

Figure: 16 TAC §18.12(k)

Table 5. Penalty calculation worksheet

Violations from Table 1		Typical penalty amounts from Table 1	
1	16 TAC §18.1-Failure to comply with Chapter 18	\$2,000	\$
2	16 TAC §18.3-Failure to notify notification center	\$2,500	\$
3	16 TAC §18.3-Failure to include method for positive response	\$1,000	\$
4	16 TAC §18.3-Failure to use white lining where appropriate	\$1,000	\$
5	16 TAC §18.3-Failure to conduct a required face-to-face meeting	\$1,000	\$
6	16 TAC §18.3; §18.9-Failure to establish sufficient protocols when required	\$1,000	\$
7	16 TAC §18.3-Failure to refresh an expired locate ticket	\$1,000	\$
8	16 TAC §18.4-Failure to plan excavation to avoid damage or take reasonable steps to protect pipelines	\$1,000	\$
9	16 TAC §18.4-Failure to wait the required time to excavate	\$1,000	\$
10	16 TAC §18.4-Failure to give second notice when required	\$1,000	\$
11	16 TAC §18.4-Failure to confirm valid locate ticket	\$1,000	\$
12	16 TAC §18.4-Failure to protect locate markings	\$1,000	\$
13	16 TAC §18.5-Failure to provide positive response on first or second notice	\$1,000	\$
14	16 TAC §18.5-Failure to keep record of positive response	\$1,000	\$
15	16 TAC §18.5; §18.11-Failure to notify of no positive response	\$1,000	\$
16	16 TAC §§18.6-18.8-Failure to mark excavation area or pipeline properly	\$2,500	\$
17	16 TAC §18.6-Failure to notify notification center for excavation activity after an emergency notice and the emergency condition ceased to exist	\$1,000	\$
18	16 TAC §18.9-Failure to record and/or retain protocol agreement	\$1,000	\$
19	16 TAC §18.10-Failure to excavate with reasonable care within Tolerance Zone	\$2,500	\$
20	16 TAC §18.11-Failure to submit a Texas Damage Reporting Form	\$2,000	\$
21	16 TAC §18.11-Failure of excavator to report pipeline damage to operator	\$2,000	\$
22	Subtotal of typical penalty amounts from Table 1 (lines 1-21, inclusive)		\$
23	Reduction for settlement before hearing: up to 50% of line 22 amt.	_____ %	\$
24	Subtotal: amount shown on line 22 less applicable settlement reduction (line 23)		\$
Penalty enhancement amounts for threatened or actual pollution or safety hazard from Table 2			
25	Bay or estuary or marine habitat	\$5,000 to \$25,000	\$
26	Pollution resulting from the violation	\$5,000 to \$25,000	\$
27	Death or personal injury	\$5,000 to \$25,000	\$
28	Impact to a residential or public area	\$5,000 to \$25,000	\$
29	Reportable incident or accident	\$5,000 to \$25,000	\$
30	Any hazard to the health or safety of the public	\$5,000 to \$25,000	\$
Penalty enhancements for severity of violation from Table 2			
31	The seriousness of the violation	\$5,000 to \$25,000	\$
32	Subtotal: amount on line 24 plus all amounts on lines 25 through 31, inclusive		\$
Penalty enhancements for culpability of person charged from Table 2			
33	Reckless conduct of person charged	double line 32 amt.	\$
34	Intentional conduct of person charged	triple line 32 amt.	\$
Penalty enhancements for number of prior violations or warnings within past seven years from Table 3			
35	One	double line 32 amt.	\$
36	More than two but fewer than five	triple line 32 amt.	\$
37	More than five but fewer than ten	four times line 32 amt.	\$

Violations from Table 1		Typical penalty amounts from Table 1	
38	Ten or more	five times line 32 amt.	\$
Penalty enhancements for amount of penalties within past seven years from Table 4			
39	Less than \$10,000	\$1,000	\$
40	Between \$10,001 and \$25,000	\$2,500	\$
41	Between \$25,001 and \$50,000	\$5,000	\$
42	Between \$50,001 and \$100,000	\$10,000	\$
43	Over \$100,000	10% of total amt.	\$
44	Subtotal: line 32 plus the amount(s) on line 33 and/or 34 plus the amount shown on any one line from 35 through line 43, inclusive		\$
45	Reduction for demonstrated good faith of person charged		\$
46	TOTAL PENALTY AMOUNT: amount on line 44 less any amount shown on line 45		\$