



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

1200 New Jersey Avenue, SE  
Washington, DC 20590

October 26, 2023

Via Email

Mr. Todd Hiatt  
Chairman  
Oklahoma Corporation Commission  
2101 N. Lincoln Blvd.  
Oklahoma City, OK 73105

Dear Chairman Hiatt:

On October 23, 2023, a representative of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an evaluation of the Oklahoma Corporation Commission's (OCC) enforcement of the Oklahoma State 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 Oklahoma 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 OCC's enforcement program was deemed "adequate" for calendar year (CY) 2022, 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)(3). This is one of the evaluation criteria for a state's program and assesses, in part, whether the state is "assessing civil penalties and other appropriate sanctions for violations at levels sufficient to deter noncompliance." In CY 2022, Oklahoma's gas distribution operators reported a total of 2,263 excavation damages to their pipeline facilities in the annual reports submitted to PHMSA. This reflects a 25 percent increase in the number of excavation damages from the previous year. Based on the information gained during our evaluation, none of these offenders received a civil penalty, and only eight of these offenders received a warning letter. The number of sanctions issued in CY 2022 does not 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.

In PHMSA's view, and specific to PHMSA-regulated facilities, there has been no demonstrative increase in the application of effective enforcement processes and no discernable improvement in excavation safety in the last few years. Therefore, to avoid a potential determination of "inadequacy" in the future, PHMSA encourages the OCC to evaluate how it may improve its

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program and provide an update to PHMSA relative to these issues within 60 days from receipt of this letter.

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 State Evaluator, 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 flourish extending to the right.

Zach Barrett  
Director, State Programs

cc: Mr. Dennis Fothergill, Regulatory Program Manager, Pipeline Safety Department, OCC