State Damage Prevention Enforcement Program Adequacy

- Reference: 49 CFR 198 Subpart D
- Note: 49 USC 60114(f) limitation is not applicable to PHMSA 1st and 2nd party excavator enforcement

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[Diagram of the evaluation process]

- State DP Enforcement Program
- Program Evaluated
  - Yes: Program Deemed Adequate
  - No: Evaluate Program
- Evaluate Program
- Program Evaluation
- PHMSA Enforcement Applicable
  - No: PHMSA Enforcement Not Applicable
  - Yes: PHMSA Enforcement Applicable
Evaluating Adequacy of State Enforcement Programs

1. State has authority to enforce DP law using CP and other sanctions?
   - Yes
     - State Enforcement Program Deemed Adequate
     - No
     - State Enforcement Program Deemed Inadequate

2. State has designated enforcement authority / agency?
   - Yes
     - State Enforcement Program Deemed Adequate
   - No
     - State Enforcement Program Deemed Inadequate

3. State is assessing civil penalties and other appropriate sanctions for violations?
   - Yes
     - State assesses penalties at levels sufficient to deter noncompliance?
       - Yes
         - State makes information available to public to demonstrate program effectiveness?
           - Yes
             - Enforcement authority has reliable means to learn of pipeline excavation damage?
               - Yes
                 - State investigates adequately to determine damage responsibility?
                   - Yes
                     - State DP law includes minimum Federal pipeline safety requirements?
                       - Yes
                         - State limits excavator exemptions to State DP law?
                           - Yes
                             - PHMSA Enforcement Not Applicable

   - No
     - State Enforcement Program Deemed Adequate

3.a. State is assessing civil penalties and other appropriate sanctions for violations?
   - Yes
     - State assesses penalties at levels sufficient to deter noncompliance?
       - Yes
         - State makes information available to public to demonstrate program effectiveness?
           - Yes
             - Enforcement authority has reliable means to learn of pipeline excavation damage?
               - Yes
                 - State investigates adequately to determine damage responsibility?
                   - Yes
                     - State DP law includes minimum Federal pipeline safety requirements?
                       - Yes
                         - State limits excavator exemptions to State DP law?
                           - Yes
                             - PHMSA Enforcement Not Applicable

   - No
     - State Enforcement Program Deemed Adequate

3.b. State assesses penalties at levels sufficient to deter noncompliance?
   - Yes
     - State Enforcement Program Deemed Adequate
   - No
     - State Enforcement Program Deemed Inadequate

3.c. State makes information available to public to demonstrate program effectiveness?
   - Yes
     - Enforcement authority has reliable means to learn of pipeline excavation damage?
       - Yes
         - State investigates adequately to determine damage responsibility?
           - Yes
             - State DP law includes minimum Federal pipeline safety requirements?
               - Yes
                 - State limits excavator exemptions to State DP law?
                   - Yes
                     - PHMSA Enforcement Not Applicable

   - No
     - State Enforcement Program Deemed Adequate

4. Enforcement authority has reliable means to learn of pipeline excavation damage?
   - Yes
     - State investigates adequately to determine damage responsibility?
       - Yes
         - State DP law includes minimum Federal pipeline safety requirements?
           - Yes
             - State limits excavator exemptions to State DP law?
               - Yes
                 - PHMSA Enforcement Not Applicable

   - No
     - State Enforcement Program Deemed Adequate

5. State investigates adequately to determine damage responsibility?
   - Yes
     - State DP law includes minimum Federal pipeline safety requirements?
       - Yes
         - State limits excavator exemptions to State DP law?
           - Yes
             - PHMSA Enforcement Not Applicable

     - No
       - State Enforcement Program Deemed Adequate

6. State DP law includes minimum Federal pipeline safety requirements?
   - Yes
     - State limits excavator exemptions to State DP law?
       - Yes
         - PHMSA Enforcement Not Applicable

     - No
       - State Enforcement Program Deemed Adequate

7. State limits excavator exemptions to State DP law?
   - Yes
     - PHMSA Enforcement Not Applicable
   - No
     - State Enforcement Program Deemed Adequate

PHMSA Determination of State Enforcement Program Adequacy

Return to Program Adequacy Top Page