

Table 1

49 C.F.R. § 198.55(a) Criteria	Evaluation Guidance
1. Does the state have authority to enforce its state excavation damage prevention law using civil penalties and other sanctions for violations?	Pass / Fail
2. Has the state designated an agency or other entity to enforce its excavation law?	Pass / Fail
3. Is the state assessing civil penalties and other appropriate sanctions sufficient to deter noncompliance and is the state making publically available information that demonstrates the results of its enforcement program?	PHMSA will review records that demonstrate whether the rate of excavation damage incidents is being reduced as a result of enforcement. PHMSA expects states to generally make the enforcement information and statistics available to the public via a website.
4. Does the state enforcement authority have a reliable reporting mechanism (e.g. mandatory reporting, compliant-driven reporting) for learning about excavation damage to underground facilities?	PHMSA will look for reporting mechanisms that encourage parity in the application of the state's enforcement resources. For example, PHMSA will ask whether such mechanisms identify potential violations by both excavators and pipeline operators. Also, PHMSA will review the state's method for making stakeholders aware of the process and requirements for reporting damage incidents to the enforcement authority.
5. Does the state employ excavation damage investigation practices that are adequate to determine the responsible party or parties when excavation damage to underground facilities occurs?	PHMSA expects state enforcement programs to be balanced with regard to how they apply enforcement authority and penalties, and to focus on the responsibility of both excavators and utility owners and operators.
6. At a minimum, do the state's excavation damage prevention requirements include the following: (a) Excavators may not engage in excavation activity without first using an available One Call notification system to establish the location of underground facilities in the excavation area; (b) Excavators may not engage in excavation activity in disregard of the marked location of a pipeline facility as established by a pipeline operator; (c) An excavator who causes damage to a pipeline facility: (i) must report the damage to the operator of the facility at the earliest practical moment following discovery of the damage; and (ii) if the damage results in the escape of any PHMSA regulated	PHMSA will review state requirements to ensure they meet minimum federal requirements in the PIPES Act for excavators, such as using an available One Call system.

<p>natural gas, other gas, or hazardous liquid, must report to other appropriate authorities by calling 911 or another emergency telephone number.</p>	
<p>7. Does the state limit exemptions for excavators from its excavation damage prevention law? A State must provide to PHMSA a written justification for any exemptions for excavators in its excavation rules. PHMSA will make the written justifications available to the public.</p>	<p>PHMSA expects states to document any exemptions for excavators and One Call membership. Any exemptions provided should not be excessively broad. Documentation should list the types of exemptions under the state's law and provide data-based justifications for the exemptions.</p>