



U.S. Department of Transportation
**Pipeline and Hazardous
Materials Safety Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

October 21, 2024

Via Email

Mr. Steven Boorman
Chairman
Idaho Damage Prevention Board
11341 W. Chinden Blvd.
P.O. Box 83720
Boise, ID 83720

Dear Chairman Boorman:

On October 17, 2024, a representative of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an evaluation of Idaho Division of Occupational and Professional License's (DOPL) enforcement of the Idaho excavation damage prevention law. PHMSA conducted this 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. Based on this evaluation, PHMSA has determined that the enforcement of the Idaho excavation damage prevention law is "adequate."

PHMSA evaluates a state's excavation damage prevention enforcement program based on the criteria detailed in 49 CFR § 198.55 and scores the state's compliance with those criteria. Although DOPL's enforcement program was deemed "adequate" for calendar year (CY) 2023, this is not a finding by PHMSA that the state program has no room to further improve the program's effectiveness. Accordingly, PHMSA would like to bring to your attention an area of improvement involving the requirements of 49 CFR § 198.55(a)(5). The preamble to the final rule for this requirement contains PHMSA's guidance for how it applies this section when evaluating a state program. PHMSA expects state enforcement programs to be balanced with regard to how they apply its enforcement authority. In consideration of the above, a state's enforcement should focus on the compliance responsibilities of excavators, utility owners and pipeline operators. In CY 2023, Idaho's gas distribution operators reported a total of 899 excavation damages to their pipeline facilities in the annual reports submitted to PHMSA, of which, 95 of were attributed to pipeline operators for not having complied with their responsibilities in accordance with Idaho's excavation damage prevention law, specifically, Idaho Code § 55-2205 (2022). The DOPL only received two complaints in CY 2023, both of which were assessed against the excavator.

PHMSA encourages the DOPL to evaluate how it may improve its program in this regard and provide an update to PHMSA relative to this issue with 60 days from receipt of this letter. Also

note, this same issue was identified in the CY 2022 evaluation, and PHMSA requested a 60-day response from the DOPL. To date, PHMSA has yet to receive a response from this request.

This year, PHMSA is also requesting that every state review its laws, definitions of excavation”, and relevant best practices to determine if onshore submerged facilities, dredging and other related maritime/underwater excavation activities are included. This request relates to National Transportation Safety Board recommendations after a 16-inch liquid propane pipeline was damaged by a dredging vessel on August 21, 2020.¹ Please ensure that your state has the necessary legal backing and procedures in place to preserve public safety during dredging operations and/or other related maritime/underwater excavation activities.

PHMSA appreciates your dedication to pipeline safety. As you are aware, excavation damage continues to be a leading cause of pipeline failures, some of which result in fatalities, serious injuries, and environmental damage. Nationwide statistics show that effective enforcement of state damage prevention laws reduces excavation damage and pipeline incidents, resulting in enhanced public safety.

Should you or your staff have any questions regarding this letter, please contact Mr. David Appelbaum, PHMSA Senior Transportation Specialist, at (202) 617-6329 or by email at David.Appelbaum@dot.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Zach Barrett", with a stylized, flowing script.

Zach Barrett
Director, State Programs

cc: Ms. Amy Lorenzo, Bureau Chief, Division of Occupational and Professional License
Mr. Jeff Brooks, Pipeline Safety Program Manager, Idaho Public Utilities Commission

¹ See NTSB Report MAR21/05 dated December 7, 2021, *Hazardous Liquid Pipeline Strike and Subsequent Explosion and Fire aboard Dredging Vessel Waymon Boyd*