[illegible] Eligibility

[illegible] to qualify for a grant, [illegible] program may not exempt [illegible] or their contractors from the [illegible] requirements of the program.

[illegible] with the Call Grants and State Damage [illegible]

[illegible] state one call laws and developed list of [illegible] states. Goal: Maximize state eligibility

Affected states have been notified via letters, working with states on a case-by-case basis

Know what's below. Call before you dig.

[illegible]

[illegible] excavation damage on [illegible] variety of different types of [illegible]

[illegible] to the one-call notification system [illegible]

[illegible] exemptions to the one-call notification system [illegible] each State to the types of excavation damage [illegible] that State, and

[illegible] analysis of the potential safety benefits and adverse consequences of eliminating all exemptions for mechanized excavation from State one-call notification systems.

Report to Congress on results of this study due January 3, 2014. Study is completed and routing through approval process.

Know what's below. Call before you dig.

[illegible] Forum on [illegible] Exemptions

- [illegible] 30 pm
- [illegible] Convention Center
- [illegible]
- Agenda included
  - Discussion of what we know and don't know concerning exemptions based on available data
  - Stakeholder panel discussions: 23 panelists' perspectives representing a broad array of those affected by exemptions
  - Information about meeting/link:

http://www.phmsa.dot.gov/pipeline

Know what's below. Call before you dig.

[illegible] Forum – Some [illegible] Take-aways

- [illegible] data is needed; (PHMSA reporting [illegible])
- [illegible] data to determine if exemptions were a contributing factor is likely to be complex. Anecdotal info may be important to analysis
- Allowing excavator exemptions contradicts the message of "Call before you dig."
- Exemptions should be justified with data and based on activities (rather than entities).
- Training and outreach are needed
- Next steps: Study completed, currently routing through federal approval process

Know what's below. Call before you dig.

More

[illegible] National report on [illegible] sponsored by the [illegible] Alliance (Issued [illegible])

[illegible] average damage rate per 1,000 tickets is 108% greater for the states with five or more notice exemptions (6.33 vs. 3.52).

Know what's below. Call before you dig.

More

[illegible] proposed criteria for evaluating [illegible] programs in PHMSA rulemaking:

[illegible] limit exemptions for excavators from [illegible] damage prevention law? A state must [illegible] PHMSA a written justification for any exemptions for excavators from state damage prevention requirements. PHMSA will make the written justifications available to the public.

Know what's below. Call before you dig.

[illegible] Prevention [illegible] Enforcement Rule

- [illegible] "Pipeline Damage Prevention Programs"
- [illegible] PHMSA-2009-0192, www.regulations.gov
- [illegible] on the Notice of Proposed Rulemaking:
  - http://www.phmsa.dot.gov/pipeline/regs
- Comment period closed July 9, 2012
- Final rule: Drafting and routing through approval process. Anticipate a 2014 publication. **Upon publication, PHMSA will promptly begin evaluating state enforcement programs.**

Know what's below. Call before you dig.

[illegible] of the NPRM

- [illegible] Pipeline Safety Regulations to:
  1. [illegible] and procedures for determining adequacy of state pipeline excavation damage prevention law enforcement programs
  2. Establish the administrative process for making adequacy determinations
  3. Establish the Federal requirements PHMSA will enforce in states with inadequate enforcement programs
  4. Establish the process for enforcement proceedings against excavators where Federal authority is exercised

Know what's below. Call before you dig.

[illegible] Enforcement

([illegible] complete language)

[illegible] authority with civil [illegible]

[illegible] an agency or other body as the [illegible] enforcement authority?

[illegible] using its enforcement authority and making [illegible] publicly available that demonstrates the effectiveness of enforcement?

[illegible] Does the state have a reliable mechanism for learning about excavation damage?

5. Does the state use damage investigation practices that are adequate to determine the at-fault party?

811 Know what's below. Call before you dig.

[illegible] Enforcement

[illegible] prevention law require:

[illegible] one-call before excavating;

[illegible] may not excavate in disregard of the [illegible] location of pipelines;

[illegible] who causes damage to a pipeline:

[illegible] must report the damage to the owner/operator of the pipeline, and;

[illegible] Must call 911 or another emergency telephone number if the damage results in a release.

7. Does the state limit exemptions for excavators from its excavation damage prevention law?

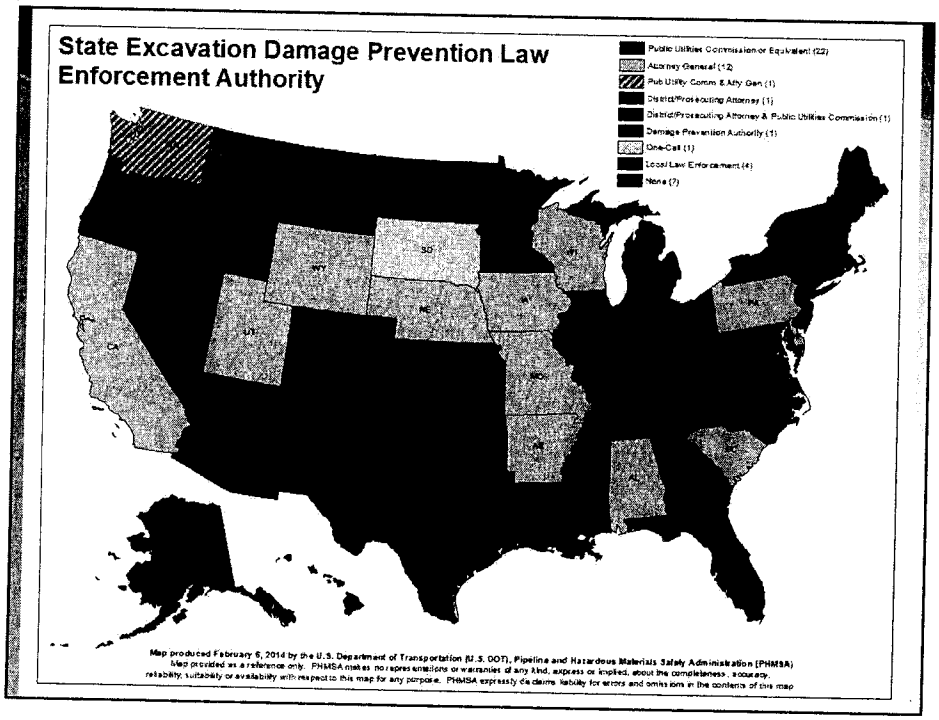
811 Know what's below. Call before you dig.

[illegible] for Evaluating States

(Proposed)

- [illegible] review using proposed criteria summarized on [illegible] slides
- [illegible] review will encompass information from any state agency [illegible] office with a role in the enforcement program
- PHMSA may take **immediate enforcement action** against excavators in a state upon a finding of inadequacy
  - Will be public and excavators may face significant fines
- States have five years from a finding of inadequacy to implement an adequate program, after which state is subject to a reduction in "base grant" funding established under 49 U.S.C. 60107

Know what's below. Call before you dig.



[illegible] of Excavators

[illegible] excavators must:

[illegible] one-call system to notify pipeline [illegible] the timing and location of intended [illegible]

[illegible] pipelines exist in the area, wait for the operator(s) to [illegible] at the excavation site and mark the location of the pipeline(s);

3. Excavate with proper regard for the marked location of the pipeline(s) and take all practicable steps to prevent excavation damage to the pipeline, and;

4. Make additional use of the one-call as necessary.

Know what's below. Call before you dig.

[illegible] Excavators

[illegible] may by excavation activity, [illegible] damage to the pipeline [illegible] a leak occurs

[illegible] causes release of flammable, toxic, or [illegible] or liquid that may endanger life or cause [illegible] harm or damage to property or the [illegible] excavator must call 911

Homeowners using only hand tools, as opposed to mechanized excavating equipment, on their own property are exempt from these requirements.

Know what's below. Call before you dig.

[illegible] to Pipeline Operators

(see NPRM for complete language)

- [illegible] enforce existing damage prevention [illegible] applicable to pipeline operators if a pipeline [illegible] fails to respond to a locate request or fails to accurately locate and mark its pipeline.
  - 49 CFR 192.614
  - 49 CFR 195.442
  - 49 U.S.C. § 60114

Know what's below. Call before you dig.

PHMSA's Enforcement Process

(see NPRM for complete language)

- [illegible] enforcement proceedings for alleged violations [illegible] damage prevention requirements, PHMSA [illegible] to use the existing process for alleged pipeline safety violations:
  - Notice of probable violation;
  - 30-day period to respond, including the opportunity to request an administrative hearing;
  - Issuance of final order;
  - Opportunity to petition for reconsideration.

Know what's below. Call before you dig.

[illegible] Penalties

[illegible] (language)

- [illegible] civil penalties for violations of the [illegible] prevention requirements proposed in [illegible]
- [illegible] states with inadequate enforcement programs
- [illegible] maximum administrative civil penalties that may be [illegible] are specified in 49 U.S.C. § 60122.
- Max of $200,000 per violation per day, up to to $2,000,000 for a related series of violations
- Criminal penalties may be imposed as specified in 49 U.S.C. § 60123 (this is an existing law).

Know what's below. Call before you dig.

[illegible] Works

Year	New York	Connecticut	Minnesota	Oregon	Virginia	Georgia	Nevada
2003	6.53	5.68	3.47	9.20	2.30	1.48	10.85
2004	5.75	5.77	3.00	9.90	2.10	1.72	10.28
2005	5.59	5.36	3.04	11.10	2.46	1.74	7.26
2006	4.21	4.41	2.95	11.40	2.28	1.82	6.94
2007	3.76	4.18	2.73	8.40	2.89	1.97	4.66
2008	2.80	4.15	2.51	8.15	1.98	2.39	4.52
2009	2.39	3.27	2.60	6.04	1.69	1.84	4.04
2010	2.29	1.6	2.16	3.98	1.67		4.05
2011	2.14	1.3	2.19	4.5	1.49		4.23
2012		1.6		3.2	1.50		3.78

Know what's below. Call before you dig.