

**State Damage Prevention Law Summary**  
**State: Delaware**  
(Link to State law provided in Law & Regulation section below)  
Summary Date: 8/7/2017

<b>Excavator Requirments</b>	
<b>Excavation: Definition</b>	Delaware Code, Title 26, Chapter 8, Subchapter I, § 802 (7) "Excavate" or "excavation" shall mean any operation in which earth, rock or other material in the ground is moved, removed or otherwise displaced or disturbed by means of any tools, equipment or explosives and includes, without limitation, grading, trenching, digging, dredging, ditching, drilling, augering, tunnelling, boring, backfilling, post pounding, driving objects into the ground, installation of form pins, hammering, scraping, cable or pipe plowing or driving, but does not include the surface cultivation of the soil for agricultural purposes, such as tilling, or patch-type paving where the same, including cutback, does not exceed 12 inches in depth measured from the surface of the pavement being patched.
<b>Excavator: Definition</b>	Delaware Code, Title 26, Chapter 8, Subchapter I, § 802 (8) "Excavator" shall mean any person, including those acting either as an employer or employee, intending to perform or performing excavation or demolition work.
<b>Excavator Notice to One Call Required (Yes / No)</b>	Yes
<b>Excavator Notice Minimum # Working Days Before Digging</b>	2
<b>Excavator Notice (Specific Language)</b>	Delaware Code 26.8.I § 806 (a) Prior to undertaking any excavation or demolition activities, it shall be the duty of each excavator to: ... (2) Notify the approved notification center not less than 2 working days, but no more than 10 working days, prior to the day of the commencement of such work.... (3) Ascertain the location and type of utility lines, and information prescribed by § 803(5) of this title and the identifying number or numbers assigned (pursuant to § 807 of this title) by the approved notification center in response to the notice prescribed in paragraph (a)(2) of this section; (4) Inform each person employed by the excavator at the site of such work of the information obtained pursuant to paragraph (a)(3) of this section;
<b>Ticket Life (# of days)</b>	10
<b>White-Line Required (Yes / No)</b>	No
<b>Tolerance Zone</b>	24" (Delaware Code 26.8.I § 806 (a) (7))
<b>Special Digging Requirements Within Tolerance Zone (Specific Language)</b>	Delaware Code 26.8.I § 806 (a) (7) Excavate prudently and carefully and to take all reasonable steps necessary to properly protect, support and backfill underground utility lines. This protection shall include but may not be limited to hand digging, within the limits of the planned excavation or demolition, starting 2 feet of either side of the extremities of the underground utility line for other than parallel type excavations and at reasonable distances along the line of excavation for parallel type excavations;
<b>Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)</b>	Yes (Delaware Code 26.8.I § 806 (a) (7))
<b>Preserve / Maintain Marks Required (Yes / No)</b>	Yes (Delaware Code 26.8.I § 806 (a) (5))
<b>Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)</b>	No
<b>Notify One-Call if Marks Moved or No Longer Visible (Yes / No)</b>	No (Per Delaware Code 26.8.I § 806 (a) (5) excavator must call for remarking but code does not require excavator to stop work.)
<b>Special Language Regarding Trenchless Technology (Yes / No)</b>	No
<b>Separate Locate Request Required for Each Excavator (Yes / No)</b>	Yes (Delaware Code 26.8.I § 806 (a))
<b>Notify Operator of Damage (Yes / No)</b>	Yes (Delaware Code 26.8.I § 806 (a)(8))

<b>Notify One Call Center of Damage (Yes / No)</b>	No
<b>Call 911 if Hazardous Materials Released (Yes / No)</b>	No
<b>Notice Exemptions (Yes / No)</b>	Yes
<b>Notice Exemptions (Specific Language)</b>	<p>Delaware Code 26.8.1 § 802 (7) "Excavate" or "excavation" ... does not include the surface cultivation of the soil for agricultural purposes, such as tilling, or patch-type paving where the same, including cutback, does not exceed 12 inches in depth measured from the surface of the pavement being patched.</p> <p>§ 806 (b) The requirements of paragraphs (a)(1) through (5) of this section shall not apply to an excavator performing excavation or demolition work in an emergency. However, excavators performing excavation or demolition activities in an emergency shall notify the approved notification center at the earliest practicable moment of the information prescribed in paragraph (a)(2) of this section.</p> <p>§ 808. Exemptions. No penalties provided for in § 810 of this title shall apply to any excavation or demolition done by the owner of a private residence when such excavation or demolition is made entirely on the land on which the private residence is situated and provided there is no encroachment on any operator's rights-of-way or easement. However, this exemption shall have no effect on the civil liability of such private residence owner pursuant to § 811 of this title.</p>
<b>Operator Response</b>	
<b>Minimum # Days for Operator to Respond After Receiving Notice (Generally)</b>	<p style="text-align: center;">2 (Delaware Code 26.8.1 § 803 (4))</p>
<b>Operator Requirements to Respond to Locate Notification (Specific Language)</b>	<p>Delaware Code 26.8.1 § 803 It shall be duty of each operator: ... (4) To respond to requests from an excavator or operator who identifies the site of excavation or demolition, or proposed excavation or demolition, for information as to the approximate location and type of the operator's utility lines in the area, not more than 2 working days after receipt of such requests. (5) To inform excavators or operators who identify the site of excavation or demolition, of proposed excavation or demolition, not more than 2 working days after receipt of a request therefor, of the following: a. If it is determined by an operator that a proposed excavation or demolition is planned within 5 feet of a utility line as measured in the horizontal plane and that the utility line may be damaged, the operator shall notify the person who proposes to excavate or demolish and shall physically mark the horizontal location of the utility line within 18 inches of the utility line on the ground by means of stakes, paint or other suitable means within 2 working days after the request. The operator shall also notify the person who proposes to excavate or demolish as to the size of the utility line, the type of temporary marking provided and how to identify the markings. In the case of extraordinary circumstances, if the operator cannot mark the location within 2 working days, the operator shall, upon making such determination notify the person who proposes to excavate or demolish and shall, in addition, notify the person of the date and time when the location will be marked; b. The cooperative steps which the operator may take, either at or off the excavation or demolition site, to assist in avoiding damage to its lines; c. Suggestions for procedures that might be followed in avoiding such damage; d. If the operator has no utility line within 5 feet of the proposed excavation or demolition as measured in the horizontal plane and if a proposed excavation or demolition by blasting is not planned in such proximity to the operator's utility lines that the utility lines may be damaged, the operator shall advise the person who proposes to excavate or demolish that marking is unnecessary and that the person may therefore begin the excavation or demolition;</p> <p>§ 804 It shall be the duty of each underground pipeline facility operator to: (1) Participate in the approved notification center. (2) Provide as follows for inspection of pipelines that such operator has reason to believe could be damaged by excavation activities: a. The inspection must be done as frequently as necessary during and after the excavation activities to verify the integrity of the pipeline; and b. In case of blasting, any inspection must include leakage surveys.</p>
<b>Minimum Standards for Locator Qualifications (Yes / No)</b>	No
<b>Minimum Standards for Locator Qualifications (Specific Language)</b>	Not addressed.
<b>Law Specifies Marking Standards Other Than Color (Yes / No)</b>	No
<b>Law Specifies Marking Standards Other Than Color (Specific Language)</b>	Not addressed

<b>Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)</b>	No
<b>Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)</b>	No
<b>Operator Must Locate Abandoned Facilities (Specific Language)</b>	Not addressed.
<b>Positive Response Required - Operator Contact Excavator (Yes / No)</b>	Yes
<b>Positive Response Required - Operator Contact Excavator (Specific Language)</b>	<p>Delaware Code 26.8.1 § 803 It shall be duty of each operator: ... (4) To respond to requests from an excavator or operator who identifies the site of excavation or demolition, or proposed excavation or demolition, for information as to the approximate location and type of the operator's utility lines in the area, not more than 2 working days after receipt of such requests. (5) To inform excavators or operators who identify the site of excavation or demolition, of proposed excavation or demolition, not more than 2 working days after receipt of a request therefor, of the following: a. If it is determined by an operator that a proposed excavation or demolition is planned within 5 feet of a utility line as measured in the horizontal plane and that the utility line may be damaged, the operator shall notify the person who proposes to excavate or demolish and shall physically mark the horizontal location of the utility line within 18 inches of the utility line on the ground by means of stakes, paint or other suitable means within 2 working days after the request. The operator shall also notify the person who proposes to excavate or demolish as to the size of the utility line, the type of temporary marking provided and how to identify the markings. In the case of extraordinary circumstances, if the operator cannot mark the location within 2 working days, the operator shall, upon making such determination, notify the person who proposes to excavate or demolish and shall, in addition, notify the person of the date and time when the location will be marked; b. The cooperative steps which the operator may take, either at or off the excavation or demolition site, to assist in avoiding damage to its lines; c. Suggestions for procedures that might be followed in avoiding such damage; d. If the operator has no utility line within 5 feet of the proposed excavation or demolition as measured in the horizontal plane and if a proposed excavation or demolition by blasting is not planned in such proximity to the operator's utility lines that the utility lines may be damaged, the operator shall advise the person who proposes to excavate or demolish that marking is unnecessary and that the person may therefore begin the excavation or demolition;</p>
<b>Positive Response Required - Operator Contact One Call Center (Yes / No)</b>	No
<b>Positive Response Required - Operator Contact One Call Center (Specific Language)</b>	Not addressed
<b>Positive Response - One-Call Automated (Yes / No)</b>	No
<b>Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Yes / No)</b>	Yes
<b>Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Specific Language)</b>	<p>Delaware Code 26.8.1 § 803 It shall be duty of each operator: (1) To participate in the approved notification center. (2) To give written notice to such approved notification center which shall state: a. The name of the operator; b. The location of the operator's lines;</p>
<b>Operator Must Update Information On Locations of Buried Facilities (Yes / No)</b>	Yes

<b>Operator Must Update Information On Locations of Buried Facilities (Specific Language)</b>	Delaware Code 26.8.I § 803 It shall be duty of each operator: (1) To participate in the approved notification center. (2) To give written notice to such approved notification center which shall state: a. The name of the operator; b. The location of the operator's lines; ... (3) To give like written notice within 5 working days after any of the matters stated in the last previous notice shall have changed.
<b>New Facilities Must Be Locatable Electronically (Yes / No)</b>	No
<b>New Facilities Must Be Locatable Electronically (Specific Language)</b>	Not addressed.
<b>Design Request (Yes / No)</b>	Yes (Delaware Code 26.8.I § 803 (6), (7))
<b>One Call, Enforcement, and Reporting</b>	
<b>Mandatory One Call Membership (Yes / No)</b>	Yes (Delaware Code 26.8.I § 803 (1))
<b>One Call Membership Exemptions (Yes / No)</b>	No
<b>One Call Membership Exemptions (Specific Language)</b>	Not addressed.
<b>One-Call Law Addresses Board Make-Up (Yes / No)</b>	No
<b>One-Call Law Addresses Board Make-Up (Specific Language)</b>	Not addressed.
<b>Separate Body Designated to Advise Enforcement Authority (Yes / No)</b>	No
<b>Separate Body Designated to Advise Enforcement Authority (Specific Language)</b>	Not addressed.
<b>Penalties / Fines Excavators (Yes / No)</b>	Yes
<b>Penalties / Fines Excavators (Specific Language)</b>	Delaware Code 26.8.I § 810 It is unlawful and a misdemeanor for any person to do any act forbidden, or fail to perform an act required by this chapter. (1) Except as provided in paragraph (2) of this section, whoever, by action or inaction, violates a provision of this chapter shall, for the first offense, be fined not less than \$100 nor more than \$500. For each subsequent like offense, such person shall be fined not less than \$200 nor more than \$1,000 for each violation. (2) Operators of underground pipeline facilities, excavators, and the approved notification center shall, upon violation of any applicable requirements of 49 C.F.R. part 198, Subpart C [49 C.F.R. § 198.31 et seq.], be subject to civil penalties not to exceed \$10,000 for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed \$500,000 for any related series of violations. In determining the amount of the fine, the court shall consider the nature, circumstances and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the fine and such other matters as justice may require.
<b>Penalties / Fines Operators (Yes / No)</b>	Yes
<b>Penalties / Fines Operators (Specific Language)</b>	Delaware Code 26.8.I § 810 It is unlawful and a misdemeanor for any person to do any act forbidden, or fail to perform an act required by this chapter. (1) Except as provided in paragraph (2) of this section, whoever, by action or inaction, violates a provision of this chapter shall, for the first offense, be fined not less than \$100 nor more than \$500. For each subsequent like offense, such person shall be fined not less than \$200 nor more than \$1,000 for each violation. (2) Operators of underground pipeline facilities, excavators, and the approved notification center shall, upon violation of any applicable requirements of 49 C.F.R. part 198, Subpart C [49 C.F.R. § 198.31 et seq.], be subject to civil penalties not to exceed \$10,000 for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed \$500,000 for any related series of violations. In determining the amount of the fine, the court shall consider the nature, circumstances and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the fine and such other matters as justice may require.

<b>Penalties / Fines Other (Yes / No)</b>	Yes
<b>Penalties / Fines Other (Specific Language)</b>	Delaware Code 26.8.I § 810 It is unlawful and a misdemeanor for any person to do any act forbidden, or fail to perform an act required by this chapter. (1) Except as provided in paragraph (2) of this section, whoever, by action or inaction, violates a provision of this chapter shall, for the first offense, be fined not less than \$100 nor more than \$500. For each subsequent like offense, such person shall be fined not less than \$200 nor more than \$1,000 for each violation. (2) Operators of underground pipeline facilities, excavators, and the approved notification center shall, upon violation of any applicable requirements of 49 C.F.R. part 198, Subpart C [49 C.F.R. § 198.31 et seq.], be subject to civil penalties not to exceed \$10,000 for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed \$500,000 for any related series of violations. In determining the amount of the fine, the court shall consider the nature, circumstances and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the fine and such other matters as justice may require.
<b>Enforcement Authority Identified</b>	Attorney General (Delaware Code 26.8.I § 809 "...the Attorney General or any operator or owner of said utility line may institute an action for... relief including interim equitable relief and punitive damages, in a court of competent jurisdiction in the county in which the excavation or demolition has occurred, is occurring or is about to occur, or in which the defendant's or respondent's principal place of business is located.)
<b>Damage Investigation Required by Enforcement Authority (Yes / No)</b>	No
<b>Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)</b>	No
<b>Mandatory Reporting by Excavators to State Entity or Department (Yes / No)</b>	No
<b>Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)</b>	No
<b>Law and Regulation</b>	
<b>Statute / Law (Name &amp; Link)</b>	Del. Code Ann. title 26, §§ 801 to 813 Underground Utility Damage Prevention and Safety Act ( <a href="http://delcode.delaware.gov/title26/c008/sc01/index.shtml">http://delcode.delaware.gov/title26/c008/sc01/index.shtml</a> ) Also see One-Call Center Website for Information on State Law.
<b>Date of Last Revision to Statute / Law</b>	June 20, 2000
<b>Administrative Rules / Regulations (Yes / No)</b>	Yes
<b>Administrative Rules / Regulations (Name &amp; Link)</b>	Delaware Regulations: Administrative Code: Title 7, Section 1201, "Accidental Release Prevention Regulation", Subsection 12.0 "State Agency Notification": Every State agency having authority to grant construction or operating permits to covered processes having regulated substances on-site shall notify the Department in writing prior to granting any permits and shall confirm that the owner or operator has been informed of the Regulatory requirements of this regulation. ( <a href="http://regulations.delaware.gov/AdminCode/title7/1000/1200/1201.shtml#TopOfPage">http://regulations.delaware.gov/AdminCode/title7/1000/1200/1201.shtml#TopOfPage</a> )
<b>State One Call Center(s) (Name &amp; Link)</b>	<a href="http://www.missutility.net/delaware">Miss Utility: Delaware (http://www.missutility.net/delaware)</a>
<b>Miscellaneous Notes</b>	
<b>Notes</b>	0
<b>State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates</b>	0