



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

1200 New Jersey Avenue, SE
Washington, DC 20590

August 7, 2024

Via Email

Mr. Jimmy Patronis
Florida Chief Financial Officer and State Fire Marshal
8600 Hidden River Parkway, Ste 200
Tampa, FL 33637

Dear Fire Marshal Patronis:

On August 7, 2024, a representative of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an evaluation of the enforcement of the Florida 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 Florida excavation damage prevention law is "inadequate."

PHMSA evaluates a state's excavation damage prevention enforcement program based on the criteria detailed in 49 CFR 198.55 and scores Florida's compliance with those criteria. PHMSA would like to bring to your attention, the requirements of 49 CFR 198.55(a)(2). Specifically, to meet the requirements of § 198.55(a)(2), Florida must have designated a state agency or other body as the authority responsible for enforcement of the state excavation damage prevention law. The state may designate more than one organization to do this, and PHMSA expects enforcement to be fairly applied to all geographic areas of the state and all PHMSA-regulated pipelines, both interstate and intrastate. PHMSA recognizes that the Division of the State Fire Marshal has been designated to administer this program, but the enforcement of the one-call laws is the individual jurisdictional responsibility of the 67 counties in the State. Our evaluation determined that mechanisms to process one-call violations have not been fully deployed in all of these jurisdictions (counties), and therefore, not all geographical areas in Florida can meet the requirements of § 198.55(a)(2).

Please be advised that if Florida fails to establish an adequate excavation damage prevention enforcement program, the state may be subject to a four percent reduction in PHMSA's State Base Grant funding. This grant currently provides funding for up to 80 percent of the qualified costs of the pipeline safety program incurred by the Florida Public Service Commission. Also, excavators in Florida who fail to comply with excavation safety requirements and damage a pipeline may face federal enforcement actions.

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Florida may, under 49 CFR § 198.59, submit to PHMSA a written response within 30 days from receipt of this notice challenging the determination of inadequacy by providing additional information relevant to the determination. Upon receipt of such a response, PHMSA will review all additional information provided and issue a final determination. The response must be sent to:

Mr. Zach Barrett
Director, State Programs Division
Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
3700 S. MacArthur Blvd
Suite B, PHP-50

If Florida does not submit such a response, this notice will serve as PHMSA's final determination under 49 CFR § 198.61. PHMSA's evaluation of Florida's enforcement of its damage prevention law will occur annually; however, if Florida acts to sufficiently establish an adequate enforcement program prior to the annual evaluation, Florida may request that PHMSA review and reconsider this designation. PHMSA stands ready to continue working with your state on improving enforcement of your excavation damage prevention law.

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 long, sweeping horizontal line extending to the right.

Zach Barrett
Director, State Programs

cc: Mr. Mike La Rosa, Chairman, Florida Public Service Commission
Mr. Mark Sweet, Executive Director, Sunshine 811