

# **ONE-CALL OF WYOMING**

## **Excavator's Handbook**



**Know what's below.  
Call before you dig.**

**811 or  
800-849-2476**

**[www.onecallofwyoming.com](http://www.onecallofwyoming.com)**

## **REGULAR BUSINESS HOURS & HOLIDAYS**

One-Call of Wyoming handles Locate Requests 24 hours a day, 365 days a year.

If a holiday falls on a Saturday, Friday is considered to be a holiday. If the holiday falls on a Sunday, Monday is considered to be a holiday. The following holidays are **not** considered **"Business Days"** when determining the legal day and time excavation may begin.

<b>New Year's Day</b>	Labor Day
Martin L. King Day	Columbus Day Observed
<b>Presidents' Day</b>	<b>Veterans' Day</b>
Memorial Day Observed	Thanksgiving Day
Independence Day	Christmas Day

## **APWA UNIFORM COLOR CODE (Uses ANSI Standard Z535.1 Safety Color Code)**

<b>WHITE</b>	Proposed Excavation
<b>PINK</b>	Temporary Survey Markings
<b>RED</b>	Electric Power Lines, Cables, Conduit and Lighting Cables
<b>YELLOW</b>	Gas, Oil, Steam, Petroleum or Gaseous Materials
<b>ORANGE</b>	Communication, Alarm or Signal Lines, Cables or Conduit
<b>BLUE</b>	Potable Water
<b>PURPLE</b>	Reclaimed Water, Irrigation and Slurry Lines
<b>GREEN</b>	Sewers and Drain Lines

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## **WHO and WHEN TO CALL 811**

One-Call of Wyoming's Notification Center is the communication link between the excavator and the underground facility operator. One-Call of Wyoming provides excavators and the general public with the ability to inform multiple operators of underground facilities of intended excavation with just one phone call.

Before beginning any excavation, the excavator is required by state law to give advance notice to the One-Call of Wyoming Notification Center.

**Notice is to be given at least two (2) full business days, but not more than fourteen days, prior to beginning the excavation project.**

**NOTE:** Neither One-Call of Wyoming nor its Notification Center does the actual work of locating any underground facilities. **Operators are responsible for locating their underground facilities.**

Please be advised that calling One-Call of Wyoming does not affect or impair local ordinances, charters or other provision of law requiring permits to be obtained before excavating.

The service provided by One-Call of Wyoming is free of charge to excavators. Underground operators pay the cost of One-Call of Wyoming in full.

Please do **not** contact One-Call of Wyoming to:

- Report any type of service outage.
- Resolve any type of utility billing problem.
- Report any excavation outside the state of Wyoming.
- Request any type of facility removal or relocation including meter removals prior to demolition of buildings.
- Request initiation of any type of utility service.

## **TYPES OF CALLS HANDLED BY THE NOTIFICATION CENTER**

The center primarily accepts and processes three types of calls:

- Routine Utility Locate Requests;
- Survey Requests for planning purposes;
- Emergency Locate Requests.

### **Routine Utility Locate Requests**

A Routine Utility Locate Request is advance notice given to operators of planned excavation. State law requires that excavators give at least two (2) full business days notice in advance of the beginning of the excavation.

### **Survey Requests**

Survey requests are for construction projects that are in the planning stage and for which information on the location of existing facilities is being sought. One-Call of Wyoming is a messaging service to relay the request to the operators.

#### **W.S. 37-12-302 states:**

*(b) Any person requiring or designing architectural or engineering drawings that call for excavation shall obtain information from operators as to the nature, location, and depth if known, of underground facilities. If the information is not available, the person requiring or designing architectural or engineering drawings that call for excavation shall determine at their expense the nature and location of the underground facilities. The person requiring or designing architectural or engineering drawings that call for excavation shall make the information and location a part of the plan by which the excavators operate.*

## **Emergency Locate Requests**

The Notification Center operators request the same information for Emergency Requests as for Routine Requests. The Notification Center operator will prepare the request for immediate transmission and will issue a start date equal to the time the excavation is scheduled to begin.

When calling in an Emergency Request, inform the Notification Center operator that an emergency situation exists. Be prepared to explain the condition of the emergency as follows:

### **Emergency as defined by state law (W.S. 37-12-301):**

*(b) (ii) "Emergency" means a sudden, unforeseen occurrence, including a loss of communications, which demands immediate action to protect the health, safety and welfare of the public and to prevent loss of life, health, property or essential public services and advance notice to the notification center prior to excavation is impracticable under the circumstances. "Emergency" shall include ruptures and leakage of pipelines, explosions, fires and similar instances where immediate action is necessary to prevent loss of life or significant damage to underground facilities or the environment.*

For false emergency locate incidents, excavators may be fined up to \$500.00.  
**(W.S. 37-12-306 (h) (iii)).**

## **MARKING FACILITIES**

Before calling the Notification Center, the excavator should "white-line" by marking the proposed excavation per the Guidelines of the American Public Works Association (APWA). These guidelines are available, along with commonly-used marking terms, on the web site **[www.onecallofwyoming.com](http://www.onecallofwyoming.com)**. Use white marks or white flags to show the location, route

and boundary of the work area. Surface marks on roadways need not exceed **1.5" by 18"**.

Within two (2) full business days after receiving the proposed excavation location, the operators will mark the location of their existing facilities. Location markings are only approximate. The actual facility locations vary up to 24 inches from the marks. If excavation is required within 24 inches horizontally of any mark, the excavation shall be performed with extreme care and without damage to facilities, using hand tools or vacuum excavation.

### **HOW TO MAKE A ROUTINE UTILITY LOCATE REQUEST**

A minimum of two (2) full business days prior to excavating, request a Utility Locate ticket, either by calling the Notification Center (811 or 800-849-2476) or **[www.onecallofwyoming.com](http://www.onecallofwyoming.com)**.

#### **ONTRY (ONline ticket enTRY).**

Once an excavator is registered, use your assigned username and password to login. Then, with drop-down menus, enter specific information required to complete the locate request. The web site has internal controls to ensure that the information you enter is accurate and complete. ONTRY is currently limited to routine locate tickets.

#### **FAX-A-LOCATE AGREEMENT.**

Download this form, fill it out and fax it to 800-217-3719. You **must** fill out an agreement form **before** you can submit a fax-a-locate request.

#### **FAX-A-LOCATE REQUEST FORM.**

Download, fill it out and fax it to 800-217-3719.

This form requires specific information for each Locate Request. You will always give the following information to the Notification Center:

- Your name, company phone number, your company address, company contact and phone number.
- Start date and time and duration of excavation.
- On-site meeting appointment requested?
- The county where the work is taking place and the nearest town in that county.
- The best available location information where the work is taking place. May include street and number, GPS coordinates, Township, Range, Section, nearest intersecting streets, comprehensive driving directions that are used to mark the work area on the map.
- Type of work.
- Depth of excavation.
- Blasting?
- Work being done for?
- Best time to reach contact for the job.
- Description of work site (including marking instruction & driving directions), so the locators know where to mark. It is preferred to use white paint or white flags to indicate the work area.

Locators use this ticket information to mark facilities in the area. If the scope of work changes, if the location changes or other changes occur, call the Notification Center and request a corrected ticket be issued.

Never do any excavation work that is not clearly reflected in the locate ticket under which you are working.

Avoid using ticket renewals to make a ticket valid for the duration of a large project. Instead, break a large project into smaller tasks or phas-

es that can reasonably be completed in about 14 days, and request a separate locate for each phase.

### **Wait 2 Business Days.**

After the excavator provides information to the Notification Center to complete the locate ticket, the excavator is provided with the legal start day and time for the excavation, names of the operators who will be notified, and a confirmation number (ticket number). The ticket number is very important. Excavators should **retain this ticket number and reference it on any follow-up calls or correspondence.**

REMINDERS: **Excavators assume responsibility for non-notification** until they receive acknowledgement from One-Call of Wyoming in the form of a return fax or email. Excavators are advised that there may be other underground facilities at their work area that are owned or operated by parties that are not members of One-Call of Wyoming and who must be contacted directly by the excavator.

You may also access the Wyoming Ticket Search link through **[www.onecallofwyoming.com](http://www.onecallofwyoming.com)**. This site provides powerful tools with which to search for and review any Wyoming ticket issued after January 1, 2003. Registered members have additional features available:

- As a registered **Excavator**, you can review the locate requests that you have submitted. Access is limited to those locate requests initiated by the excavator.
- As a registered **Facility Operator**, you can review the locate requests for which you have been notified. Access is limited to the operator's Call Directing Codes (CDC).

(One-Call of Wyoming provides this service to the Wyoming damage prevention community for informational purposes only and makes no warranty as to the accuracy of data provided by users of the system.)

### **On-Site Meeting Appointment Requests**

Excavators typically use on-site meeting requests when the project requires communication of details on-site. On-site meeting requests typically do not fully describe the dig location and do not have marking instructions.

An on-site meeting request does **not** start the “2-business-day” clock for an excavation request until the actual excavation site is described to operators and marking instructions are provided. After the actual excavation site is described in an on-site meeting, operators are allowed two (2) business days to mark their facilities.

### **FACILITY OPERATOR RESPONSIBILITIES (After receiving the locate)**

After receiving and screening the locate request, each underground facility operator with facilities in the excavation site will mark the location of facilities in the field to enable the excavator to easily recognize the location of buried facilities.

Operators are only required to mark those facilities which they own and/or operate.

Operators typically use stakes, flags, paints, or other suitable materials in varying combinations, depending upon the type of surface to be marked. These marks will be made according to the APWA Uniform Color Code and in sufficient quantity to clearly identify the routes of the facility.

### **Emergency locates**

These are given top priority. While there is **not** a required response time for an emergency locate, operators give emergency requests high priority and will respond as soon as practical. Even in an emergency, excavators are responsi-

ble for damage to facilities when excavating prior to facilities being marked by operators. Excavators must weigh the urgency to excavate versus the potential to damage any unmarked underground facilities.

### **EXCAVATOR RESPONSIBILITIES (After making the locate request)**

**NOTE:** One-Call of Wyoming operates a Notification Center whose ONLY responsibility is to convey your locate request to the underground facility operator member(s) of One-Call of Wyoming who in turn are responsible for sending out locators to properly mark their facilities in your excavation area.

The excavator will wait the proscribed **two (2) business days** after requesting the locate and giving all of the operators time to respond. If the excavator is aware of underground facilities that have not been marked, the excavator should contact the facility operator directly or call the Notification Center to request a No Response ticket (see below).

Some operators will want to be present during the excavation; other operators will not be present. Excavators should cooperate with operators to allow observation of the excavation, on-site work and backfill activities.

The excavator should proceed by digging by hand or vacuum excavator to expose the facility before excavating with any power-operated earth-moving equipment.

After the markings have been made, excavators are required to maintain a minimum clearance of 24 inches between the utility underground facility and the cutting edge or point of any power-operated excavating or earth-moving equipment.

If excavation is required within 24 inches horizontally of any marking, the excavation should be performed using hand tools or vacuum excavation with extreme care and without damaging the marked facility.

Excavators are cautioned that equipment may disturb the soil just by the nature of the equipment or by weight and/or other characteristics of the equipment.

If, during the course of excavation, a facility has been exposed, **it is the excavator's responsibility** to support these facilities. The excavator also must be certain the facilities have not been struck or damaged in any capacity, including **being pulled or "kinked."** Even damage to the coating on a buried facility is serious and will lead to future problems.

If damage of any kind is discovered, or if a facility is contacted, **it is the excavator's responsibility to directly and immediately notify the facility operator and the Notification Center.**

### **Respect the Marks**

Excavators should plan their work so as to minimize damage to markings.

## **DEPTH OF FACILITIES**

One-Call of Wyoming does **not** have information on the specific location or depth of buried facilities. In fact, operators themselves frequently may not be able to provide depth information to the caller. While it is true that most operators follow certain depth requirements or guidelines when installing lines, they have no control over depth variation caused by human intervention, effects of weather such as erosion, or other circumstances.

For example, suppose a facility is buried three feet below the surface of a given area. Following

installation, a landscaper adds one foot to the topsoil. In this case, the facility is now four feet deep.

On the other hand, if the landscaper were to remove one foot of dirt, that facility would only be two feet below the surface.

In addition to human intervention, the effects of weather, such as erosion, can affect the depth of underground facilities.

### **REPORTING DIG-INS AND OTHER PROBLEMS**

When excavators encounter problems during the locating and excavating processes, One-Call of Wyoming will assist in resolving problems.

#### **Damage Report**

##### **Excavator Responsibility**

In case of any contact with, or damage to, any underground facility, the excavator shall immediately notify the facility operator and the Notification Center. Call 911 when needed.

Notification Center operators will assist with filing a Damage Report and will use the ticket notification process to promptly notify operators of the continuing work at the damage location based upon information provided at the time of the call.

The excavator should cooperate with the facility operator to mitigate damages. The excavator must not conceal damage and must not attempt to repair the damaged facility unless authorized by the facility operator.

##### **Facility Operator Responsibility**

The operator of the underground facility shall respond to the emergency notification in a man-

ner appropriate to the circumstances. The operator must file a report with the Notification Center within 72 hours of the damage notification **describing the operator's response. Forms and instructions are available on the web site [www.onecallofwyoming.com](http://www.onecallofwyoming.com).**

## **No Response**

### **Failure to Locate Facilities Prior to Start Date**

If the start date and time arrives and one or more operators have failed to mark the facilities, you should not begin work until you are confident that all facilities have been marked correctly. The excavator should call the Notification Center for a No Response ticket, indicating which operators have or have not marked their facilities.

## **RECOGNIZING AND RESPONDING TO EMERGENCIES INVOLVING DAMAGED FACILITIES**

Emergency situations include: leaks, ruptures, explosions, fires, severe settling or soil movement, weakened or damaged facilities and similar instances where immediate action is necessary to prevent loss of life, injury to persons, or damage to property.

The following actions should be taken in response to various emergency/damage situations involving underground facilities.

### **Natural Gas**

1. Avoid any open flames or anything that might start a fire. Do not start motor vehicles or electrical equipment. Remove ignition sources (cigarettes, cell phones, or anything that could create a spark or static electricity).
2. Shut off and abandon any equipment being used in the area.

3. Evacuate the area and try to keep uninformed people out.
4. Call 911 or your local fire, police or sheriff's office. Give your name, phone number, a description of the leak and its location.
5. Do not try to put out a fire. If it is burning, let it burn; ask local fire fighters to observe and protect adjacent property.
6. Do not attempt to operate any pipeline valves yourself.
7. Never bury the broken or damaged line.
8. Call the facility operator and the Notification Center.

### **Petroleum**

1. Do not light a match, start an engine, use a telephone. Do not even switch on/off an electric light.
2. Turn off any running machinery (engines).
3. Leave the leak area immediately. Warn others, if necessary.
4. Do not make contact with the escaping liquids.
5. Avoid creating sparks or sources of heat that could cause the vapors or liquids to ignite.
6. If you come upon a leak or vapor cloud while in a vehicle, do not drive into the area.
7. Call 911 or your local fire, police or sheriff's office. Give your name, phone number, a description of the leak and its location.
8. Call the facility operator and the Notification Center.

### **Electricity**

1. Move equipment only if you can safely move it away.
2. If safe, stay on equipment/machine (unless on fire) until rescue workers arrive. Keep others away. If buried electrical line is struck in wet soil/conditions, the

ground may become energized for a large area around the strike.

3. Call 911 or your local fire, police or sheriff's office. Give your name, phone number, a description of the problem and its location.
4. Call the facility operator and the Notification Center.

### **Water/Sewer**

1. Do not close any valves in order to stop flooding. (Closing the wrong valve(s) may affect fire flows and/or possible contamination of potable water systems.)
2. If the water leak is from a septic line or system, do not come in contact with the water. This could be a health risk, so **don't wade in or work around this.**
3. Be careful of high-pressure water. Sometimes the slightest scratch or vibration can let loose that pressure; it can blow you away.
4. Water can quickly fill a trench or hole, making exit impossible.
5. Be careful moving around trench areas with wet walls. They can easily cave in around you and suffocate you.
6. Sewer gas is highly flammable! Do not ignite it with cigarettes, matches, etc.
7. Call the facility operator and the Notification Center.

### **Fiber/Communications**

1. If fiber optic cable is cut, do not look into the end of it. It can cause serious eye damage.
2. Call the facility operator and the Notification Center. Report **any** scrape, nick, cut, tear, break dent, etc. to a facility line. If not promptly repaired, any damage could result in a failure.

## **OSHA REGULATIONS**

### **§ 1926/751(b) Underground installations**

(1) The estimated location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, shall be determined prior to opening an excavation.

(2) Utility companies or operators shall be contacted within established or customary local response times, advised of the proposed work, and asked to establish the location of the utility underground installations prior to the start of actual excavation. When utility companies or operators cannot respond to a request to locate underground utility installations within 24 hours (unless a longer period is required by state or local law), or cannot establish the exact location of these installations, the employer may proceed, provided the employer does so with caution, and provided detection equipment or other acceptable means to locate utility installations are used.

(3) When excavation operations approach the estimated location of underground installations, the exact location of the installations shall be determined by safe and acceptable means.

## **FEDERAL LAW**

**§ 49 USC 60122 – CIVIL PENALTIES** (1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated section 60114(b) or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$100,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of violations is \$1,000,000.

**§ 49 USC 60123 - Sec. 60123 (d) Penalty for Not Using One-Call Notification System or Not Heeding Location Information or Markings.**

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person – (1) knowingly and willfully engages in an excavation activity – (A) without first using an available one-call notification system to establish the location of underground facilities in the excavation area; or (B) without paying attention to appropriate location information or markings the operator of a pipeline facility establishes; and (2) subsequently damages - (A) a pipeline facility that results in death, serious bodily harm, or actual damage to property of more than \$50,000; (B) a pipeline facility, and knows or has reason to know of the damage, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or (C) a hazardous liquid pipeline facility that results in the release of more than 50 barrels of product.

**Complaints of Non-compliance with Wyoming State Law**

A process is available for excavators and operators with complaints alleging non-compliance with Wyoming State Law. Complaint forms and instructions are available on the web site **[www.onecallofwyoming.com](http://www.onecallofwyoming.com)**.

**WYOMING STATE LAW**

**Title 37 Public Utilities**

**Chapter 12**

**Article 3. DAMAGE TO UNDERGROUND  
PUBLIC UTILITY FACILITIES**

**§ 37-12-301. Short title; definitions.**

(a) This act may be known and shall be cited as the "Wyoming Underground Facilities Notification Act."

(b) As used in this act:

(i) "Business day" means any twenty-four (24) hour period other than Saturday, Sunday or legal holiday;

(ii) "Emergency" means a sudden, unforeseen occurrence, including a loss of communications, which demands immediate action to protect the health, safety and welfare of the public and to prevent loss of life, health, property or essential public services and advance notice to the notification center prior to excavation is impracticable under the circumstances. "Emergency" shall include ruptures and leakage of pipelines, explosions, fires and similar instances where immediate action is necessary to prevent loss of life or significant damage to underground facilities or the environment;

(iii) "Excavation" or "excavates" means any operation in which earth, rock or other materials on or below the ground is moved or otherwise displaced by means of hand or power tools, power equipment or explosives or other means, and includes grading, trenching, digging, ditching, drilling, augering, tunneling, boring, plowing-in, pulling-in, ripping, scraping and cable or pipe installing, except tilling of soil and gardening or agricultural purposes;

(iv) "Excavator" means any person or entity that excavates or conducts excavation activities;

(v) "Impoundment" means a closed basin formed naturally, or artificially built, which is dammed or excavated for the retention of water, slurry or other liquid or semi-liquid material;

(vi) "Notification center" means a center that receives notice from excavators of planned excavation or other requests for location and transmits this notice to participating operators;

(vii) "Operator" means any person, including public utilities, municipal corporations, political subdivisions or other persons having the legal authority to bury, operate, maintain, repair and replace underground facilities;

(viii) "Person" means an individual, partnership, municipality, state, county, political subdivision, utility, joint venture, corporation, limited liability company, statutory trust or other business entity and includes the employer of an individual;

(ix) "Secured facility" means a parcel of land used for commercial or industrial purposes that is surrounded entirely by a fence or other means of preventing access, including a fence with one (1) or more gates that are locked at all times or monitored by a person who can prevent unauthorized access;

(x) "Sump" means a surface pit into which drilling mud flows on reaching the surface of the well after being pumped through the drill pipe and bit, then up through the annular opening between the walls of the hole and the drill pipe, carrying with it cuttings from the well, which settle out of the mud in the sump pits;

(xi) "Underground facility" means any item of personal property buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or other form of electronic communications, cable television, electric energy, oil, gas, hazardous liquids or other substances and including but not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes and attachments;

xii) "This act" means W.S. 37-12-301 through 37-12-306.

**§ 37-12-302. Notice of excavation by excavator; information to be supplied upon notice; exceptions; penalty.**

(a) Every operator shall file with the notification center a general description of the area served together with the name, address and telephone number of the person from whom necessary information may be obtained concerning the location of underground facilities.

(b) Any person requiring or designing architectural or engineering drawings that call for excavation shall obtain information from operators, as to the nature, location, and depth if known, of underground facilities. If the information is not available, the person requiring or designing architectural or engineering drawings that call for excavation shall determine at their expense the nature and location of the underground facilities. The person requiring or designing architectural or engineering drawings that call for excavation shall make the information and location a part of the plan by which the excavators operate.

(c) Except as hereafter provided, no excavator shall make or begin excavation without first notifying the notification center of the proposed excavation. Notice shall be given by telephone, e-

mail, fax or other electronic medium approved by the notification center at least two (2) full business days, but not more than fourteen (14) business days prior to any excavation to the notification center pursuant to W.S. 37-12-304. Unless the location marks are still visible, if an excavation on a single project lasts more than fourteen (14) business days, the excavator shall give notice at least once each succeeding fourteen (14) business day period. Notice to the notification center is notice to each member thereof in the area. Notification of the following information to the notification center shall be required and shall include the following:

- (i) Name of the person notifying notification center;
- (ii) Name, address and telephone number of the excavator;
- (iii) Specific location by legal description or other reliable method that allows for current and accurate means of identifying geographic locations, and starting date and description of the intended activity.

(d) An operator shall at its expense, upon receipt of the notice provided for in subsection (c) of this section, use reasonable care to mark the location of the underground facilities with stakes, flags, paint or by other clearly identifiable marking within twenty-four (24) inches horizontally from the exterior sides of the operator's underground facilities. The location shall be marked using American Public Works Association uniform color standards. If requested by the excavator, the operator receiving the notice shall advise the excavator of the nature, location, size, function and depth if known, of underground facilities in the proposed excavation area. The operator shall respond no later than two (2) full business days after receipt of the

notice from the notification center or at a time otherwise mutually agreed to by the operator and excavator.

(e) Emergency excavations are exempt from the time constraints of the provisions of subsections (c) and (d) of this section.

(f) If information required pursuant to subsection (d) of this section is not provided within the time specified therein, or if the information provided fails to identify the location of the underground facilities in accordance with subsection (d) of this section, then any excavator damaging or injuring underground facilities shall not be liable for such damage or injury except when failing to utilize reasonable care. However, if information required pursuant to subsection (d) of this section is provided within the time specified therein, and if the information provided sufficiently identifies the location of the underground facilities in accordance with subsection (d) of this section, then any excavator damaging or injuring underground facilities shall be liable for all damage or injury to persons or property.

(g) Compliance with this section does not excuse an excavator from exercising reasonable care in complying with this act nor does compliance with this section excuse an excavator from liability for damage or injury for failure to so act. When excavating, reasonable care shall require hand digging, as necessary, to protect the underground facility.

(h) When any contact with or damage to any underground facility occurs, the excavator shall immediately notify the operator of the facility and the notification center, of the location of and extent of damage to the underground facility and shall cooperate with the operator of the damaged underground facility to mitigate the damages incurred to the extent reasonably possible, including the provision of in-kind work

where technical or special skills are not required according to the nature of the underground facility. An excavator shall not conceal or attempt to conceal any dislocation, disturbance or damage to an underground facility and shall not repair or attempt to repair the underground facility unless authorized by the operator of the underground facility. Upon notification of damage to an underground facility from an excavator, the operator of the underground facility shall respond to the notification in a manner reasonably appropriate to the circumstances. The operator shall file a report with the notification center describing the response within seventy-two (72) hours of the initial notification. This requirement of notification shall not relieve the excavator and the operator from compliance with any other state or federal notification obligation. In any dispute concerning the liability for damages to any underground facility, the excavator shall bear the burden of proof concerning its use of reasonable care in conducting the excavation.

**Section 3.** W.S. 37-12-302(j) and (k) is repealed.

**§ 37-12-303. Repealed by Laws 1996, ch. 113, § 3.**

**§ 37-12-304. Notification centers; formation; duties.**

(a) All operators having underground facilities shall join the notification center and shall participate in the notification center providing for mutual receipt of notification of excavation activities in a specified area and pay their share of the cost for the service provided.

(b) The notification center shall:

(i) File with the county clerk the statewide toll-free telephone number;

(ii) Repealed by Laws 2003, Ch. 59, § 2.

(iii) Maintain adequate records documenting compliance with the requirements of this act, including the following:

(A) Records of all telephone calls and other notifications received electronically;

(B) Records of all location requests which shall be retained for fifty (50) months and can be printed through use of a unique file numbering system developed by the notification center.

(C) Written records related to all complaints and responses alleging noncompliance with this act.

(iv) Provide the service at a minimum during normal business hours, Monday through Friday, excluding legal holidays;

(v) For calls received after normal business hours for the notification center, provide a recording for callers which explains emergency notification and excavation procedures;

(vi) Provide a timely method for notifying participating members of the information received regarding proposed excavation activities. The method of notification shall be determined by each notification system;

(vii) Upon request, provide to excavators giving notice of an intent to engage in an excavation activity the names of participating operators of underground facilities to whom the notice will be transmitted;

(viii) Repealed by Laws 2003, Ch. 59, § 2.

(ix) Offer an excavation safety training program.

(c) Repealed by Laws 2003, Ch. 59, § 2.

**§ 37-12-305. Exemptions.**

(a) The following oil and gas production facilities are not subject to this act:

(i) Aboveground or underground storage tanks, sumps, impoundments or piping connected to aboveground or underground storage tanks, sumps or impoundments located in the same tract of land as the storage tanks, sumps or impoundments;

(ii) Underground production facilities operated by the operator of a secured facility which are located entirely within the secured facility;

(iii) Piping within a well bore;

(iv) Underground facilities which are located on a production lease or unit and which are operated by a person:

(A) Who owns, in whole or in part, the mineral lease rights to that production lease or unit; and

(B) Who operates the underground facility only for their own use.

(b) An underground facility which extends beyond the boundaries of a production lease or unit is exempt only for that portion of the facility which is located within the boundaries of the lease or unit.

(c) An underground facility which contains gas or hazardous liquid shall not be exempted under the provisions of this act as provided by paragraph (a)(iv) of this section if the facility is located within the boundaries of, or within one-eighth (1/8) of a mile of, an incorporated or unincorporated city or town, or any residential or commercial area, subdivision, business or shopping area, community development or any similarly populated area, or on an established surface or underground easement, or if it contains more than one hundred (100) parts per million of hydrogen sulfide.

(d) Underground facilities located on private property owned by and existing for the exclusive use of that private property operator are exempt from the provisions of this act.

(e) Private domestic water and sewer lines located outside any incorporated area and serving nine (9) or fewer service hook-ups, private irrigation and drainage lines and ditches, irrigation district and drainage district lines and ditches, and private livestock water pipelines and facilities are exempt from the provisions of this act.

(f) Nothing in this section shall prohibit an operator of an underground facility which is exempted under this section to voluntarily register that facility under this act.

(g) Underground facilities operated by the operator of a secured facility which are located entirely within the secured facility are exempt from the provisions of this act.

**§ 37-12-306. Civil penalties; applicability.**

(a) An action to recover a civil penalty under this section may be brought by an operator, excavator, aggrieved party, the notification center, county attorney, district attorney or the attorney general. Venue for an action shall be in the dis-

strict court for the county in which the operator, excavator, aggrieved party or the notification center resides or maintains a principal place of business in this state or in the county in which the conduct giving rise to a civil penalty occurred. The action provided in this subsection may be by jury trial if a jury is demanded by either party.

(b) In determining the liability for or the amount of any damages or civil penalty pursuant to this section, a court shall consider the nature, circumstances and gravity of the alleged violation, the alleged violator's degree of culpability and the alleged violator's history of prior violations.

(c) The penalties provided in this section are in addition to any other remedy available at law or equity.

(d) No civil penalty shall be imposed under this section against an excavator or operator who violates any of the provisions of this article if the violation occurred while the excavator or operator was responding to a service outage or other emergency, except that such penalty shall be imposed if such violation was willful or malicious.

(e) This section shall not apply to any governmental entity as defined by W.S. 1-39-103(a)(i), which participates in the notification center as provided by this act. Nothing in this article shall affect any provision of the Wyoming Governmental Claims Act, W.S. 1-39-101 through 1-39-120.

(f) Any civil penalty received under subsection (g) or (h) of this section shall be deposited into the county public school fund of the county in which the violation occurred.

(g) With respect to operators:

(i) Every operator in Wyoming shall join and participate in the notification center pursuant to W.S. 37-12-304(a). Any operator who does not join or participate in the notification center shall be liable for a fine of five hundred dollars (\$500.00) each year it is not in compliance with this subsection;

(ii) If any underground facility located in the service area of an operator is damaged as a result of the operator's failure to join or participate in the notification center pursuant to W.S. 37-12-304(a), the court shall impose upon such operator a civil penalty up to the amount of five thousand dollars (\$5,000.00) for the first offense and up to twenty-five thousand dollars (\$25,000.00) for a second offense within a twelve (12) month period after the first offense. If any underground facility located in the service area of an operator is damaged as a result of the operator's failure to join or participate in the notification center pursuant to W.S. 37-12-304(a) on more than two (2) separate occasions within a twelve (12) month period from the date of the first failure to comply with W.S. 37-12-304(a), then the civil penalty shall be up to seventy-five thousand dollars (\$75,000.00). Upon a first offense, the operator may be required by the court to complete an excavation safety training program with the notification center;

(iii) If any underground facility is damaged as a result of the operator's failure to comply with W.S. 37-12-304(a) or failure to use reasonable care in the marking of the damaged underground facility, the operator shall be liable for:

(A) Any cost or damage incurred by the excavator as a result of any delay in the excavation project while the underground facility is restored, repaired or replaced, together with reasonable costs and expenses of suit, including reasonable attorney fees; and

(B) Any injury or damage to persons or property resulting from the damage to the underground facility. The operator shall also indemnify and defend the affected excavator against any and all claims or actions, if any, for personal injury, death, property damage or service interruption resulting from the damage to the underground facility.

(iv) If an operator, after receipt of a notice from an excavator or notification center pursuant to W.S. 37-12-302(c), fails to mark the location of its underground facilities within the time period specified in W.S. 37-12-302(d), and unless the failure resulted from circumstances beyond the operator's control, the court shall impose upon the operator a civil penalty of up to five hundred dollars (\$500.00) for each violation. For purposes of this paragraph, each day of delay in marking underground facilities shall be a separate violation.

(h) With respect to excavators:

(i) Every excavator shall notify the notification center pursuant to W.S. 37-12-302(c) prior to commencing any excavation activity. Any excavator who fails to notify the notification center pursuant to W.S. 37-12-302(c) shall be liable for a civil penalty in the amount of five hundred dollars (\$500.00);

(ii) If an excavator fails to comply with W.S. 37-12-302(c) and damages an underground facility during excavation, the excavator shall be liable for a civil penalty up to the amount of five thousand dollars (\$5,000.00) for the first offense and up to twenty-five thousand dollars (\$25,000.00) for a second offense within a twelve (12) month period after the date of the first offense. If an excavator fails to comply with W.S. 37-12-302(c) on more than two (2) separate occasions within a twelve (12) month period from the date of the first failure to comply

with W.S. 37-12-302(c), then the civil penalty shall be up to seventy-five thousand dollars (\$75,000.00). Upon a first offense, the excavator may be required to complete an excavation safety training program with the notification center;

(iii) If an excavator requests a facilities locate on an expedited basis (less than two (2) full business days) for an emergency excavation and the excavation at issue was not an emergency and did not require a locate on an expedited basis, the excavator shall be liable for a civil penalty of up to five hundred dollars (\$500.00) for each false emergency locate incident;

(iv) If an excavator fails to comply with W.S. 37-12-302(c) and damages an underground facility during an excavation, or fails to exercise reasonable care in excavating and damages a located underground facility during an excavation, the excavator shall be liable for:

(A) Any cost or damage incurred by the operator in restoring, repairing or replacing its damaged underground facility, together with reasonable costs and expenses of suit, including reasonable attorney fees; and

(B) Any injury or damage to persons or property resulting from the damage to the underground facility. The excavator shall also indemnify and defend the operator against any and all claims or actions, if any, for personal injury, death, property damage or service interruption resulting from the damage to the underground facility.

(v) Subparagraph (iv) (A) of this subsection shall not apply to an excavator if the operator of the underground facility has failed to comply with W.S. 37-12-302(d) or 37-12-304(a).

## NOTES

## NOTES

