STATE EXCAVATION DAMAGE PREVENTION LAW ENFORCEMENT PROGRAM EVALUATION CHECKLIST

Refer to Guidance While Reviewing Checklist

State:

Date:

Determination recipients and their email addresses:

Total score: 0

Introductory discussion of State excavation damage statistics.

Note: Throughout this checklist, PHMSA uses the terms "enforcement authority", "supporting organization", and "State" to identify organizations that may have primary responsibility for the action addressed in any specific question. PHMSA recognizes that States/territories have established their own processes and authorities for enforcing their one-call laws.

General – PHMSA to complete G questions and ask State to validate.

G.1.	What is the code citation for the State excavation damage prevention law/requirements? Comments:
G.2.	When was/were the State excavation damage prevention law/requirements most recently updated? Comments:
G.3.	What recent changes have been made to the State excavation damage prevention law/requirements? Comments:
Guidance	G.3.: PHMSA is seeking to understand changes in the law pertaining to enforcement procedures, reporting, transparency, exemptions, and other relevant topics. Questions G.1. through G.3. are for information only.

Criterion 1–Does the State have the authority to enforce its State excavation damage prevention law using civil penalties and other appropriate sanctions for violations?		
1.a.	Does the State have the authority to enforce its State excavation damage prevention law using civil penalties and other appropriate sanctions for violations? **If the answer is "No", enforcement of the State excavation damage prevention law is deemed inadequate.** ☐ Yes ☐ No Comments:	Pass/Fail Select...
1.b.	Cite the portion of the excavation damage prevention law/requirements that enables enforcement. Comments:	Information Only
Guidance	1.a.: This question is pass/fail. To pass this question, the State must have the authority to issue civil penalties for violations of the State one-call law; they do not have to demonstrate that they have used the authority. If the answer to 1.a. is "No," the State excavation damage prevention law enforcement program is inadequate. PHMSA does not consider criminal penalties to be "other appropriate sanctions". Other appropriate sanctions may include, but are not limited to, warning letters, mandatory training, etc.	

Criterion 2 - Has the State designated a State agency or other body as the authority responsible for enforcement of the State excavation damage prevention law? Points:		
2.a.	Does the State excavation damage prevention law designate an authority or authorities responsible for State-wide enforcement of the State excavation damage prevention requirements? **If the answer is "No", enforcement of the State excavation damage prevention law is inadequate.** ☐ Yes ☐ No Comments:	Pass/Fail Select...
2.b.	Cite the portion of the law that designates enforcement authority to a State agency or other organization. Comments:	Information Only
2.c.	What organization(s) is the designated authority? If more than one, list them. Comments:	Information Only
2.d.	How long has/have the designated organization(s) had enforcement authority? Comments:	Information Only
2.e.	What are the enforcement and supporting roles and responsibilities of each organization involved in managing a statewide excavation damage prevention law enforcement program? Comments:	Information Only
2.f.	What positions/roles are responsible for enforcement and supporting activities within each enforcement or supporting organization? Comments:	Information Only

2.g.	Does the enforcement process include a stakeholder advisory committee? ☐ Yes ☐ No Comments:	Information Only
2.h.	What parties are subject to enforcement under the state excavation damage prevention requirements? Comments:	Score (points x weight) Select...
Guidance	2.a.: This question is pass/fail. If the answer to this question is "No," enforcement of the State excavation damage prevention law is inadequate. This question pertains to pipelines regulated under 49 CFR Parts 192 and 195. The State law may designate more than one organization as the excavation damage prevention law enforcement authority. **PHMSA expects enforcement of state laws to be fairly applied to all geographic areas of the State and all PHMSA regulated pipelines, both interstate and intrastate, within the State.** 2.e.: PHMSA is seeking an explanation of the process, not the names of the people personally responsible for various enforcement actions. 2.f.: PHMSA is seeking titles/roles, not names. 2.g.: Stakeholder advisory committees vary in composition and responsibilities. Typically, a committee consists of members representing damage prevention stakeholders, including underground utility operators, locators, excavators, the one call, and possibly the excavation damage enforcement authority. Some States use a committee to conduct a desk review/investigation of excavation damages and review cases/complaints and make enforcement recommendations to the State enforcement authority. 2.h.: PHMSA is seeking to understand which parties can be fined or sanctioned (e.g., locators, excavators, regulated interstate and intrastate pipeline operators, the one-call, etc.). At a minimum, PHMSA expects that both pipeline operators and non-exempt excavators be subject to enforcement under the State excavation damage prevention law. **PHMSA expects enforcement to be applied to all PHMSA regulated pipelines, both interstate and intrastate, within the State.** *Scoring guidance for question 2.h.:* *2 = Satisfactory; Both pipeline operators and non-exempt excavators are subject to enforcement under the excavation damage prevention law. In States that cannot fine municipalities or State agencies, score 2.h as Satisfactory.* *0 = Unsatisfactory; Either pipeline operators or non-exempt excavators (or both) are not subject to enforcement under the excavation damage prevention law.* *Question weight: 10*	

Criterion 3 –(a) Is the State assessing civil penalties and other appropriate sanctions for violations (b) at levels sufficient to deter noncompliance and (c) is the State making publicly available information that demonstrates the effectiveness of the State's enforcement program?

Points: 0

3.a.1.	In the previous calendar year, did the enforcement authority assess civil penalties and/or other sanctions for violations of the excavation damage prevention law involving regulated pipelines? **If the answer is "No", enforcement of the State excavation damage prevention law is inadequate.** ☐ Yes ☐ No Comments:	Pass/Fail Select...
3.b.1.	What levels of civil penalties (dollar amounts) are enabled by law? Comments:	Information Only
3.b.2.	a. How many pipeline excavation damages occurred in the State in the previous calendar year? b. How many notifications of excavation damage to pipelines and/or violations of the excavation damage prevention law did the State enforcement authority or supporting organization receive in the previous calendar year? c. How many of the complaints or reports of pipeline excavation damage were investigated by the State for violations of the State excavation damage prevention law? d. How many of the investigations were referred for some type of enforcement action? e. Total number of civil penalties assessed in previous calendar year involving regulated pipelines: f. Dollar range of actual civil penalties assessed:	Information Only

Party	Number of	Total Amount	Comments

	Penalties		
Excavators			
Pipeline Operators			
One-call			
Locators			

Comments:

3.b.3. What other sanctions for violations of the law are available to the State?

Comments:

Information Only

3.b.4. In the previous calendar year, did the State assess sanctions other than civil penalties for damages to regulated pipelines?

☐ Yes ☐ No

Type of Sanction	Excavators	Operators	Locators	One-Call
Verbal warnings				
Warning letters				
Training				
Other				

Comments:

Information Only

3.b.4.1 Has the State assessed civil penalties against pipeline operators for violations of 49 CFR 192.614 or 49 CFR 195.442?

☐ Yes ☐ No

Party	Number of Penalties	Total Amount	Comments
Pipeline Operators			

Comments:

Information Only

Are enforcement actions progressive (increasingly severe for repeat offenses)?

3.b.5.	☐ Yes ☐ No Comments:	Information Only
3.b.6.	How does the enforcement authority or supporting organization assess the effectiveness of enforcement actions over time using data and other relevant information? See guidance. Comments:	Score (points x weight) Points to increase in CY 2019 Select...
3.b.7.	How has the State enforcement authority or supporting organization utilized its assessment of effectiveness to make program adjustments? See guidance. Comments:	Score (points x weight) Points to increase in CY 2019 Select...
3.c.1.	Does the State make information about enforcement actions and outcomes publicly available? ☐ Yes ☐ No Comments:	Score (points x weight) Select...
3.c.2.	What information does the State make publicly available? Comments:	Information Only
3.c.3.	How/where does the State make information publicly available? Comments:	Information Only
Guidance	General: PHMSA seeks records that 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 against pipeline operators and excavators. Sanctions may include civil penalties, mandatory training, warning letters, or other similar activities. States should also be able to demonstrate if the enforcement programs include escalating sanctions. If a State cannot demonstrate use of its enforcement authority,	

enforcement of the State excavation damage prevention law will be deemed inadequate.

PHMSA expects States to demonstrate the impact of the State's enforcement program. PHMSA expects States to maintain records that demonstrate a relationship between the State's enforcement activities and the rate of excavation damage incidents. PHMSA acknowledges that many factors can influence excavation damage rates. However, PHMSA believes that an effective enforcement program includes evaluation of the effects of enforcement activities. The result of PHMSA's review of a State's records in this regard will not, by itself, be grounds for deeming enforcement of the State's excavation damage prevention law inadequate.

PHMSA expects State enforcement programs to generally make excavation damage prevention law enforcement information and statistics available to the public via a website. PHMSA does not expect States to violate any State laws, jeopardize any ongoing enforcement cases, or post information that would violate the privacy of individuals as defined by State or Federal law. The result of PHMSA's review of the public availability of a State's information and statistics will not, by itself, be grounds for deeming enforcement of the State's excavation damage prevention law inadequate.

3.a.1.: This question is pass/fail. If the answer to this question is "No," enforcement of the State excavation damage prevention law is inadequate.

3.b.2.: PHMSA is seeking records of every enforcement action in the previous calendar year and/or in this calendar year to-date.

3.b.3.: Examples of other sanctions include warning letters, mandatory training, documented verbal warnings, etc.

3.b.4.: PHMSA is seeking the number of sanctions applied to each party.

3.b.6.: PHMSA believes this is critical to a strong damage prevention program with adequate enforcement. PHMSA is seeking to understand if the enforcement authority or supporting organization evaluates damage rates and other relevant information, including causes of damages, repeat one-call law offenders, trends, root causes, geographic trends, etc., to identify excavation damage risks so that enforcement activities may be adjusted. The State should explain how the State uses data, including mandatory/voluntary reporting to the State, one-call center, operator provided information, complaints, and/or PHMSA, to evaluate the impacts of their enforcement activities. Consideration should be given to how the enforcement authority addresses repeat offenders, major offenders, and enforcement priorities. Other considerations include: Proactive actions to enforce known violations; Most common violations; Follow-up activities after enforcement action (e.g., is there an increase in calls to 811); Geographic trends; Sources of data; Communications between operators and the enforcement authority, including root causes of incidents; How enforcement activity is publicized.
Scoring guidance for question 3.b.6.
2 = Satisfactory; The State thoroughly evaluates damage rates and other relevant information in relation to enforcement activities.
1 = Needs Improvement; The State evaluates some information in relation to enforcement activities, but the information cannot be used to conduct a

complete/thorough evaluation.
0 = Unsatisfactory; The State does not evaluate damage rates and other relevant information in relation to enforcement activities in any meaningful way.
Question weight: 10

3.b.7.: PHMSA believes this is critical to a strong damage prevention program with adequate enforcement. PHMSA is seeking to understand what the enforcement authority or supporting organization has learned from evaluating damage rates and other relevant information as identified in question 3.b.6, and how the State is using what it has learned to make adjustments to the enforcement program. For example, an enforcement or supporting organization should be learning which parties or activities in the State are causing excavation damage and tailoring the enforcement program to address risk. Consideration should be given to how the enforcement authority addresses repeat offenders, major offenders, and enforcement priorities.
Scoring guidance for question 3.b.7.:
2 = Satisfactory; Using supporting data, the State thoroughly understands the impact of enforcement on the State's excavation damage prevention program. Using supporting data, the State can demonstrate which parties or activities in the State are causing excavation damage, what are some of the root cause issues, and the actions taken in the State to reduce damages. The State actively uses the results of its enforcement program to continuously improve the program to address risk.
1 = Needs Improvement; The State has some supporting data that demonstrates the impact of enforcement on the State's excavation damage prevention program, but the State's understanding of the impact of enforcement is limited. The State may have anecdotal evidence of the impact of enforcement, but cannot support claims with data. Accordingly, the State's ability to assess risks and make meaningful adjustments to its enforcement program are limited.
0 = Unsatisfactory; The State cannot make any meaningful claims about the impact of enforcement on the State's excavation damage prevention program due to a lack of supporting data or other information. Accordingly, the State is essentially unable to assess risks based on data and make meaningful adjustments to its enforcement program.
Question weight: 10

3.c.1.: General information about enforcement actions should be made available to the public proactively.
Scoring guidance for question 3.c.1.:
2 = Satisfactory; General information about enforcement actions are made available to the public. Public information about enforcement actions specific to the one-call law is made available on an ongoing basis and is current, such as via a summary report.
1 = Needs Improvement; The State makes some information available to the public, e.g. enforcement hearing schedules or general information regarding the State's excavation damage prevention enforcement program, but lacks visibility into the State's enforcement actions and results of the program. Example: Enforcement programs that only list enforcement actions via a docketing system.
0 = Unsatisfactory; The State makes very limited or no information publicly available regarding the State's excavation damage prevention program and State enforcement actions/results.
Question weight: 5

	3.c.2.: Information about the enforcement program, including number of actions, types of violations and sanctions should be publicly available on a web site. At a minimum, PHMSA expects enforcement authorities to publicly share the number and types of enforcement actions taken in a given year (e.g., civil penalties, warning letters, mandatory training sessions, and similar information). 3.c.3.: PHMSA expects this answer to include a website address.	

Criterion 4 - Does the enforcement authority have a reliable mechanism (e.g., mandatory reporting, complaint-driven reporting) for learning about excavation damage to underground facilities? Points: 0		
4.a.	Does the enforcement authority or supporting organization have a reliable mechanism (e.g., mandatory reporting, complaint-driven reporting) for learning about violations of the excavation damage prevention law? What is the mechanism? Comments:	Score (points x weight) Select...
4.b.	Cite the portion of the excavation damage prevention law/requirements that addresses how to report suspected violations. Comments:	Information Only
4.c.	Question removed.	Information Only
4.d.	How does the enforcement authority or supporting organization inform stakeholders about the process for reporting violations of the excavation damage prevention law? Comments:	Score (points x weight) Select...
Guidance	General: PHMSA will review how State enforcement programs learn about excavation damage to underground pipelines. In particular, PHMSA will be looking for reporting mechanisms that encourage parity in the application of enforcement resources. For example, when excavation damage occurs, does the reporting mechanism allow for identification of potential violations of law by both excavators and pipeline operators? If the State enforcement program learns of violations via road patrols that specifically target excavators without valid excavation tickets, how does the enforcement authority or supporting organization also learn about violations of other provisions of State excavation damage prevention requirements, such as operators' failure to locate and mark pipelines? Also, PHMSA will review the enforcement authority's methods for making stakeholders – especially excavators and pipeline operators – aware of the process and requirements for reporting excavation damage to pipelines to the enforcement authority. The result of PHMSA's review of a State's activities under criterion 4 will not, by itself, be grounds for deeming enforcement of the State's excavation damage prevention law inadequate. 4.a. PHMSA expects that violations of the State excavation damage prevention	

requirements may be reported by any stakeholder involved in excavation damage to a pipeline.

Scoring guidance for question 4.a.:

2 = Satisfactory; The State has a reliable mechanism for learning about law violations. The mechanism is clearly defined in the written State excavation damage prevention requirements, and may include mandatory reporting or complaint-based reporting of excavation damages. All damage prevention stakeholders are empowered to report law violations to the enforcement authority. ***The State's process for violation reporting is readily available on a public web site.***

1 = Needs Improvement; The State has some means of learning about law violations to underground facilities, but it is not reliable in all cases (e.g., the State actively learns about law violations through patrols, media, limited stakeholder reporting, etc., but some damage prevention stakeholders do not have a means of notifying the State when a damage occurs).

0 = Unsatisfactory; The State does not have a reliable means of learning about law violations. Stakeholders have no means of reporting law violations to the State and the State has no means of addressing stakeholder reports of law violations.

Question weight: 10

4.d.: PHMSA expects that the enforcement authority, supporting organization, and/or other damage prevention stakeholders are proactively educating all stakeholders about the reporting process, and provide a point-of-contact for questions on how to report law violations.

Scoring guidance for question 4.d.:

2 = Satisfactory; The enforcement authority, supporting organization, and/or other damage prevention stakeholders can demonstrate they proactively educate all damage prevention stakeholders about the process for reporting law violations. The educational program is documented and available to all stakeholders. The educational program should include newsletter articles, presentations at stakeholder meetings, etc.

1 = Needs Improvement; The enforcement authority, supporting organization, and/or other damage prevention stakeholders demonstrate some effort to educate stakeholders about the process for reporting law violations, but the educational program is not proactive or documented, is used on a limited basis, and/or the outreach may not focus on all stakeholders responsible for ensuring damage prevention. Educational materials are only available on a website and are not distributed by any other means.

0 = Unsatisfactory; The enforcement authority, supporting organization, and/or other damage prevention stakeholders do not have a process for educating stakeholders about the process for reporting law violations.

Question weight: 3

Criterion 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? Points: 0		
5.a.	What organization conducts the damage investigation? Comments:	Information Only
5.a.1	Does the damage investigation organization have a formal relationship, e.g. a memorandum of understanding, with the enforcement authority, if the two are different? Comments:	Information Only
5.b.	Does the investigation organization have documented damage investigation processes and procedures to ensure consistency in how investigations are conducted? ☐ Yes ☐ No Comments:	Score (points x weight) Select...
5.c.	Does the investigating organization investigate all pipeline excavation damages that it learns about (in the field or in the office) or use written procedures to determine when an investigation is warranted. ☐ Yes ☐ No Comments:	Score (points x weight) Select...
5.d.	Question removed.	
5.e.	Question removed.	
5.f.	How does the enforcement authority determine when to undertake enforcement action? Comments:	Score (points x weight) Select...
5.g.	How does the State hold both pipeline operators and excavators accountable for violations of the excavation damage prevention requirements?	Score (points x weight) Select...

	Comments:	
Guidance	General: PHMSA expects State enforcement programs to be balanced with regard to how they apply enforcement authority. PHMSA expects enforcement programs to be focused on the compliance responsibilities of both excavators and pipeline operators. PHMSA seeks a pattern of pipeline excavation damage enforcement that demonstrates that penalties are consistently applied to all violators of the State excavation damage prevention requirements and are not consistently applied to only one stakeholder group. PHMSA is interested in States' excavation damage investigation practices, and especially if these practices include the opportunity for input from all parties and if there is due process in place for those accused of violating the law. The result of PHMSA's review of a State's program under criterion 5 will not, by itself, be grounds for deeming enforcement of the State's excavation damage prevention law inadequate. 5.b.: PHMSA expects the State to able to produce copies of its documented damage investigation procedures/forms/etc. *<u>Scoring guidance for question 5.b.</u>:* *2 = Satisfactory; The State has thoroughly-documented damage investigation written procedures/forms/etc.* *1 = Needs Improvement; The State has some damage investigation written procedures/forms/etc., but the documentation does not completely describe the investigation process.* *0 = Unsatisfactory; The State has limited or no documented damage investigation procedures/forms/etc.* *Question weight: 10* 5.c.: Investigations may or may not include site visits or field investigations; investigations may include in-office reviews of evidence submitted by parties involved in a damage. If the enforcement authority does not investigate every case of pipeline excavation damage, PHMSA expects States to have a policy for determining when investigation is warranted. *<u>Scoring guidance for question 5.c.</u>:* *2 = Satisfactory; The State investigates all pipeline excavation damages that it learns about, or the State's written policies/procedures include criteria for when an investigation is not needed.* *1 = Needs Improvement; The State investigates some pipeline excavation damages that it learns about, but not all, and the State's investigation procedures do not provide sufficient guidance for determining if an investigation is needed.* *0 = Unsatisfactory; The State does not investigate pipeline excavation damages on a consistent basis. Investigations are not regular or common, and many pipeline excavation damages are not investigated. Enforcement procedures do not address when an investigation is needed.* *Question weight: 10* 5.f.: *<u>Scoring guidance for question 5.f.</u>:* *2 = Satisfactory; The enforcement authority either takes enforcement action in every case of pipeline excavation damage, or has a documented consistent approach to determining when enforcement action is taken.* *1 = Needs Improvement; The enforcement authority does not take enforcement action in every case of pipeline excavation damage or does not have a thoroughly documented approach for consistently determining when enforcement action is taken. Enforcement action does occur, but is not always consistent.* *0 = Unsatisfactory; The enforcement authority does not have any process for ensuring enforcement is consistently applied.* *Question weight: 5*	

5.g.: PHMSA is seeking an explanation of the State's policy regarding equitable and consistent application of enforcement to both operators and excavators.

Scoring guidance for question 5.g.:

2 = Satisfactory; The State's approach to applying enforcement to both operators and excavators is fair, as demonstrated by enforcement records, written enforcement policies/procedures, and excavation damage data.

1 = Needs Improvement; The State applies enforcement to both operators and excavators, but records indicate that enforcement authority is clearly used more often against one stakeholder group. For example, excavators may be targeted for enforcement more often than operators, but enforcement is applied to operators in some cases.

0 = Unsatisfactory; The State applies enforcement to only one stakeholder group in most cases. For example, the enforcement program specifically and consistently targets excavators, but rarely targets operators for failing to fulfill their role in the damage prevention process.

Question weight: 10

Criterion 6 -At a minimum, do the State's excavation damage prevention requirements include the following:

- **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.**
- **Excavators may not engage in excavation activity in disregard of the marked location of a pipeline facility as established by a pipeline operator.**
- **An excavator who causes damage to a pipeline facility:**
  - **Must report the damage to the operator of the facility at the earliest practical moment following discovery of the damage; and**
  - **If the damage results in the escape of any natural and other gas or hazardous liquid from a PHMSA-regulated pipeline, must promptly report to other appropriate authorities by calling the 911 emergency telephone number or another emergency telephone number.**

Points: 0

6.a.	Does the State require excavators (who are not exempt from State requirements) to use an available one-call notification system to establish the location of underground facilities in the excavation area before engaging in excavation activity? Comments:	Score (points x weight) Select...
6.b.	Does the State require that excavators may not engage in excavation activity in disregard of the marked location of a pipeline facility as established by a pipeline operator? Comments:	Score (points x weight) Select...
6.c.	Does the State require an excavator who damages a pipeline facility to report the damage to the operator of the facility at the earliest practical moment following discovery of the damage? Comments:	Score (points x weight) Note guidance on scoring change Select...
6.d.	Does the State require an excavator who causes damage to a PHMSA-regulated pipeline that results in a release of natural or other gas or hazardous liquid to promptly report the release to emergency responders by calling the 911 emergency telephone number or another emergency telephone number? Comments:	Score (points x weight) Select...

Guidance	General: PHMSA will review State requirements to ensure they address the basic Federal requirements in the PIPES Act for excavators such as using an available one-call system. The result of PHMSA's review of a State's requirements will not, by itself, render the State's enforcement program inadequate. 6.a.: *<u>Scoring guidance for question 6.a.</u>:* *2 = Satisfactory; The State requires excavators (who are not exempt from State requirements) to use an available one-call notification system to establish the location of underground facilities in the excavation area before engaging in excavation activity.* *1 = Needs Improvement; The State requires excavators (who are not exempt from State requirements) to use an available one-call notification system or to contact the operators of underground facilities directly to establish the location of underground facilities in the excavation area before engaging in excavation activity.* *0 = Unsatisfactory; The State does not require excavators to use an available one-call notification system to establish the location of underground facilities in the excavation area before engaging in excavation activity.* *Question weight: 10* 6.b.: *<u>Scoring guidance for question 6.b.</u>:* *2 = Satisfactory; The State explicitly requires that excavators may not engage in excavation activity in disregard of the marked location of a pipeline facility as established by a pipeline operator.* *1 = Needs Improvement; The State requires or recommends that excavators may not engage in excavation activity in disregard of the marked location of a pipeline facility as established by a pipeline operator, but the State's excavation damage prevention requirements are not explicit on this point. For example, the State damage prevention law/regulations may not have a defined tolerance zone in which hand tools or soft digging must be used, or the law/regulations may not require excavators to request re-locates when necessary.* *0 = Unsatisfactory; The State does not require that excavators may not engage in excavation activity in disregard of the marked location of a pipeline facility as established by a pipeline operator.* *Question weight: 10* 6.c.: Reporting damages to a one-call center may suffice for contacting the operator directly. PHMSA urges all States to review the definitions for excavators and excavation in their excavation damage prevention law to ensure the law <u>does not exempt anyone</u> from the reporting requirements of 49 USC § 60114 and 49 CFR Part 198.55. **"Damage"** is defined as any excavation activity that results in the need to repair or replace a pipeline due to a weakening, or the partial or complete destruction, of the pipeline, including, but not limited to, the pipe, appurtenances to the pipe, protective coatings, support, cathodic protection or the housing for the line device or facility. **"Excavation"** refers to excavation activities as defined in 49 CFR 192.614, and covers all excavation activity involving both mechanized and non-mechanized equipment, including hand tools. **"Excavator"** means any person or legal entity, public or private, proposing to or engaging in excavation. **Scoring Change Starting in CY 2021**: PHMSA will score a State as "needs improvement" if either the State's excavation damage prevention requirements are not explicit on this point or the State's definition of an "excavation" and/or "excavator" allows, or potentially allows, for certain parties (i.e., individuals covered under an exemption) to be immune from these reporting requirements.	

Scoring guidance for question 6.c.:
2 = Satisfactory; The State explicitly requires an excavator who damages a pipeline facility to report the damage to the operator of the facility at the earliest practical moment following discovery of the damage.
1 = Needs Improvement; The State requires an excavator who damages a pipeline facility to report the damage to the operator of the facility at the earliest practical moment following discovery of the damage.
0 = Unsatisfactory; The State does not require an excavator who damages a pipeline facility to report the damage to the operator of the facility at the earliest practical moment following discovery of the damage.
Question weight: 10

6.d.:
Scoring Change Starting in CY 2021: PHMSA will score a State as "needs improvement" if either the State's excavation damage prevention requirements are not explicit on this point or the State's definition of an "excavation" and/or "excavator" allows, or potentially allows, for certain parties (i.e., individuals covered under an exemption) to be immune from these reporting requirements.

Scoring guidance for question 6.d.:
2 = Satisfactory; The State explicitly requires an excavator who causes damage to a pipeline facility that results in the release of any PHMSA-regulated natural or other gas or hazardous liquid to promptly report the release to emergency responders by calling the 911 emergency telephone number or another emergency telephone number.
1 = Needs Improvement; The State requires or recommends that an excavator who causes damage to a pipeline facility that results in the release of any PHMSA-regulated natural or other gas or hazardous liquid to notify emergency responders, but does not explicitly require calling the 911 emergency telephone number or another emergency telephone number.
0 = Unsatisfactory; The State does not require or recommend that an excavator who causes damage to a pipeline facility that results in the release of any PHMSA-regulated natural or other gas or hazardous liquid to notify emergency responders, but does not explicitly require calling the 911 emergency telephone number or another emergency telephone number.
Question weight: 10

Criterion 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 excavation damage prevention requirements. PHMSA will make the written justifications available to the public. Points: 0		
7.a.	What notification exemptions for excavators exist in the excavation damage prevention law? Comments:	Information Only
7.b.	Does the enforcement authority or supporting organization maintain information that demonstrates the impact of exemptions? Comments:	Score (points x weight) Select...
7.c.	What information does the enforcement authority or supporting organization maintain? Comments:	Information Only
7.d.	How does the enforcement authority or supporting organization use information about the impact of exemptions? Comments:	Score (points x weight) Select...
Guidance	General: PHMSA expects States to document the exemptions provided in State excavation damage prevention laws for any/all excavators. "Excavation" refers to excavation activities as defined in 49 CFR § 192.614, and covers all excavation activity involving both mechanized and non-mechanized equipment, including hand tools. "Excavator" means any person or legal entity, public or private, proposing to or engaging in excavation. Documentation should include the exemptions for excavators in State law and any data or other evidence that demonstrates the impact of the exemptions on the rate of excavation damage to pipelines and other underground infrastructure. PHMSA believes that exemptions for entire classes of excavators (e.g., farmers) represent a greater threat to pipeline safety than exemptions for specific excavation activities (e.g., shallow tilling). The result of PHMSA's review of a State's program under criterion 7 will not, by itself, be grounds for deeming enforcement of the State's excavation damage prevention law inadequate.	

	7.b.: *Scoring guidance for question 7.b.:* *2 = Satisfactory; The* enforcement authority or supporting organization *maintains robust complete information that clearly demonstrates the impact of exemptions. The information shows the number of damages caused by parties or activities that are exempt from State excavation damage prevention requirements.* *1 = Needs Improvement; The* enforcement authority or supporting organization *maintains some information that demonstrates the impact of exemptions, but the information is not complete and can only be used in a limited capacity to demonstrate the number of damages caused by parties or activities that are exempt from State excavation damage prevention requirements.* *0 = Unsatisfactory; The* enforcement authority or supporting organization *maintains limited or no information that demonstrates the impact of exemptions.* *Question weight: 3* 7.d.: *Scoring guidance for question 7.d.:* *2 = Satisfactory; The State uses information about the impact of exemptions to improve the excavation damage prevention program on a consistent basis.* *1 = Needs Improvement; The State collects some information about the impact of exemptions, but does not actively use the information to improve the excavation damage prevention program.* *0 = Unsatisfactory; The State does not collect or use information about the impact of exemptions to improve the excavation damage prevention program.* *Question weight: 3*

General Evaluation Comments:

STATE EXCAVATION DAMAGE PREVENTION LAW ENFORCEMENT PROGRAM EVALUATION
SIGN-IN SHEET

STATE:

DATE:

Name	Organization	Title	Email