No Comments: Title 55, Chapter 22, and its corresponding administrative rules at IDAPA 07.10.01 identify the Idaho Damage Prevention Board, and the Idaho Division of Building Safety as the state authority to enforce state-wide excavation damage prevention requirements.	Pass/Fail
2.b.	Cite the portion of the law that designates enforcement authority to a State agency or other organization. § 55-2203 (specifically, ¶ s(1), (7) through (18); §55-2206; 55-2208(5); and §55-2211 Comments: Click here to enter text.	Information Only
2.c.	What organization is the designated authority? If more than one, list them. The Damage Prevention Board as part of the Idaho Division of Building Safety. Comments: Click here to enter text.	Information Only
2.d.	How long has/have the designated organization(s) had enforcement authority? Since the effective date of the revised statutes on July 1, 2016 Comments: Click here to enter text.	Information Only
2.e.	What are the enforcement roles and responsibilities of each organization? The statute creates a Damage Prevention Board that has primary responsibility to reduce damages to underground facilities, promote safe excavation practices, oversee the collection and assessment of damage prevention data, and receive, process and enforce the damage prevention laws. The administrator of DBS serves as the secretary to the Board, and is responsible to assist the Board in its functions. The administrator receives complaints regarding violations of the damage prevention laws, and through a (due) process set forth in IDAPA rule which allows for the opportunity for all interested parties to participate and submit evidence on its behalf, issues warnings, training and civil penalties for such. The Board serves as a governing body to hear contested cases regarding the imposition of civil penalties, if requested. Comments: Click here to enter text.	Information Only
2.f.	What positions/roles are responsible for enforcement activities within each enforcement organization? Eleven (11) members of the damage prevention board, as well as individuals within the Division of Building Safety, including the compliance officer, regional managers, and damage prevention program support staff. DBS field investigations and data collection may include regional managers, as well as regional supervisors and DBS inspectors located throughout the state.	Information Only

	Comments: Click here to enter text.	
2.g.	Does the enforcement process include a stakeholder advisory committee? ☒Yes ☐No Comments: The Board is a representative board consisting of stakeholders from 11 groups of stakeholders including facility owners, excavators, and state and local governmental entities. These positions are filled by appointment from the Governor's office, and serve for a term of 4 years. The Board is statutorily given more authority that of just an advisory committee.	Information Only
2.h.	What parties are subject to enforcement under the State excavation damage prevention requirements? All parties that participate in excavation activities within the State are subject to the jurisdiction of the Board. These include, but are not necessarily limited to facility owners, excavators, one-number notification services, homeowners, locators, governmental jurisdictions that issue excavation permits, and project owners who issue bid/contract documents. The term "person" is broadly defined in statute at §55-2202(14), Idaho Code. There are exempted excavation activities that are listed in §55-2210 (see checklist item 7.a below) Comments: Click here to enter text.	Score (points x weight) Click here to enter text.
Guidance	2.a.: This question is pass/fail. If the answer to this question is "No," enforcement of the State excavation damage prevention law is inadequate. This question pertains to pipelines regulated under 49 CFR Parts 192 and 195. The State law may designate more than one organization as the excavation damage prevention law enforcement authority. PHMSA expects enforcement to be fairly applied to all geographic areas of the State. 2.e.: PHMSA is seeking an explanation of the process, not the names of the people personally responsible for various enforcement actions. 2.f.: PHMSA is seeking titles/roles, not names. 2.h.: PHMSA is seeking to understand which parties can be fined or sanctioned (e.g., locators, excavators, operators, the one-call, etc.). At a minimum, PHMSA expects that both pipeline operators and non-exempt excavators be subject to enforcement under the State excavation damage prevention law. *Scoring guidance for question 2.h.:* *2 = Satisfactory; Both pipeline operators and non-exempt excavators are subject to enforcement under the excavation damage prevention law.* *1 = Needs Improvement; Both pipeline operators and non-exempt excavators are subject to enforcement under the excavation damage prevention law, but the State does not apply enforcement to both parties equally.* *0 = Unsatisfactory; Either pipeline operators or non-exempt excavators (or both) are not subject to enforcement under the excavation damage prevention law.* *Question weight: 10*	

Criterion 3 – (a) Is the State assessing civil penalties and other appropriate sanctions for violations (b) at levels sufficient to deter noncompliance and (c) is the State making publicly available information that demonstrates the effectiveness of the State's enforcement program?

Total Points: Click here to enter text.

3.a.1. In the previous calendar year, did the enforcement organization assess civil penalties and/or other sanctions for violations of the excavation damage prevention law? **If the answer is "No", enforcement of the State excavation damage prevention law is inadequate.**

☒Yes ☐No

Comments:

As of June 2018, the answer to this question is now "yes". The legal authority to assess civil penalties was recently promulgated under Idaho law and effective September 1, 2017. In July 2016, the statutory basis to assess training and civil penalties was established by the Idaho legislature. Expressly, through statutory language, that authority was to be implemented and executed by the Board and the Division of Building Safety through administrative (IDAPA) rule. In September 2017, that authority became effective on a temporary basis, and made permanent by the Idaho legislature in March 2018. Accordingly, since September 2017, the DBS has received complaints, and civil penalties and other enforcement (training) have been imposed.

Pass/Fail

3.b.1. What levels of civil penalties (dollar amounts) are enabled by law?

Click here to enter text.

Comments:

For a first violation: Training and education

For a first violation by a homeowner on their own property: Warning letter and education.

For a second violation (by anyone): Training/Education and a civil penalty up to $1,000.

For a second violation within 18 months and facility damage has occurred: Training/education and a civil penalty up to $5,000.

Information Only

3.b.2. Total number of civil penalties assessed in previous calendar year:

Thirty (30) from September 2017 through June 2018

Dollar range of actual civil penalties assessed:

Click here to enter text.

Party	Number of Penalties	Total Amount	Comments
Excavators	Click here to enter text.	Click here to enter text.	Click here to enter text.
Operators	Click here to enter text.	Click here to enter text.	Click here to enter text.
One-call	Click here to enter text.	Click here to enter text.	Click here to enter text.
Locators	Click here to enter text.	Click here to enter text.	Click here to enter text.

Comments:

See comments to 3.a.1 above

Information Only

3.b.3. What other sanctions for violations of the law are available to the State?

Click here to enter text.

Comments:

As indicated above, in addition to civil penalties, the state may issue warning letters, as well as impose mandatory training. Additionally, the state may review the legal possibility that those professionals licensed by the Division of

Information Only

	Building Safety such as plumbers, mechanical, electricians, or public works contractors may be subject to licensure or other discipline. Aa well as whether those contractors registered with the Idaho Contractors Board may be subject to the same.	
3.b.4.	In the previous calendar year, did the State assess sanctions other than civil penalties? ☒Yes ☒No **Type of Sanction** / **Excavators** / **Operators** / **Locators** / **One-Call** Warning letters: Click here to enter text. / Click here to enter text. / Click here to enter text. / Click here to enter text. Training: Click here to enter text. / Click here to enter text. / Click here to enter text. / Click here to enter text. Other: Click here to enter text. / Click here to enter text. / Click here to enter text. / Click here to enter text. Comments: The State has issued numerous letters of warnings, as well as imposed training on 217 occasions between September 2017 and June 2018. Also see comments to 3.a.1 above. Additionally, the damage prevention statutes specifically do not limit affected parties from pursuing any other legal remedy afforded by law.	Information Only
3.b.5.	Are enforcement actions progressive (increasingly severe for repeat offences)? ☒Yes ☐No Comments: First offenses of any of the provisions of Idaho law may result in training or a letter of warning, while additional offenses may result in civil penalties, as well as increased civil penalty amounts for additional offenses.	Information Only
3.b.6.	How does the enforcement organization assess the effectiveness of enforcement actions over time? Click here to enter text. Comments: Unknown at this time.	Score (points x weight) Click here to enter text.
3.b.7.	What are the results of the enforcement program? Click here to enter text. Comments: As the enforcement program has just recently been implemented, the results are not yet fully known.	Score (points x weight) Click here to enter text.
3.c.1.	Does the enforcement organization make information about enforcement actions and outcomes publicly available? ☒Yes ☐No Comments: All information about enforcement actions id public information subject to disclosure under the Idaho Public Records Act at Title 74, Chapter 1, Idaho Code. Additionally, reports of enforcement information, as well as individual complaint matters will be made available to the Damage Prevention Board, as well as made publicly available on the DBS website.	Score (points x weight) Click here to enter text.
3.c.2.	What information does the enforcement organization make publicly available? Information includes, but is not necessarily limited to the number of complaints received, the nature, date and location of the alleged violations,	Information Only

	the parties involved, the type of facility, and the disposition of the complaint, including the assessment of training and civil penalties, as well as reports regarding damages that may be compiled by the Division or Board. All the information involved in the enforcement process is subject to disclosure pursuant to the Idaho Public Records Act at Title 74, Chapter 1, Idaho Code. Comments: Click here to enter text.	
3.c.3.	How/where does the enforcement organization make information publicly available? Information is made available through the Division of Building Safety website at https://damageprevention.dbs.idaho.gov/, as well through public meetings of the Idaho Damage Prevention Board. Comments: Click here to enter text.	Information Only
Guidance	General: PHMSA seeks records that demonstrate that the State is regularly and consistently using its enforcement authority and imposing appropriate sanctions for violations of the State excavation damage prevention law against pipeline operators and excavators. Sanctions may include civil penalties, mandatory training, warning letters, or other similar activities. States should also be able to demonstrate if the enforcement programs include escalating sanctions. If a State cannot demonstrate use of its enforcement authority, enforcement of the State excavation damage prevention law will be deemed inadequate. PHMSA expects States to demonstrate the impact of the State's enforcement program. PHMSA expects States to maintain records that demonstrate a relationship between the State's enforcement activities and the rate of excavation damage incidents. PHMSA acknowledges that many factors can influence excavation damage rates. However, PHMSA believes that an effective enforcement program includes evaluation of the effects of enforcement activities. The result of PHMSA's review of a State's records in this regard will not, by itself, be grounds for deeming enforcement of the State's excavation damage prevention law inadequate. PHMSA expects State enforcement programs to generally make excavation damage prevention law enforcement information and statistics available to the public via a website. PHMSA does not expect States to violate any State laws, jeopardize any ongoing enforcement cases, or post information that would violate the privacy of individuals as defined by State or Federal law. The result of PHMSA's review of the public availability of a State's information and statistics will not, by itself, be grounds for deeming enforcement of the State's excavation damage prevention law inadequate. 3.a.1.: This question is pass/fail. If the answer to this question is "No," enforcement of the State excavation damage prevention law is inadequate. 3.b.2.: PHMSA is seeking records of every enforcement action in the previous calendar year. 3.b.3.: Examples of other sanctions include warning letters, mandatory training, documented verbal warnings, etc. 3.b.4.: PHMSA is seeking the number of sanctions applied to each party. 3.b.6.: PHMSA is seeking to understand if the enforcement organization evaluates damage rates and other relevant information, to include causes of damages, in relation to enforcement activities. *Scoring guidance for question 3.b.6.:* *2 = Satisfactory; The enforcement organization thoroughly evaluates damage rates and other*	

relevant information in relation to enforcement activities.
1 = Needs Improvement; The enforcement organization evaluates some information in relation to enforcement activities, but the information cannot be used to conduct a complete/thorough evaluation.
0 = Unsatisfactory; The enforcement organization does not evaluate damage rates and other relevant information in relation to enforcement activities in any meaningful way.
Question weight: 10

3.b.7.: PHMSA is seeking to understand what the enforcement organization has learned from evaluating damage rates and other relevant information and how the enforcement organization is using what it has learned. For example, an enforcement organization should be learning which parties or activities in the State are causing excavation damage and tailoring the enforcement program to address risk.
Scoring guidance for question 3.b.7.:
2 = Satisfactory; Using supporting data, the State thoroughly understands the impact of enforcement on the State's excavation damage prevention program. Using supporting data, the state can demonstrate which parties or activities in the State are causing excavation damage, and the actions taken in the state to reduce damages. The State actively uses the results of its enforcement program to continuously improve the program to address risk.
1 = Needs Improvement; The State has some supporting data that demonstrates the impact of enforcement on the State's excavation damage prevention program, but the State's understanding of the impact of enforcement is limited. The State may have anecdotal evidence of the impact of enforcement, but cannot support claims with data.
0 = Unsatisfactory; The State cannot make any meaningful claims about the impact of enforcement on the State's excavation damage prevention program due to a lack of supporting data or other information.
Question weight: 10

3.c.1.: General information about enforcement actions should be made available to the public proactively.
Scoring guidance for question 3.c.1.:
2 = Satisfactory; General information about enforcement actions are made available to the public. Public information about enforcement actions is made available on an ongoing basis and is current.
1 = Needs Improvement; The State makes some information available to the public, e.g. enforcement hearing schedules or general information regarding the State's excavation damage prevention enforcement program, but lacks visibility into the State's enforcement actions and results of the program.
0 = Unsatisfactory; The State makes very limited or no information publicly available regarding the State's excavation damage prevention program and state enforcement actions/results.
Question weight: 5

3.c.2.: Information about the enforcement program, including number of actions, types of violations and sanctions should be publicly available on a web site. At a minimum, PHMSA expects enforcement authorities to publicly share the number and types of enforcement actions taken in a given year (e.g., civil penalties, warning letters, mandatory training sessions, and similar information).

3.c.3.: PHMSA expects this answer to include a website address.

Criterion 4 - Does the enforcement authority have a reliable mechanism (e.g., mandatory reporting, complaint-driven reporting) for learning about excavation damage to underground facilities? Total Points: Click here to enter text.		
4.a.	Does the enforcement organization have a reliable mechanism (e.g., mandatory reporting, complaint-driven reporting) for learning about excavation damage to pipelines? ☒Yes ☐No Comments: Idaho statute at §55-2208 and rules (IDAPA 07.10.01 §019) require that facility owners and excavators report damage to facilities or excavator downtime due to violations of the Act - to the board through an approved method. The board has determined that the Common Ground Alliance (CGA) DIRT Report is the approved method to report all such information, regardless of whether a complaint is also filed with the DBS/Board. Additionally, the Division intends to directly communicate with several of the larger underground facility owners in the state to acquire reports and data regarding damages.	Score (points x weight) Click here to enter text.
4.b.	Cite the portion of the excavation damage prevention law/requirements that addresses how to report suspected violations. § 55-2208: (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. Also, §55-2208 (5) and IDAPA rule at IDAPA 07.10.01 §019 provide that 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 shall report such information to the board on forms or by such method adopted for such by the board. Additionally the DBS and Board are authorized to review complaints from an aggrieved facility owner pursuant to §55-2203(11), and §55-2211, Idaho Code. Comments: Click here to enter text.	Information Only
4.c.	How does the enforcement organization learn about excavation damages? The Board will act upon any complaints that it receieves. It has developed the rules and process/policies to account for and process complaints as they are made known to it. Additionally, all damages are required to be reported through the CGA DIRT reporting tool. Comments: Click here to enter text.	Information Only
4.d.	How does the enforcement organization inform stakeholders about the process for reporting excavation damages? Click here to enter text. Comments: Stakeholders are informed about reporting damages via the Division website, links from stakeholder websites to the Division website, education materials disseminated by various stakeholders, advertising campaigns funded by the State which include radio, print and television mediums, as well as public Damage Prevention board meetings (and subcommittee meetings). Additionally Idaho law requires reporting of excavation damages.	Score (points x weight) Click here to enter text.
Guidance	General: PHMSA will review how State enforcement programs learn about excavation damage to underground pipelines. In particular, PHMSA will be looking for reporting mechanisms that encourage parity in the application of enforcement resources. For example, when excavation	

damage occurs, does the reporting mechanism allow for identification of potential violations of law by both excavators and pipeline operators? If the State enforcement program learns of violations via road patrols that specifically target excavators without valid excavation tickets, how does the enforcement organization also learn about violations of other provisions of State excavation damage prevention requirements, such as operators' failure to locate and mark pipelines? Also, PHMSA will review the enforcement organization's methods for making stakeholders – especially excavators and pipeline operators – aware of the process and requirements for reporting excavation damage to pipelines to the enforcement organization. The result of PHMSA's review of a State's activities under criterion 4 will not, by itself, be grounds for deeming enforcement of the State's excavation damage prevention law inadequate.

4.a. PHMSA expects that violations of the State excavation damage prevention requirements may be reported by any stakeholder involved in excavation damage to a pipeline.
Scoring guidance for question 4.a.:
2 = Satisfactory; The State has a reliable mechanism for learning about excavation damage to pipelines. The mechanism is clearly defined in the written State excavation damage prevention requirements, and may include mandatory reporting or complaint-based reporting of excavation damages. All damage prevention stakeholders are empowered to report damages to the enforcement authority. The State's process for damage reporting is readily available on a public web site.
1 = Needs Improvement; The State has some means of learning about excavation damages to underground facilities, but it is not reliable in all cases (e.g., the State actively learns about excavation damages through patrols, media, limited stakeholder reporting, etc., but some damage prevention stakeholders do not have a means of notifying the State when a damage occurs).
0 = Unsatisfactory; The State does not have a reliable means of learning about excavation damages to underground facilities. Stakeholders have no means of reporting excavation damages to the State and the State has no means of addressing stakeholder reports of excavation damage.
Question weight: 10

4.c.: States may learn about excavation damages through mandatory reporting, stakeholder complaints, etc.

4.d.: PHMSA expects that a State agency, the enforcement organization, and/or other damage prevention stakeholders are proactively educating all stakeholders about the reporting process.
Scoring guidance for question 4.d.:
2 = Satisfactory; The State can demonstrate that the enforcement organization and/or other damage prevention stakeholders proactively educate all damage prevention stakeholders about the process for reporting excavation damages. The educational program is documented and available to all stakeholders.
1 = Needs Improvement; The State, enforcement organization, and/or other damage prevention stakeholders make some effort to educate stakeholders about the process for reporting excavation damages, but the educational program is not proactive or documented, is used on a limited basis, and/or the outreach may not focus on all stakeholders responsible for ensuring damage prevention.
0 = Unsatisfactory; The State, enforcement organization, and/or other damage prevention stakeholders do not have a process for educating stakeholders about the process for reporting excavation damages.
Question weight: 3

Criterion 5 - Does the State employ excavation damage investigation practices that are adequate to determine the responsible party or parties when excavation damage to underground facilities occurs? Total Points: Click here to enter text.		
5.a.	What is the enforcement organization's damage investigation process? Click here to enter text. Comments: The investigative process initially relies on a very complete complaint with supporting documentation from the complaining party, as well as a detailed response from the alleged violator. The Division highly encourages that supporting documentation in the form of damage reports, photographs, witness statements, contract documents, invoices, or other documents be submitted along with a complaint or response. Complaints are investigated by the Division by its compliance officer, regional managers and supervisors, support staff, and when necessary, by its trade inspectors, who are all able to travel in the field to obtain information. This may include interviews of parties, and taking statements from witnesses, site visits, taking photographs, as well as telephone and email communications. Final analysis of all cases are performed by the compliance officer and regional managers in making a determination, with the assistance of the administrator and legal counsel if necessary.	Information Only
5.b.	Does the enforcement organization have documented damage investigation procedures/forms/etc.? ☒Yes ☐No Comments: Complaint forms, along with other response and appeal forms, and standardized letters of warning and final orders have been developed by the Division of Building Safety. Copies of complaint forms and letters are available for review. Investigation procedures and tactics are currently being developed by the Division.	Score (points x weight) Click here to enter text.
5.c.	Does the enforcement organization investigate all pipeline excavation damages that it learns about (in the field or in the office) or use written procedures to determine when investigation is warranted? ☒Yes ☐No Comments: The Division of Building Safety will investigate all complaints submitted to it, including all complaints related to pipeline excavation. It is the policy of the Division and Board that all legally cognizable complaints which are determined to have alleged conduct in violation of damage prevention requirements will result in enforcement action. The Division may investigate any report of damage to pipeline excavation that the Administrator may determine is warranted, regardless of whether a complaint has been filed.	Score (points x weight) Click here to enter text.
5.d.	What information does the enforcement organization collect when investigating excavation damages, and from whom? Information obtained by the Division may include all the circumstances related to the damage incident or downtime event, including location, parties, date, time, extent of damage, whether a release of hazardous materials occurred, interruption in service, 811 calls, root causes, nature of both the facility, and facility owners, as well as the excavator, locating and marking activities, and what notifications occurred by the involved parties. The Division requires this information to be reported by facility owners, and excavators who observe, suffer or cause such damage or downtime. And, will also obtain the information from any other relevant party if necessary.	Information Only

	Comments: Click here to enter text.	
5.e.	How does the enforcement organization identify potential violations of the excavation damage prevention requirements? The Division and Board identify potential violators through a statutorily created complaint process by which any "person" may make a complaint against any other for a violation of damage prevention requirements. Additionally, in accordance with statute and administrative rules (§55-2208; IDAPA Chapter 07.10.01) all facility owners and excavators who observe, suffer, or cause facility damage or downtime are legally required to report such to the Board. The Division and Board utilize the Common Ground Alliance (CGA) DIRT report as the tool by which all persons must report such information Comments: Click here to enter text.	Information Only
5.f.	Does the enforcement organization take enforcement action against the violator of the State's excavation damage prevention requirements in every case of excavation damage to a pipeline? ☐Yes ☒No Comments: The Division and Board will take enforcement action against every violator against whom a complaint has been filed with the Division in accordance with the statutory complaint process. All complaints are resolved through a uniform process (with due process), whereby violators are equally subject to enforcement regardless of which type of stakeholder they may be.	Score (points x weight) Click here to enter text.
5.g.	How does the enforcement organization demonstrate fair and consistent enforcement against violations of the excavation damage prevention requirements by either a pipeline operator or excavator? Click here to enter text. Comments: The Division and Board implement the statutory enforcement process against all stakeholders who have obligations under the damage prevention statutes and rules, including pipeline operators and excavators. Under the statutory process, all stakeholders are equally eligible to receive discipline for violations of the damage prevention requirements. Disciplinary action against all such stakeholders is uniformly applied in the form of issuing warnings, imposing training and civil penalties. The amount of civil penalties that may be imposed is the same for each of the stakeholders.	Score (points x weight) Click here to enter text.
Guidance	General: PHMSA expects State enforcement programs to be balanced with regard to how they apply enforcement authority. PHMSA expects enforcement programs to be focused on the compliance responsibilities of both excavators and pipeline operators. PHMSA seeks a pattern of pipeline excavation damage enforcement that demonstrates that penalties are consistently applied to all violators of the State excavation damage prevention requirements and are not consistently applied to only one stakeholder group. PHMSA is interested in States' excavation damage investigation practices, and especially if these practices include the opportunity for input from all parties and if there is due process in place for those accused of violating the law. The result of PHMSA's review of a State's program under criterion 5 will not, by itself, be grounds for deeming enforcement of the State's excavation damage prevention law inadequate. 5.b.: PHMSA expects the enforcement organization to able to produce copies of its documented damage investigation procedures/forms/etc. *Scoring guidance for question 5.b.:*	

2 = Satisfactory; The enforcement organization has thoroughly-documented damage investigation written procedures/forms/etc.
1 = Needs Improvement; The enforcement organization has some damage investigation written procedures/forms/etc., but the documentation does not completely describe the investigation process.
0 = Unsatisfactory; The enforcement organization has limited or no documented damage investigation procedures/forms/etc.
Question weight: 10

5.c.: Investigations may or may not include site visits or field investigations; investigations may include in-office reviews of evidence submitted by parties involved in a damage. If the enforcement organization does not take enforcement action in every case of pipeline excavation damage, PHMSA expects states to have a policy for determining when enforcement action is taken.
Scoring guidance for question 5.c.:
2 = Satisfactory; The enforcement organization investigates all pipeline excavation damages that it learns about, or the State's written policies/procedures include criteria for when an investigation is not needed.
1 = Needs Improvement; The enforcement organization investigates some pipeline excavation damages that it learns about, but not all, and the enforcement organization's investigation procedures do not provide sufficient guidance for determining if an investigation is needed.
0 = Unsatisfactory; The enforcement organization does not investigate pipeline excavation damages on a consistent basis. Investigations are not regular or common, and many pipeline excavation damages are not investigated. Enforcement procedures do not address when an investigation is needed.
Question weight: 10

5.f.:
Scoring guidance for question 5.f.:
2 = Satisfactory; The enforcement organization either takes enforcement action in every case of pipeline excavation damage, or has an equitable and consistent documented policy for determining when enforcement action is taken.
1 = Needs Improvement; The enforcement organization does not take enforcement action (or have an equitable and consistent documented policy for determining when enforcement action is taken) in every case of pipeline excavation damage. Enforcement action in cases of excavation damage to pipelines does occur, but is not always equitable or consistent.
0 = Unsatisfactory; The enforcement organization does not have a documented policy regarding the use of enforcement authority in cases of excavation damage to pipelines. Enforcement decisions are not equitable or consistent.
Question weight: 5

5.g.: PHMSA is seeking an explanation of the enforcement organization's policy regarding equitable and consistent application of enforcement to both operators and excavators.
Scoring guidance for question 5.g.:
2 = Satisfactory; The enforcement organization's approach to applying enforcement to both operators and excavators is fair, as demonstrated by enforcement records and written enforcement policies/procedures.
1 = Needs Improvement; The enforcement organization applies enforcement to both operators and excavators, but records indicate that enforcement authority is clearly used more often against one stakeholder group. For example, excavators may be targeted for enforcement more often than operators, but enforcement is applied to operators in some cases.
0 = Unsatisfactory; The enforcement organization applies enforcement to only one stakeholder group in most cases. For example, the enforcement program specifically and consistently

	targets excavators, but rarely targets operators for failing to fulfill their role in the damage prevention process. *Question weight: 10*

Criterion 6 - At a minimum, do the State's excavation damage prevention requirements include the following:
• **Excavators may not engage in excavation activity without first using an available one-call notification system to establish the location of underground facilities in the excavation area.**
• **Excavators may not engage in excavation activity in disregard of the marked location of a pipeline facility as established by a pipeline operator.**
• **An excavator who causes damage to a pipeline facility:**
  o **Must report the damage to the operator of the facility at the earliest practical moment following discovery of the damage; and**
  o **If the damage results in the escape of any natural and other gas or hazardous liquid from a PHMSA-regulated pipeline, must promptly report to other appropriate authorities by calling the 911 emergency telephone number or another emergency telephone number.**
Total Points: Click here to enter text.		

6.a.	Does the State require excavators (who are not exempt from State requirements) to use an available one-call notification system to establish the location of underground facilities in the excavation area before engaging in excavation activity? Comments: Idaho Code §55-2205(1)(c) requires excavators to provide notice of a scheduled excavation to all facility owners through a one-number notification service. A violation of this requirement may subject the violator to enforcement action, including training and civil penalties.	Score (points x weight) Click here to enter text.
6.b.	Does the State require that excavators may not engage in excavation activity in disregard of the marked location of a pipeline facility as established by a pipeline operator? Comments: Idaho Code §55-2205(2) provides that excavators shall not excavate until all known facilities have been marked, and once marked by the facility owner, or owner's agent, the excavator is responsible for maintaining the markings.	Score (points x weight) Click here to enter text.
6.c.	Does the State require an excavator who damages a pipeline facility to report the damage to the operator of the facility at the earliest practical moment following discovery of the damage? Comments: Idaho Code §55-2208(1) requires that an excavator who contacts or damages a facility in the course of excavation shall notify the facility owner and the one-number notification service. It is the policy and expectation of the Division and Board that notice to the facility operator shall be provided by the excavator at the earliest practicable moment following the discovery of damage.	Score (points x weight) Click here to enter text.
6.d.	Does the State require an excavator who causes damage to a PHMSA-regulated pipeline that results in a release of natural or other gas or hazardous liquid to promptly report the release to emergency responders by calling the 911 emergency telephone number or another emergency telephone number? Comments: Idaho Code §55-2208(1) requires contact or damage to a facility by an excavators that causes an emergency condition or actual breach of the facility	Score (points x weight) Click here to enter text.

	that releases gas or hazardous liquids into the surrounding environment to alert the appropriate local public safety agencies, by, at a minimum, calling 911, and take all appropriate steps to ensure public safety. No facility may be buried until it is repaired or relocated.	
Guidance	General: PHMSA will review State requirements to ensure they address the basic Federal requirements in the PIPES Act for excavators such as using an available one-call system. The result of PHMSA's review of a State's requirements will not, by itself, render the State's enforcement program inadequate. 6.a.: *Scoring guidance for question 6.a.:* *2 = Satisfactory; The State requires excavators (who are not exempt from State requirements) to use an available one-call notification system to establish the location of underground facilities in the excavation area before engaging in excavation activity.* *1 = Needs Improvement; The State requires excavators (who are not exempt from State requirements) to use an available one-call notification system or to contact the operators of underground facilities directly to establish the location of underground facilities in the excavation area before engaging in excavation activity.* *0 = Unsatisfactory; The State does not require excavators to use an available one-call notification system to establish the location of underground facilities in the excavation area before engaging in excavation activity.* *Question weight: 10* 6.b.: *Scoring guidance for question 6.b.:* *2 = Satisfactory; The State explicitly requires that excavators may not engage in excavation activity in disregard of the marked location of a pipeline facility as established by a pipeline operator.* *1 = Needs Improvement; The State requires or recommends that excavators may not engage in excavation activity in disregard of the marked location of a pipeline facility as established by a pipeline operator, but the State's excavation damage prevention requirements are not explicit on this point. For example, the State damage prevention law/regulations may not have a defined tolerance zone in which hand tools or soft digging must be used, or the law/regulations may not require excavators to request re-locates when necessary.* *0 = Unsatisfactory; The State does not require that excavators may not engage in excavation activity in disregard of the marked location of a pipeline facility as established by a pipeline operator.* *Question weight: 10* 6.c.: Reporting damages to a one-call center may suffice for contacting the operator directly. "Damage" is defined as any excavation activity that results in the need to repair or replace a pipeline due to a weakening, or the partial or complete destruction, of the pipeline, including, but not limited to, the pipe, appurtenances to the pipe, protective coatings, support, cathodic protection or the housing for the line device or facility. *Scoring guidance for question 6.c.:* *2 = Satisfactory; The State explicitly requires an excavator who damages a pipeline facility to report the damage to the operator of the facility at the earliest practical moment following discovery of the damage.* *1 = Needs Improvement; The State requires an excavator who damages a pipeline facility to report the damage to the operator of the facility at the earliest practical moment following discovery of the damage, but the State's excavation damage prevention requirements are not explicit on this point.* *0 = Unsatisfactory; The State does not require an excavator who damages a pipeline facility to*	

	report the damage to the operator of the facility at the earliest practical moment following discovery of the damage. *Question weight: 10* 6.d.: *<u>Scoring guidance for question 6.d.</u>:* *2 = Satisfactory; The State explicitly requires an excavator who causes damage to a pipeline facility that results in the release of any PHMSA-regulated natural or other gas or hazardous liquid to promptly report the release to emergency responders by calling the 911 emergency telephone number or another emergency telephone number.* *1 = Needs Improvement; The State requires or recommends that an excavator who causes damage to a pipeline facility that results in the release of any PHMSA-regulated natural or other gas or hazardous liquid to notify emergency responders, but does not explicitly require calling the 911 emergency telephone number or another emergency telephone number.* *0 = Unsatisfactory; The State does not require or recommend that an excavator who causes damage to a pipeline facility that results in the release of any PHMSA-regulated natural or other gas or hazardous liquid to notify emergency responders, but does not explicitly require calling the 911 emergency telephone number or another emergency telephone number.* *Question weight: 10*

Criterion 7 - Does the State limit exemptions for excavators from its excavation damage prevention law? A State must provide to PHMSA a written justification for any exemptions for excavators from State excavation damage prevention requirements. PHMSA will make the written justifications available to the public. Total Points: Click here to enter text.		
7.a.	What exemptions for excavators exist in the excavation damage prevention law? Click here to enter text. Comments: Idaho Code §55-2210 provides exemptions for certain types of excavations. However, this statute only exempts persons performing such excavations from the requirement to provide notice (through a one-number notification service) of the excavation pursuant to section 55-2205(1)(c), Idaho Code. The exemptions do not apply to any other provision of the damage prevention requirements. Additionally, the exemption is further narrowed whereby such excavation is exempt only unless facts exist which would reasonably cause an excavator to believe that an underground facility exists within the depth of the intended excavation. The statutory exemptions indicate that the following excavations shall not require the notice: (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. (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 or recorded underground facility easements.	Information Only
7.b.	Does the enforcement organization maintain information that demonstrates the impact of exemptions? Click here to enter text. Comments: Not currently, as the damage prevention program is in the process of developing a method to track such information. It is the intent of the Division and Board to maintain information regarding whether damages to underground facilities were caused by persons engaged in an exempted excavation.	Score (points x weight) Click here to enter text.
7.c.	What information does the enforcement organization maintain? Click here to enter text. Comments: The Division expects to maintain information that tracks when damages may occur as a result of an excavator engaging in an exempt activity, how many times such damages occurred, which exemption activity the excavator was	Information Only

	engaged in, the nature of the damage and whether it caused a release of gas or hazardous materials, whether the excavator provide notice to the facility owner, and whether other legal requirements of the damage prevention laws were complied with. Additionally, the Division intends to directly communicate with several of the larger underground facility owners in the state to acquire their related reports and data, or otherwise learn what trends and issues they may experience regarding damages involving exempted excavations.	
7.d.	How does the enforcement organization use information about the impact of exemptions? Currently, the Division has not obtained the information sought yet. When it is able to compile the information described in 7.c above, it will report such information to the Board, with the intent to target more education and outreach to those who regularly engage in the exempt activities which appear to result in frequent damage to underground facilities. If necessary it may also request the Board to consider legal modifications to the exemptions to achieve desired results. Comments: Click here to enter text.	Score (points x weight) Click here to enter text.
Guidance	General: PHMSA expects States to document the exemptions provided in State excavation damage prevention laws for any/all excavators. "Excavation" refers to excavation activities as defined in 49 CFR § 192.614, and covers all excavation activity involving both mechanized and non-mechanized equipment, including hand tools. "Excavator" means any person or legal entity, public or private, proposing to or engaging in excavation. Documentation should include the exemptions for excavators in State law and any data or other evidence that demonstrates the impact of the exemptions on the rate of excavation damage to pipelines and other underground infrastructure. PHMSA believes that exemptions for entire classes of excavators (e.g., farmers) represent a greater threat to pipeline safety than exemptions for specific excavation activities (e.g., shallow tilling). The result of PHMSA's review of a State's program under criterion 7 will not, by itself, be grounds for deeming enforcement of the State's excavation damage prevention law inadequate. 7.b.: *<u>Scoring guidance for question 7.b.</u>:* *2 = Satisfactory; The enforcement organization maintains robust complete information that clearly demonstrates the impact of exemptions. The information shows the number of damages caused by parties or activities that are exempt from State excavation damage prevention requirements.* *1 = Needs Improvement; The enforcement authority maintains some information that demonstrates the impact of exemptions, but the information is not complete and can only be used in a limited capacity to demonstrate the number of damages caused by parties or activities that are exempt from State excavation damage prevention requirements.* *0 = Unsatisfactory; The enforcement organization maintains limited or no information that demonstrates the impact of exemptions.* *Question weight: 3* 7.d.: *<u>Scoring guidance for question 7.d.</u>:* *2 = Satisfactory; The enforcement organization uses information about the impact of exemptions to improve the excavation damage prevention program on a consistent basis.* *1 = Needs Improvement; The enforcement organization collects some information about the impact of exemptions, but does not actively use the information to improve the excavation damage prevention program.*	

	0 = Unsatisfactory; The enforcement organization does not collect or use information about the impact of exemptions to improve the excavation damage prevention program. *Question weight: 3*

General Evaluation Comments:

DPB STATS AS OF 6/15/18	
ACTIVE (INCLUDES APPEALS)	75
APPEALS REJECTED	2
APPEALS UPHELDS	1
WITHDRAWN COMPLAINTS	15
CLOSED	225
INVALID COMPLAINTS	6
PAID	8
TOTAL	332
TRAINING ASSESSED	217
No. OF CIVIL PENALTIES ISSUED	30
	$ CP
	$8,000.00
COMPLAINTS FILED BY:	
FACILITY	324
CONTRACTOR	3
PIPELINE	5
COMPLAINTS FILED AGAINST:	
HOMEOWNER/TENANTS	46
CONTRACTORS	286
COMPLAINTS ON DAMAGES IN 2017	143
COMPLAINTS ON DAMAGES IN 2018	189

C

Damage Prevention Board – Training Report

January 25, 2018 – The Damage Prevention Board (DPB) agreed to have Jerry Peterson, Program Manager of the Division of Building Safety (DBS) coordinate and deliver training on behalf of the DPB.

In addition to the training, a training calendar and fillable training request form were to be developed and added to the DBS/DPB website.

The initial training/presentation will be an overview of the DPB functions, damage reporting and complaint processes. Copies of the Idaho Statutes and Rules related to damage prevention will be distributed at training sessions. Presentation material will be coordinated with the DPB sub-committee on training.

February 12, 2018 – DPB approved the material used for the initial presentations.

March 22, 2018 – Jerry Peterson will provide a training report to the DPB on field trainings to date that include significant positive feedback from participants.

Working with the DPB sub-committee on training, a one hour class is being developed and will be available at the Pocatello April 3rd "Safety Fest".

Following is a list of completed field trainings to date, and trainings scheduled for April:

February 20, 2018 – Boise, ID – Digline Advisory Board – 36 participants

February 27, 2018 – Twin Falls, ID – Magic Valley UCC – 30 participants

February 27, 2018 – Boise, ID – Idaho PUC – 29 participants

February 28, 2018 – Pocatello, ID – Bannock UCC – 110 participants

March 14, 2018 - Payette, ID - Tri County UCC – 52 participants

March 19, 2018 - Nampa, ID - Das-Co of Idaho – estimate 50 participants

Total participants to date - 307

Scheduled:

April 3, 2018 - Pocatello, ID - Safety Fest – anticipate 30 participants

April 4, 2018 – Boise, ID – Associated General Contractors – anticipate 50 participants

April 11, 2018 – Meridian, ID – Division of Building Safety – anticipate 20 – 25 participants (expand to all DBS inspectors – approximately 70)

April 19, 2018 – Boise, ID – IUCC – Intermountain Gas – anticipate 30 participants

D

Damage Prevention Board – 5-24-18 Training Report

The training calendar and fillable training request form are on the DBS/DPB website.

We've also developed a "training flyer" that can be used to encourage participation. It's a standard format that allows us to enter custom dates, times and locations.

The one-hour course was first presented at the Pocatello Safety Fest in April and with minor adjustments is now what's being delivered unless somebody explicitly requests an "overview only".

The one-hour course contains two Common Ground Alliance training videos that are 10-11 minutes each. One is the 5 steps to safe digging and the other is geared towards agriculture.

A modified version of the course is being developed to an online training course that meets the requirements for "recommended training".

Following is a list of completed field trainings conducted since the last board meeting on March 22nd.

April 3·2018 - Pocatello, ID - Safety Fest – 35 participants

April 4, 2018 – Boise, ID – Associated General Contractors – 13 participants

April 11, 2018 – Meridian, ID – Division of Building Safety – 22 participants (will expand to all DBS inspectors – approximately 70) CEU's

April 19, 2018 – Boise, ID – IUCC – Idaho UCC – 37 participants

April 20, 2018 – Caldwell, ID – Titanium Excavation – 11 participants

April 27, 2018 – Lewiston, ID – Idaho Ground Water Association – 18 participants (2 legislators)

Total participants to date – 307 through March 22nd & 443 to date

Scheduled:

May 30, 2018 – Nampa, ID – Idaho Materials and Construction – 10 participants

June 4, 2018 – Boise, ID – Western Regional Conference – Booth, run video, handouts, etc.

June 12, 2018 – Boise, ID – Pavement Specialties of Idaho – 12 participants

June 20, 2018 - Association of Idaho Cities – Boise – General session – very large group

(No date confirmed) - City of Boise Public Works - large group

Feedback:

Has been very positive and a few of the participants have forwarded pictures that we use in future trainings.

DAMAGE PREVENTION BOARD

Agenda Item No. 10 **e-TRAKiT System**

PRESENTER: Amy Kohler, Compliance Program Specialist

OBJECTIVE: Provide an overview of the Division's system.

ACTION: Informational

BACKGROUND: The Division has a program called e-TRAKiT where the public can access information on complaints.

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation

DAMAGE PREVENTION BOARD

Agenda Item No. 11 **Compliance Report**

PRESENTER: Amy Kohler, Compliance Program Specialist

OBJECTIVE: Update the Board on the Damage Prevention Program's current compliance issues.

ACTION: Informational

BACKGROUND: This topic is addressed at all regularly scheduled Damage Prevention Board meetings.

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation

DAMAGE PREVENTION BOARD

Agenda Item No. 11a **Damage Prevention Case Report**

PRESENTER: Amy Kohler, Compliance Program Specialist

OBJECTIVE: Review the Damage Prevention Case Report.

ACTION: Informational

BACKGROUND: This topic is addressed at all regularly scheduled Idaho Electrical Board meetings.

PROCEDURAL HISTORY:

ATTACHMENTS: Case Report

DPB STATS AS OF 7/11/18	
INVALID COMPLAINTS	8
CANCELLED COMPLAINTS	15
ACTIVE	23
APPEAL ACTIVE	1
APPEAL UPHELDS	1
APPEAL REJECTED	2
CLOSED	259
PAID	14
PENDING	55
TOTAL	378

TRAINING ASSESSED	241
TRAINING COMPLETED	63

		$ CP	$ CP PAID
# OF 2ND OFFENSES	32	$6,000.00	$2,000.00
# OF 3RD OFFENSES	8	$2,200.00	$200.00
# OF 4TH OFFENSES	1	$1,200.00	$200.00
# OF 5TH OFFENSES	3	$200.00	$200.00
# OF 6TH OFFENSES	2	$500.00	$0.00
# OF 7TH OFFENSES	1	$1,000.00	$0.00
# OF 8TH OFFENSES	1	$0.00	$0.00
$ CP ASSESSED		$11,100.00	$2,600.00

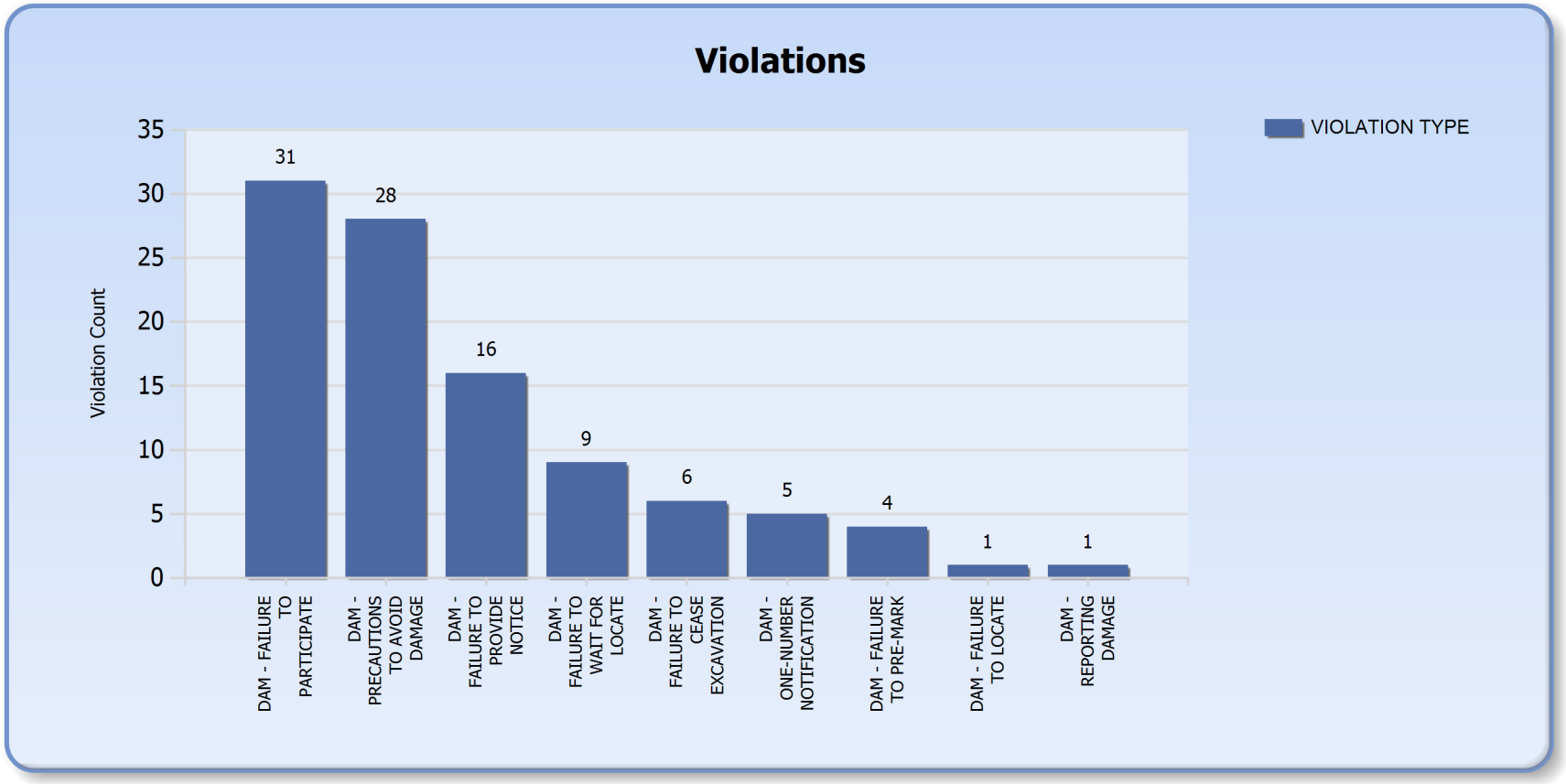
COMPLAINTS FILED BY:		INVALID	CANCELLED
ANDEAVOR	1		
AVISTA	3		
COUGAR EXCAVATION	1	1	
IDAHO POWER	50		3
INTERMOUNTAIN GAS	316	5	12
TRACK UTILITIES	1	1	
TRU FIBER	1		
UTILITY SOLUTIONS	1	1	
WILLIAMS NORTHWEST PIPELINE	4		
TOTAL	378	8	15

COMPLAINTS ON DAMAGES IN 2017	144
COMPLAINTS ON DAMAGES IN 2018	234

DAM% NOV Activity by Date

ICS\akohler 7/11/2018 2:22:58 PM
From 5/15/2018 to 7/11/2018

75 Cases 101 Violations



CASE NO	STARTED	CLOSED	Case Type	FEES CHARGED	FEES PAID	BALANCE DUE	STATUS	OFFENDER COMPLAINANT
DAM1805-0011 NAMPA	6/18/2018	6/18/2018	NOV	$200.00	$200.00	$0.00	PAID	**SPIERS CONSTRUCTION** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE								
DAM1805-0038 BOISE	5/18/2018		NOV	$0.00	$0.00	$0.00	PENDING	**ALDAPE SPRINKLER SERVICE** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1805-0058 POCATELLO	5/15/2018	7/2/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**ROCHE ELECTRIC** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1805-0062 CALDWELL	5/21/2018		NOV	$200.00	$0.00	$200.00	ACTIVE	**IDAHO POWER** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1805-0063 FILER	5/15/2018		NOV	$200.00	$0.00	$200.00	ACTIVE	**JCA UNDERGROUND** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO CEASE EXCAVATION								
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								

DAM1805-0064 NAMPA	5/18/2018		NOV	$0.00	$0.00	$0.00	PENDING	**COUGAR EXCAVATION** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE								
DAM1805-0065 MIDDLETON	5/17/2018	7/5/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**STETSON HOMES** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1805-0066 STAR	5/17/2018	6/22/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**GREG ALLEN** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1805-0067 NAMPA	5/17/2018	6/21/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**GREEN BLADES** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0001 CHUBBUCK	5/28/2018	7/5/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**GATE CITY BUILDERS** IDAHO POWER
VIOLATION: DAM - FAILURE TO PARTICIPATE								
VIOLATION: DAM - FAILURE TO PRE-MARK								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1806-0002 MERIDIAN	5/22/2018		NOV	$200.00	$0.00	$200.00	ACTIVE	**QUALITY ELECTRIC** INTERMOUNTAIN GAS CO

VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0003 BOISE	5/22/2018	7/11/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**STEEL PAVING** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0004 MERIDIAN	5/21/2018		NOV	$500.00	$0.00	$500.00	ACTIVE	**GRANITE EXCAVATION INC** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0005 BOISE	5/17/2018		NOV	$0.00	$0.00	$0.00	PENDING	**KNIFE RIVER** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0006 BOISE	5/16/2018	6/26/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**ANTHONY BRYANT** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0007 BASALT	5/24/2018	7/3/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**A PRO PLUMBING** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								

DAM1806-0008 NAMPA	5/21/2018		NOV	$1000.00	$0.00	$1000.00	ACTIVE	**KING CONCRETE CONSTRUCTION, LLC** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0009 NAMPA	5/24/2018		NOV	$0.00	$0.00	$0.00	PENDING	**ROCKY MOUNTAIN GRAVEL LLC** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0010 AMMON	5/30/2018	6/13/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**LANDON EXCAVATING** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0012 BOISE	5/29/2018		NOV	$0.00	$0.00	$0.00	PENDING	**CUTTING EDGE LANDSCAPE** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO CEASE EXCAVATION								
VIOLATION: DAM - FAILURE TO PARTICIPATE								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
VIOLATION: DAM - ONE-NUMBER NOTIFICATION								
DAM1806-0013 BOISE	5/31/2018		NOV	$0.00	$0.00	$0.00	PENDING	**ANTHONY ROWE** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE								
VIOLATION: DAM - ONE-NUMBER NOTIFICATION								

DAM1806-0014 BOISE	5/26/2018		NOV	$0.00	$0.00	$0.00	PENDING	**ROGER LANDSCAPING** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO CEASE EXCAVATION								
VIOLATION: DAM - FAILURE TO PARTICIPATE								
VIOLATION: DAM - FAILURE TO PRE-MARK								
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE								
DAM1806-0015 CALDWELL	5/31/2018		NOV	$0.00	$0.00	$0.00	PENDING	**LANDSCAPES UNLIMITED** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO CEASE EXCAVATION								
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0016 CALDWELL	6/4/2018	6/29/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**DE LOS SANTOS LAWNCARE** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0017 STAR	6/1/2018		NOV	$0.00	$0.00	$0.00	PENDING	**BACK TO EDEN SOLUTIONS LLC** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0018 SHELLEY	6/2/2018		NOV	$0.00	$0.00	$0.00	PENDING	**GRANT WALKER** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								

DAM1806-0019 RIGBY	6/8/2018	6/28/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**ALEX FERNANDEZ** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0020 TWIN FALLS	5/29/2018		NOV	$0.00	$0.00	$0.00	PENDING	**STARR CORPORATION** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE								
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0021 SHELLEY	6/12/2018		NOV	$0.00	$0.00	$0.00	PENDING	**MICHAEL HADDIX** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0022 CALDWELL	6/11/2018		NOV	$0.00	$0.00	$0.00	PENDING	**TIM HARROD** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0023 PARMA	6/11/2018	7/11/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**APPLE VALLEY ELECTRIC** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0024 MIDDLETON	6/9/2018	7/5/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**MARCO PEDRAZA** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								

DAM1806-0025 MIDDLETON	6/11/2018		NOV	$0.00	$0.00	$0.00	PENDING	**HANK ASHBY** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0026 WEISER	6/6/2018	7/11/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**EARTH ENERGY INC** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0027 NAMPA	5/30/2018		NOV	$0.00	$0.00	$0.00	PENDING	**MIKE DEAN** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0028 NAMPA	6/5/2018	7/11/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**RICHARD VASEL** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0029 IDAHO FALLS	6/12/2018		NOV	$0.00	$0.00	$0.00	PENDING	**VHTC TRUCKING** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0030 CASCADE	5/19/2018		NOV	$0.00	$0.00	$0.00	PENDING	**CHRISTOPHER HALE** IDAHO POWER
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								

DAM1806-0031 NAMPA	5/31/2018		NOV	$0.00	$0.00	$0.00	INVALID	**INTERMOUNTAIN GAS CO** COUGAR EXCAVATION
VIOLATION: DAM - FAILURE TO LOCATE								
DAM1806-0032 BELLEVUE	5/21/2018	7/5/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**BURKS EXCAVATION CORPORATION OF IDAHO** IDAHO POWER
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0033 MCCALL	5/24/2018		NOV	$0.00	$0.00	$0.00	PENDING	**FREELON PROPERTY SERVICES** IDAHO POWER
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1806-0034 NAMPA	6/1/2018		NOV	$0.00	$0.00	$0.00	PENDING	**FULL CIRCUIT ELECTRIC** IDAHO POWER
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1806-0035 CASCADE	5/24/2018		NOV	$0.00	$0.00	$0.00	PENDING	**PROBST ELECTRIC** IDAHO POWER
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1806-0036 BOISE	6/8/2018		NOV	$0.00	$0.00	$0.00	PENDING	**PRECISION EXCAVATION** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								

DAM1806-0037 EAGLE	6/11/2018		NOV	$0.00	$0.00	$0.00	PENDING	**INTERNATIONAL LINE BUILDERS** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE								
DAM1806-0038 BOISE	6/16/2018		NOV	$0.00	$0.00	$0.00	PENDING	**RICHARD IRWIN** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
VIOLATION: DAM - ONE-NUMBER NOTIFICATION								
DAM1806-0039 MERIDIAN	6/4/2018		NOV	$0.00	$0.00	$0.00	PENDING	**GRANITE EXCAVATION INC** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO CEASE EXCAVATION								
DAM1806-0040 BOISE	6/14/2018		NOV	$0.00	$0.00	$0.00	PENDING	**SAM GUNDERSON** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0041 GARDEN CITY	6/13/2018		NOV	$0.00	$0.00	$0.00	PENDING	**KING CONCRETE CONSTRUCTION, LLC** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								

DAM1806-0042 BOISE	6/12/2018		NOV	$0.00	$0.00	$0.00	PENDING	**IDAHO SITE WORKS** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0043 BOISE	6/9/2018		NOV	$0.00	$0.00	$0.00	PENDING	**DAN MINNAERT** INTERMOUNTAIN GAS CO
VIOLATION: DAM - ONE-NUMBER NOTIFICATION								
DAM1806-0044 BOISE	6/1/2018	7/11/2018	NOV	$0.00	$0.00	$0.00	CLOSED	**JEFF WINN** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0045 BOISE	6/5/2018		NOV	$0.00	$0.00	$0.00	PENDING	**TUFFY EXCAVATION CONTRACTORS** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1806-0046 MARSING	6/6/2018		NOV	$0.00	$0.00	$0.00	PENDING	**HENDRICK VAN ES** IDAHO POWER
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1806-0047 CHUBBUCK	6/2/2018		NOV	$0.00	$0.00	$0.00	PENDING	**OSCAR LOSOLLA** IDAHO POWER
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								

DAM1806-0048 HANSEN	6/4/2018		NOV	$0.00	$0.00	$0.00	PENDING	**HINE BACKHOE EXCAVATION INC** IDAHO POWER
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1806-0049 KIMBERLY	6/15/2018		NOV	$0.00	$0.00	$0.00	PENDING	**BRANDON CHRISTIANSEN** IDAHO POWER
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1806-0050 MCCALL	6/5/2018		NOV	$0.00	$0.00	$0.00	PENDING	**MCCALL DIRT WORKS INC** IDAHO POWER
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1806-0051 MCCALL	6/14/2018		NOV	$0.00	$0.00	$0.00	PENDING	**GRANITE EXCAVATION INC** IDAHO POWER
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1806-0052 MCCALL	5/29/2018		NOV	$0.00	$0.00	$0.00	PENDING	**GRANITE EXCAVATION INC** IDAHO POWER
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1807-0001 BOISE	6/16/2018		NOV	$0.00	$0.00	$0.00	PENDING	**TIM HUNT** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								

DAM1807-0002 EAGLE	6/19/2018		NOV	$0.00	$0.00	$0.00	PENDING	**GREEN CITY LANDSCAPING** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO CEASE EXCAVATION								
VIOLATION: DAM - FAILURE TO PARTICIPATE								
VIOLATION: DAM - FAILURE TO PRE-MARK								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE								
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
VIOLATION: DAM - REPORTING DAMAGE								
DAM1807-0003 MERIDIAN	6/12/2018		NOV	$0.00	$0.00	$0.00	PENDING	**TERRACO EXCAVATION** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE								
DAM1807-0004 GARDEN CITY	6/17/2018		NOV	$0.00	$0.00	$0.00	PENDING	**MICHAEL KLING** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1807-0005 BOISE	6/13/2018		NOV	$0.00	$0.00	$0.00	PENDING	**EXPERIENCED CONCRETE** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								

DAM1807-0006 NAMPA	6/23/2018		NOV	$0.00	$0.00	$0.00	PENDING	**LOUIE ORNELAS** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1807-0007 NAMPA	6/19/2018		NOV	$0.00	$0.00	$0.00	PENDING	**IDAHO MATERIALS AND CONSTRUCTION** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE								
DAM1807-0008 BONNERS FERRY	6/18/2018		NOV	$0.00	$0.00	$0.00	PENDING	**ANDREWS EXCAVATION** AVISTA
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1807-0009 RIRIE	7/3/2018		NOV	$0.00	$0.00	$0.00	PENDING	**BLAKE GREEN** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1807-0010 IDAHO FALLS	6/25/2018		NOV	$0.00	$0.00	$0.00	PENDING	**JM CONCRETE** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1807-0011 RIGBY	7/5/2018		NOV	$0.00	$0.00	$0.00	PENDING	**VHTC TRUCKING** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								

DAM1807-0012 MERIDIAN	6/26/2018		NOV	$0.00	$0.00	$0.00	PENDING	**ELOY LANDSCAPING AND SPRINKLERS INC** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
VIOLATION: DAM - ONE-NUMBER NOTIFICATION								
DAM1807-0013 BOISE	6/22/2018		NOV	$0.00	$0.00	$0.00	PENDING	**RON EDLER** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1807-0014 MERIDIAN	6/20/2018		NOV	$0.00	$0.00	$0.00	PENDING	**IDAHO SEPTIC LLC** INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1807-0015 BOISE	6/26/2018		NOV	$0.00	$0.00	$0.00	PENDING	**CUSTOM FENCING AND DECKING** INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE								
VIOLATION: DAM - FAILURE TO PRE-MARK								
Total Cases: 75				**$2300.00**	**$200.00**	**$2100.00**		

DAMAGE PREVENTION BOARD

Agenda Item No. 12 **Administrator Report**

PRESENTER: Chris L. Jensen, Administrator

OBJECTIVE: Provide an overview of the Division's current activities.

ACTION: Informational

BACKGROUND: This topic is addressed at all regularly scheduled Damage Prevention Board meetings.

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation

DAMAGE PREVENTION BOARD

Agenda Item No. 12a **Financial Report**

PRESENTER: Chris L. Jensen, Administrator

OBJECTIVE: Review the Damage Prevention Board's Financial Report.

ACTION: Informational

BACKGROUND: This topic is addressed at all regularly scheduled Idaho Electrical Board meetings.

PROCEDURAL HISTORY:

ATTACHMENTS: Financial Report

Division of Building Safety

UNDERGROUND FACILITIES DAMAGE PREVENTION
Fiscal Year 2018 Financial Statements
As of 05/31/2018

Statement of Revenues and Expenditures - 0229-27 Dedicated Fund

Class	Budget	Fiscal Year To Date	YTD as a % of Budget	Remaining Budget	Projected for Remainder of Year	Projected Year End Totals	Projected Total as a % of Budget
Revenues:	50,000	44,359	89%	5,641	27,807	72,166	144%
Expenditures							
Personnel:	-	21,101	0%	(21,101)	2,752	23,854	0%
Operating:	50,000	9,923	20%	40,077	18,414	28,337	57%
Capital:	-	-	0%	-	-	-	0%
Total Expenditures	50,000	31,024	62%	18,976	21,166	52,190	104%
Net for FY 2018	-	13,335			6,640	19,975	

Statement of Cash Balance - 0229-27 Dedicated Fund

July 1, 2017 Beginning Cash Available	Fiscal Year to Date Revenues	Fiscal Year to Date Expenditures and Encumbrances	Other Changes in Cash	Available Cash as of May 31, 2018	Projected Change in Cash for Remainder of Year	Projected Year End Available Cash
18,775	44,359	31,024	-172	31,938	6,640	38,578

Statement of Revenues and Expenditures - 0348-00 Federal Grant (State Damage Prevention Program Grant - 2016)

Class	Budget	Fiscal Year To Date	YTD as a % of Budget	Remaining Budget	Projected for Remainder of Year	Projected Year End Totals	Projected Total as a % of Budget
Revenues:	-	(22,432)	0%	22,432	-	(22,432)	0%
Expenditures							
Personnel:	16,180	16,820	104%	(640)	-	16,820	104%
Operating:	44,020	31,398	71%	12,622	-	31,398	71%
Capital:	-	-	0%	-	-	-	0%
Total Expenditures	60,200	48,219	80%	11,981	0	48,219	80%
Net for FY 2018	(60,200)	(70,650)			-	(70,650)	

Statement of Cash Balance - 0348-00 Federal Grant (State Damage Prevention Program Grant - 2016)

July 1, 2017 Beginning Cash Available	Fiscal Year to Date Revenues	Fiscal Year to Date Expenditures and Encumbrances	Other Changes in Cash	Available Cash as of May 31, 2018	Projected Change in Cash for Remainder of Year	Projected Year End Available Cash
70,381	(22,432)	48,219	0	(269)	-	(269)

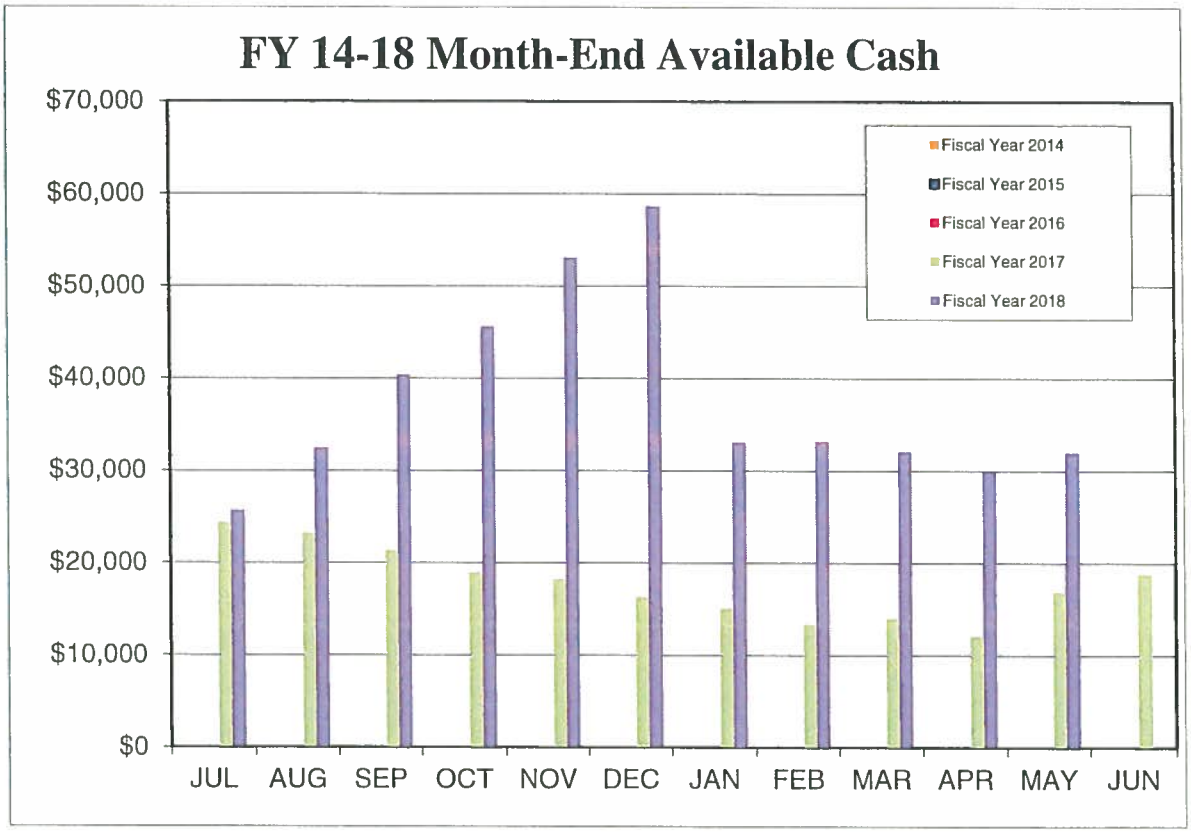
Statement of Revenues and Expenditures - 0348-00 Federal Grant (State Damage Prevention Program Grant - 2018)

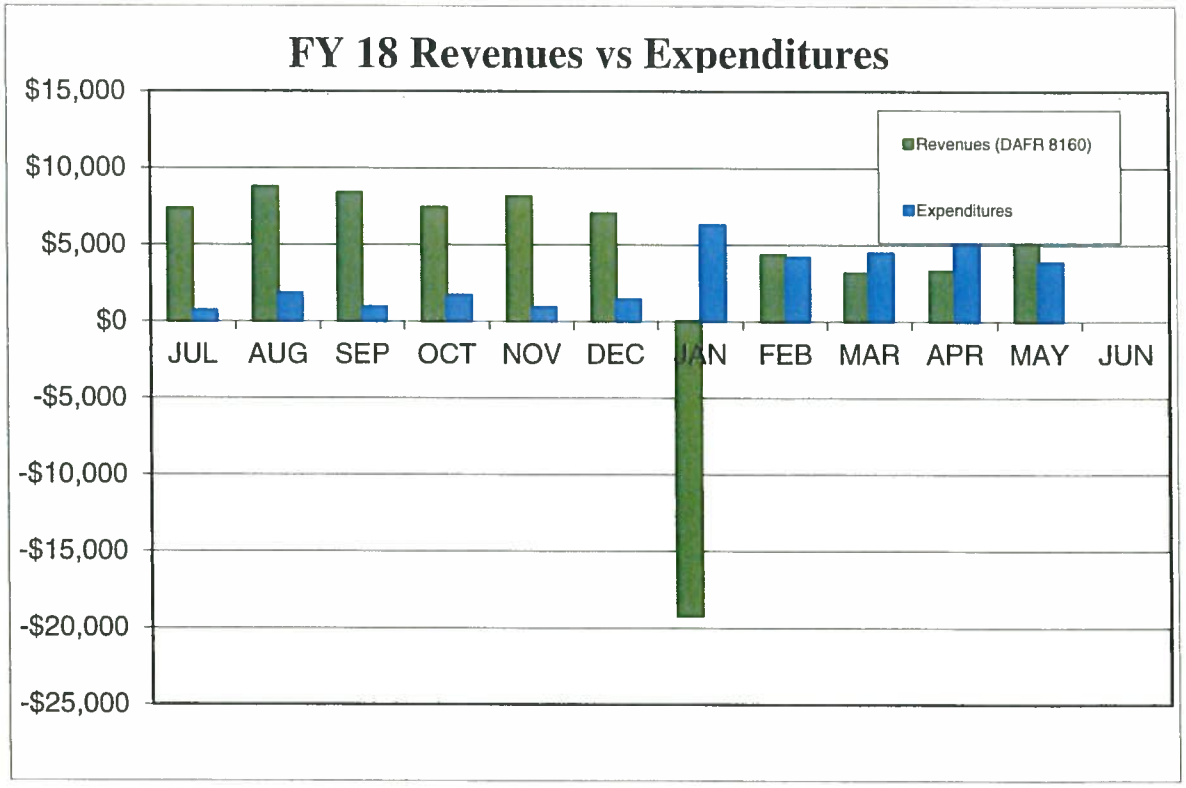
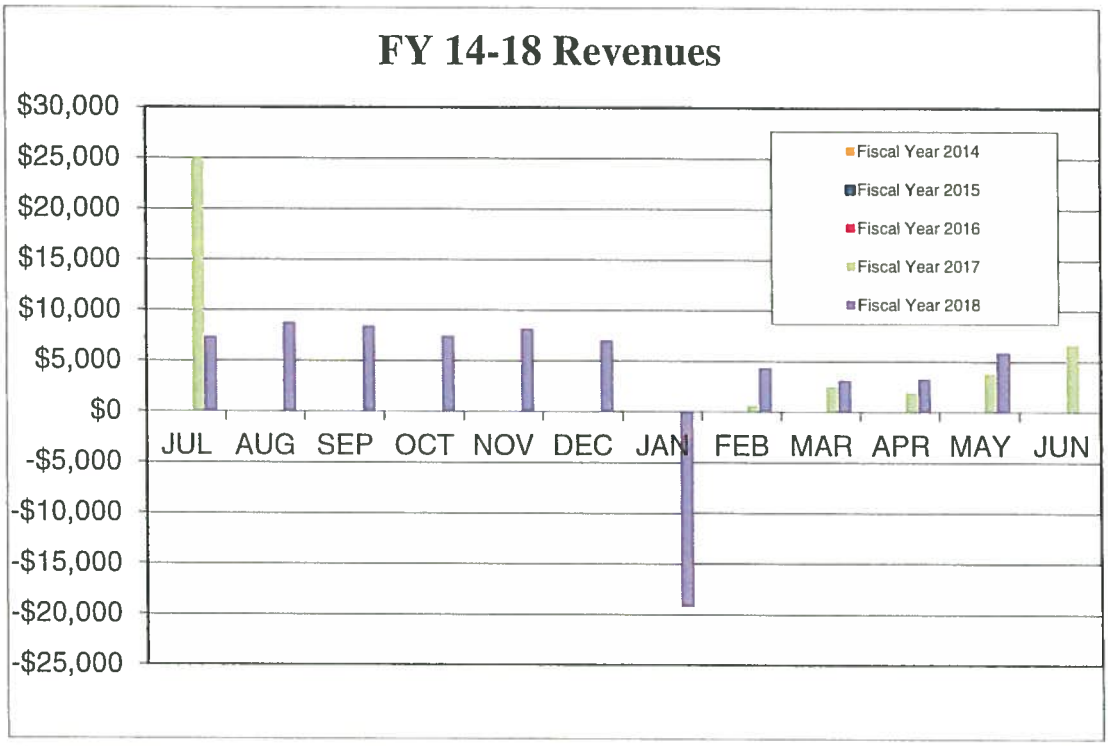
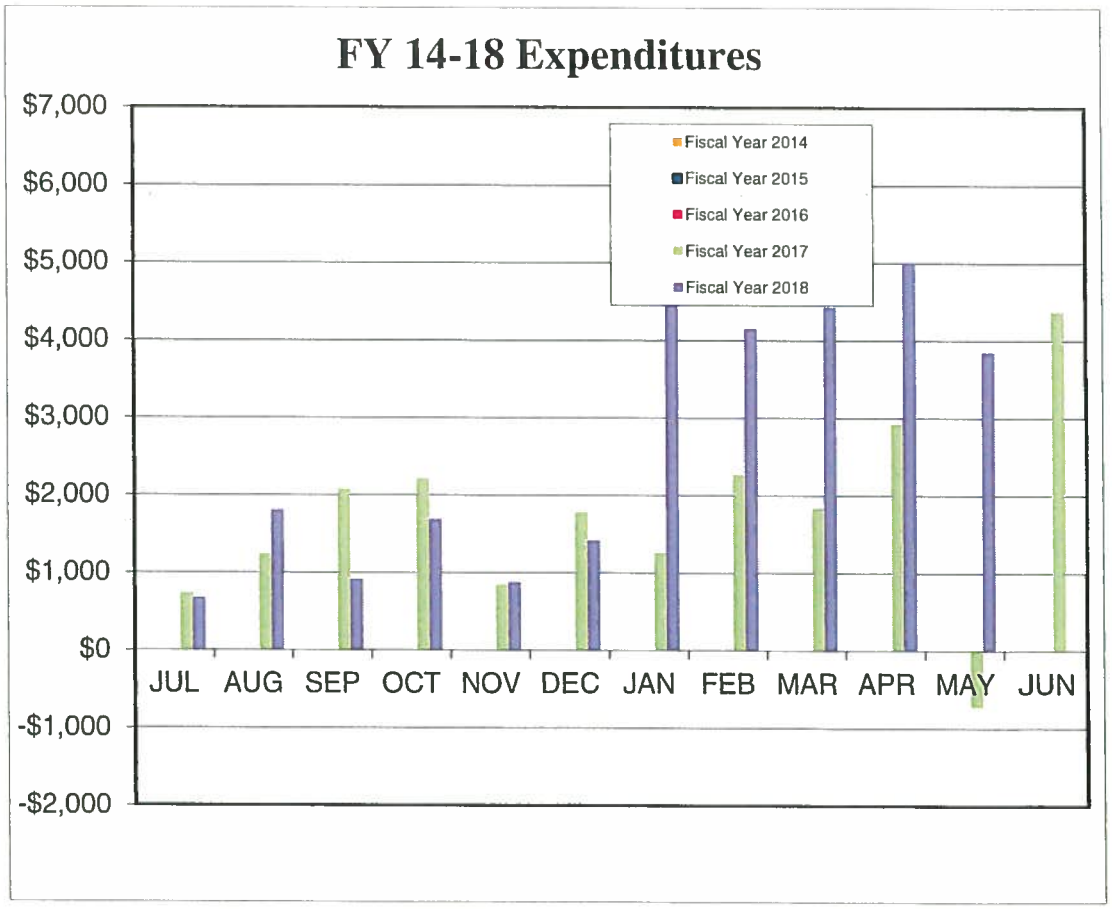
Class	Budget	Fiscal Year To Date	YTD as a % of Budget	Remaining Budget	Projected for Remainder of Year	Projected Year End Totals	Projected Total as a % of Budget
Revenues:	90,000	-	0%	90,000	-	-	0%
Expenditures							
Personnel:	66,328	19,529	29%	46,799	-	19,529	29%
Operating:	23,672	291	1%	23,381	-	291	1%
Capital:	-	-	0%	-	-	-	0%
Total Expenditures	90,000	19,821	22%	70,179	0	19,821	22%
Net for FY 2018	-	(19,821)			-	(19,821)	

Statement of Cash Balance - 0348-00 Federal Grant (State Damage Prevention Program Grant - 2018)

July 1, 2017 Beginning Cash Available	Fiscal Year to Date Revenues	Fiscal Year to Date Expenditures and Encumbrances	Other Changes in Cash	Available Cash as of May 31, 2018	Projected Change in Cash for Remainder of Year	Projected Year End Available Cash
0	-	19,821	0	(19,821)	-	(19,821)

UNDERGROUND FACILITIES DAMAGE PREVENTION





UNDERGROUND FACILITIES DAMAGE PREVENTION