

Category:	<b>Legislative Framework</b>	Policy Number:	L-02.a
Title:	<b>49 CFR 198.55 - What criteria will PHMSA use in evaluating the effectiveness of State damage prevention enforcement programs?</b>		
Adopted:	January 9, 2018	Resolution:	18-01-01
Revision:			

Code of Federal Regulations, Title 49, § 198.55 - What criteria will PHMSA use in evaluating the effectiveness of State damage prevention enforcement programs?

**(a)** PHMSA will use the following criteria to evaluate the effectiveness of a State excavation damage prevention enforcement program:

- (1)** Does the State have the authority to enforce its State excavation damage prevention law using civil penalties and other appropriate sanctions for violations?
- (2)** Has the State designated a State agency or other body as the authority responsible for enforcement of the State excavation damage prevention law?
- (3)** Is the State assessing civil penalties and other appropriate sanctions for violations at levels sufficient to deter noncompliance and is the State making publicly available information that demonstrates the effectiveness of the State's enforcement program?
- (4)** Does the enforcement authority (if one exists) have a reliable mechanism (e.g., mandatory reporting, complaint-driven reporting) for learning about excavation damage to underground facilities?
- (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?
- (6)** At a minimum, do the State's excavation damage prevention requirements include the following:
  - (i)** 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.
  - (ii)** Excavators may not engage in excavation activity in disregard of the marked location of a pipeline facility as established by a pipeline operator.
  - (iii)** An excavator who causes damage to a pipeline facility:
    - (A)** Must report the damage to the operator of the facility at the earliest practical moment following discovery of the damage; and
    - (B)** If the damage results in the escape of any PHMSA regulated natural and other gas or hazardous liquid, must promptly report to other appropriate

Monitoring Method: Staff  
Frequency: Annual

authorities by calling the 911 emergency telephone number or another emergency telephone number.

**(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 from State damage prevention requirements. PHMSA will make the written justifications available to the public.

**(b)** PHMSA may consider individual enforcement actions taken by a State in evaluating the effectiveness of a State's damage prevention enforcement program.