



Differences in Underground Damage Prevention Rules within New England

Randy Knepper, NHPUC for

New **E**ngland **P**ipeline **S**afety **R**epresentatives
annual seminar

10-20-2010, Ogonquit, ME



Call 811

- All Six States use Call 811
- ME has been effective since

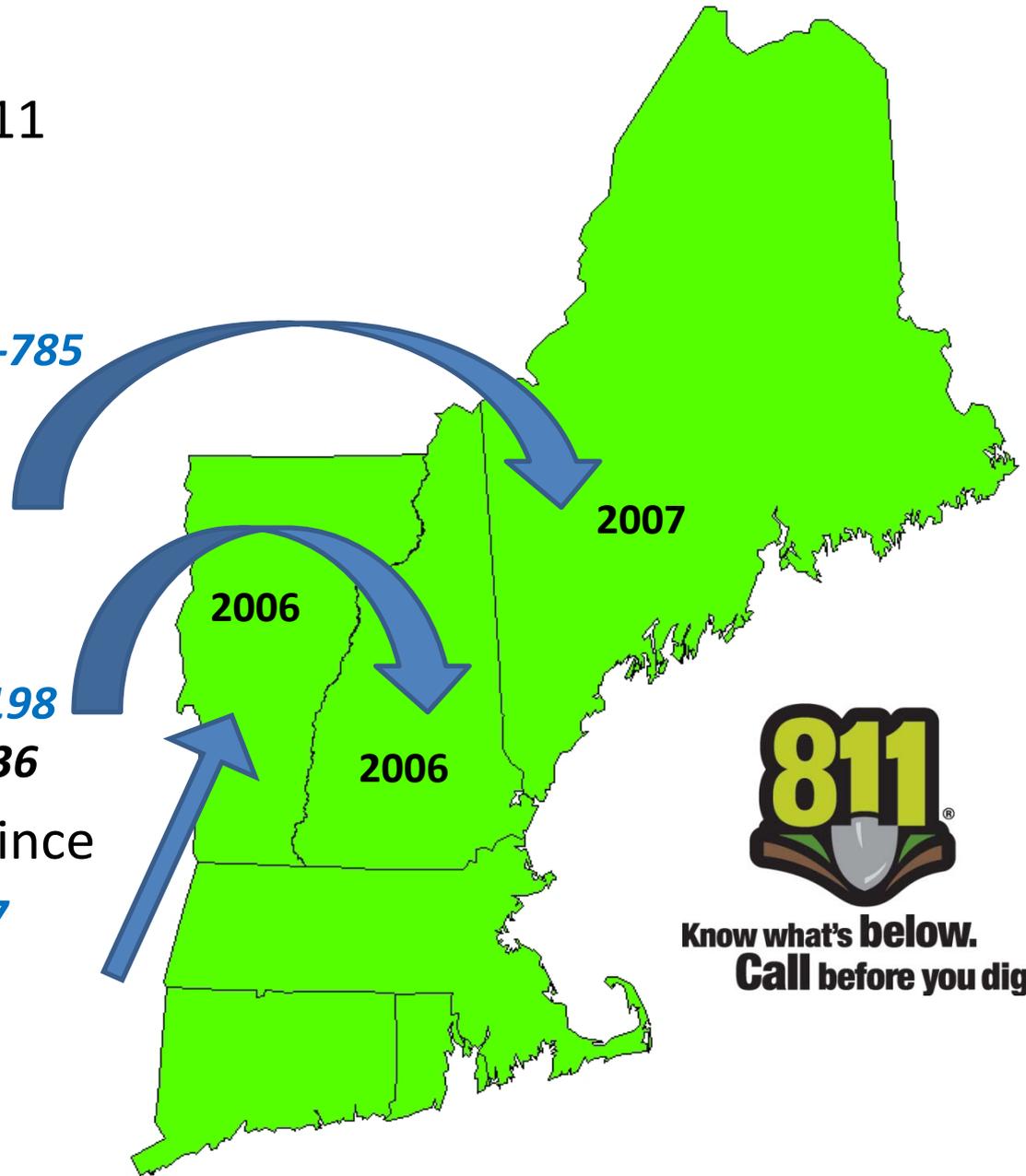
Jan 3 2007 *ME DN 2005-785*
Commission Order
Jan 3 2007

- NH has been effective since

July 10 2006 *NH DT 05-198*
Commission Order 24,636

- VT has been effective since

Oct 18 2006 *VT DN 7177*
PSB Order Oct 18 2006



Know what's below.
Call before you dig.

Call 811 (continued)

- RI has been effective since

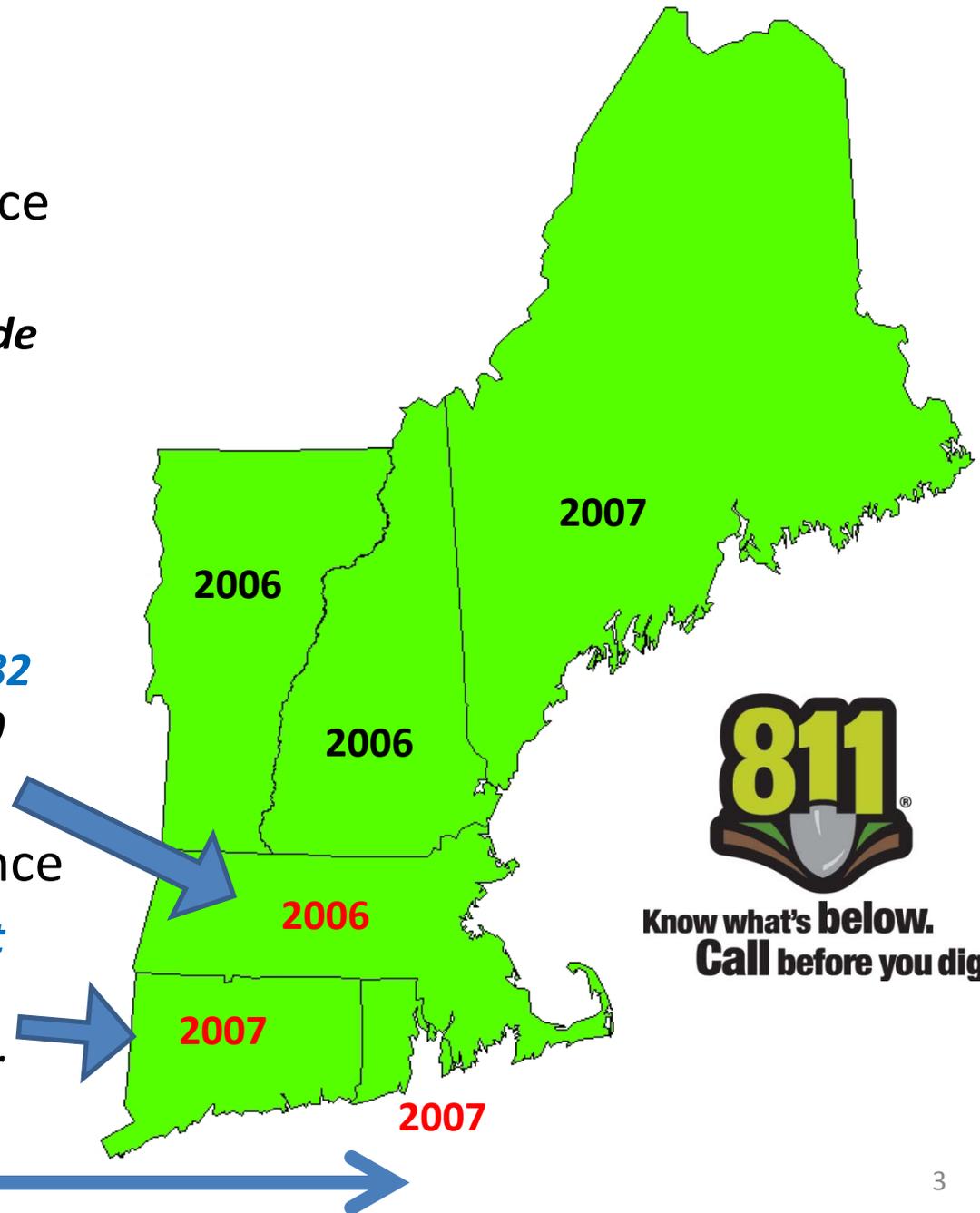
Apr 2007 RI DN 3720 No Commission Order coincide with FERC 2 year implementation date

- MA has been effective since

Feb 10 2006 MA DTE 05-82 Commission Order Feb 10 2006

- CT has been effective since

Apr 2007 CT No DPUC dkt No Commission Order coincide with FERC 2 year implementation date



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



New England One Call Centers

- 888-DIG-SAFE or
- 888-344-7233
- All 5 States

ME- NH VT- MA-RI

Operated by Dig Safe System, Inc.

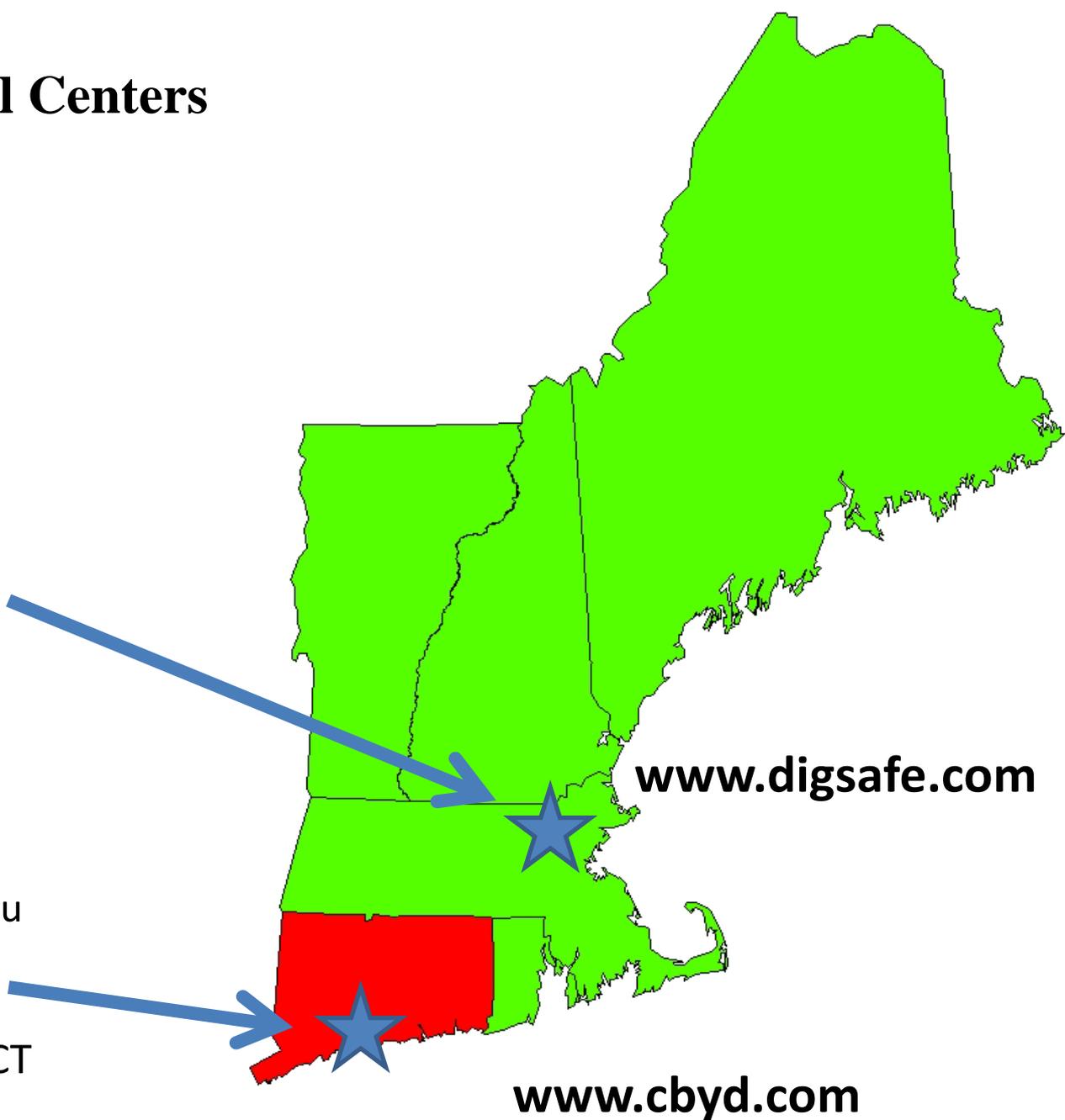
One Call Center located in Woburn, MA

-
- 800-922-4455
 - Single State ---

CT

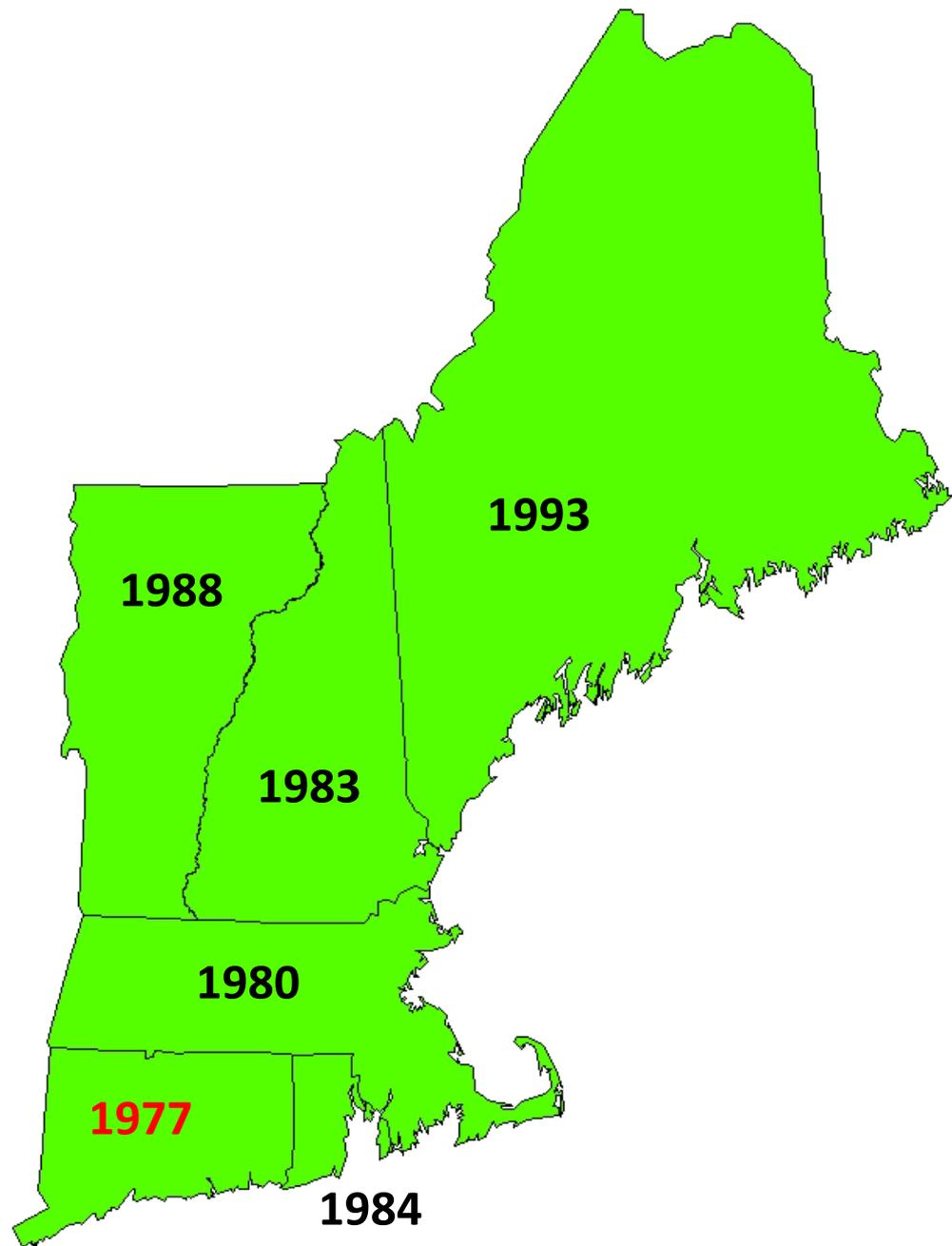
Operated by Call Before You Dig, Inc.

One Call Center located in Hamden, CT



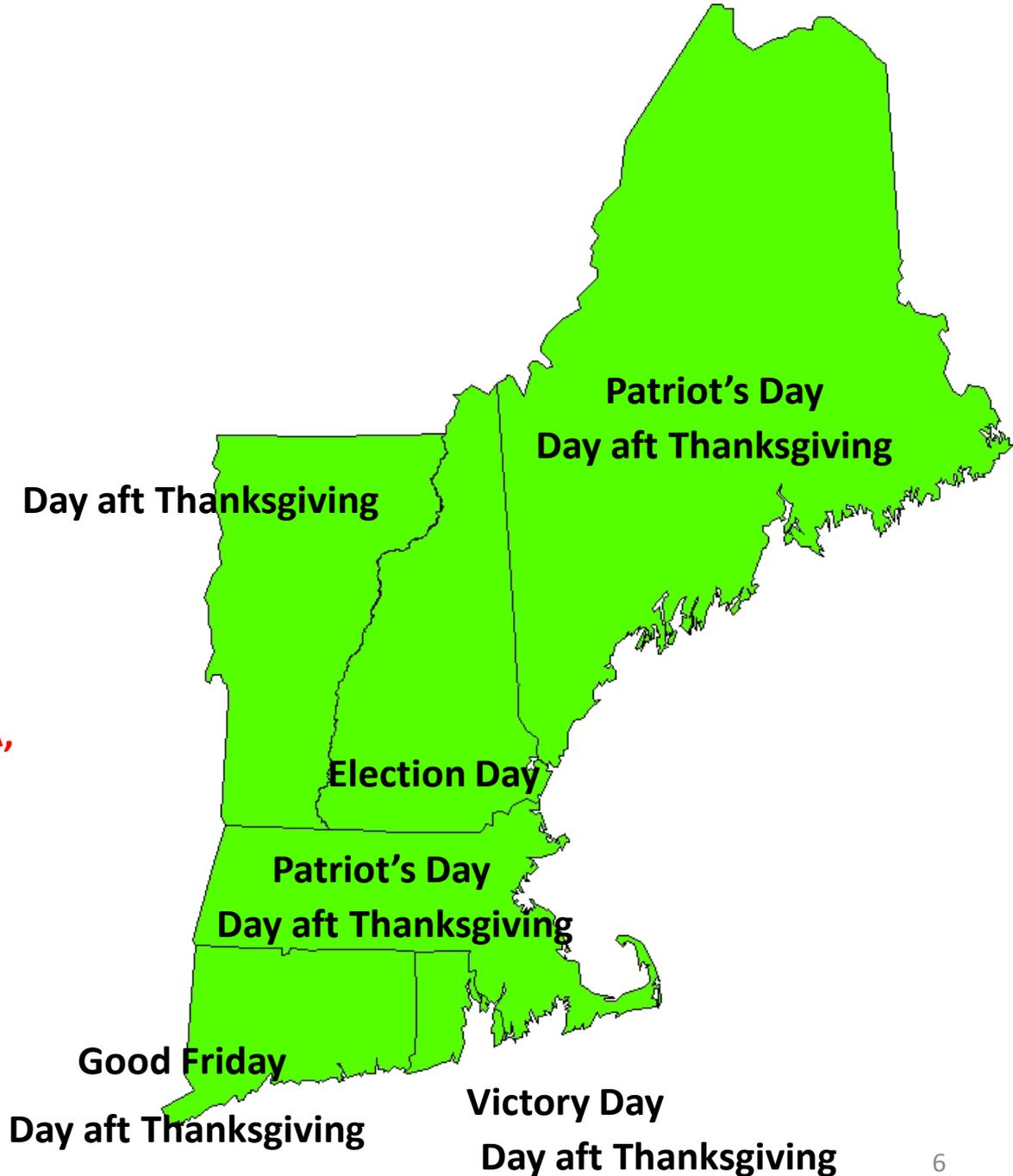
State Law HISTORY

- 1977 Connecticut
- 1980 Massachusetts
- 1983 New Hampshire
- 1984 Rhode Island
- 1988 Vermont
- 1993 Maine



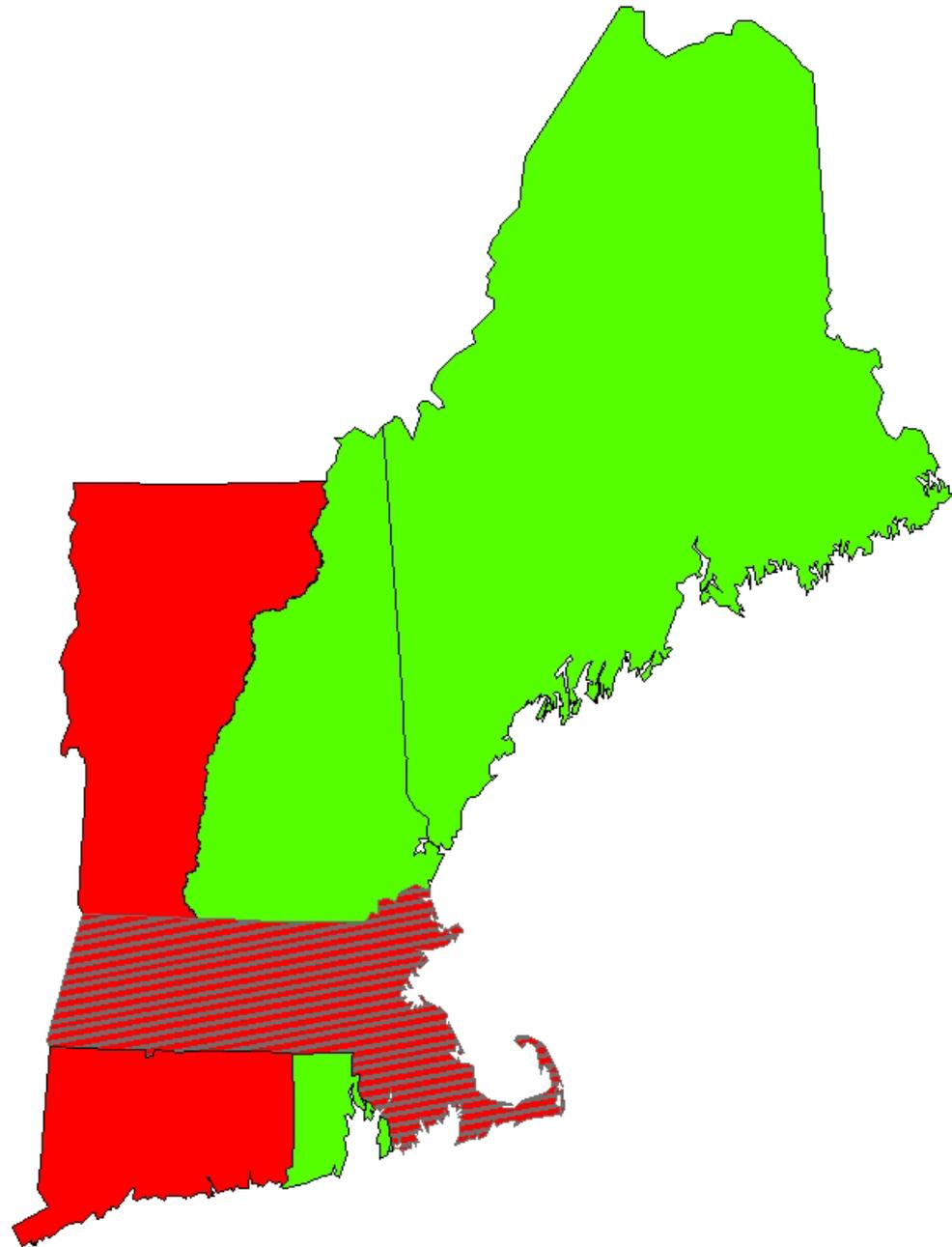
Observed Holidays

- New Year's Day
 - M.L.K. Day
 - President's Day
 - Memorial Day
 - Independence Day
 - Labor Day
 - Columbus Day
 - Veteran's Day,
 - Thanksgiving Day
 - Christmas Day
- 10
- Day After Thanksgiving (CT, MA, RI, VT, ME)
 - Good Friday (CT only)
 - Patriots Day (ME, MA)
 - Victory Day (RI only)
 - Election Day (NH only –even years only)



Municipality Exemption

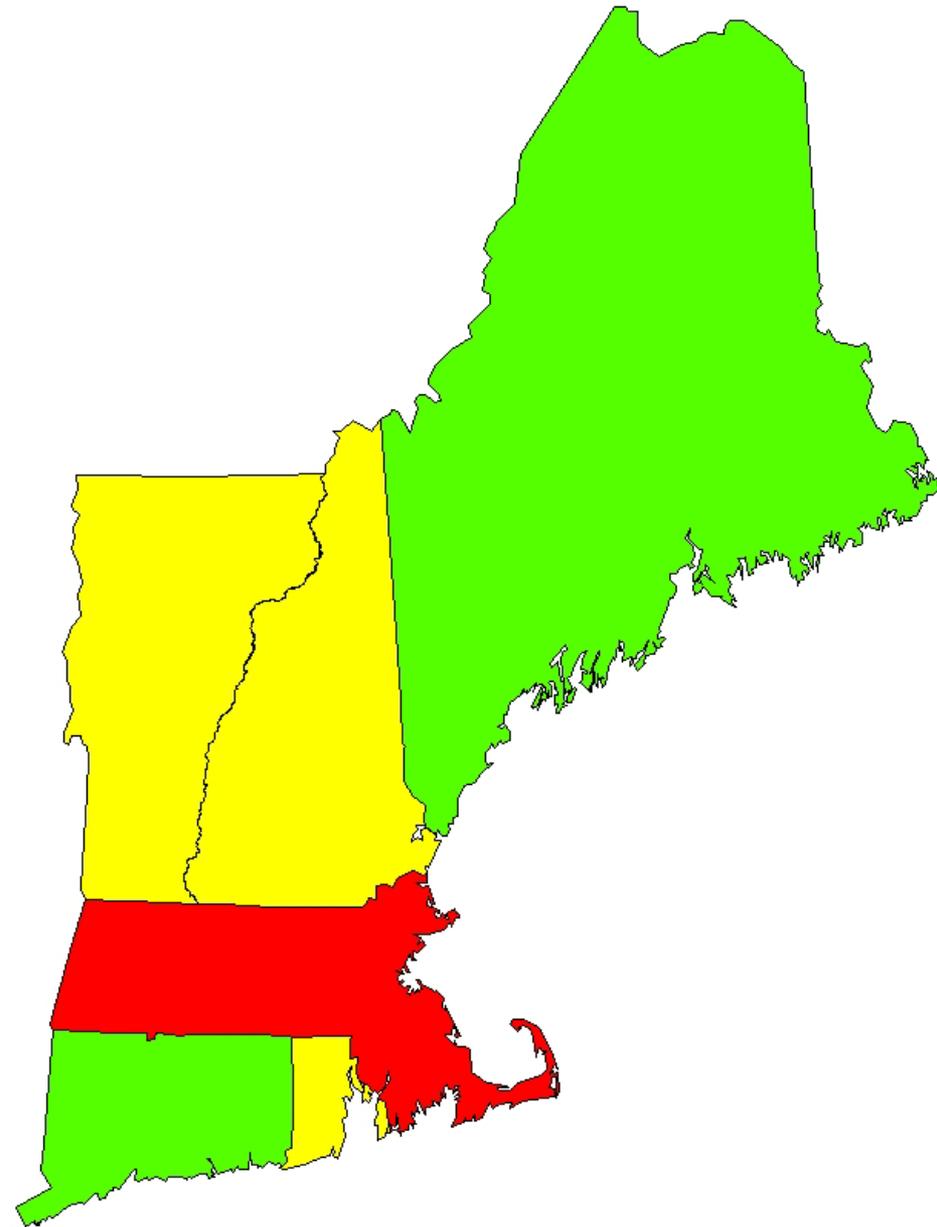
- VT and CT have no exemptions
- MA Municipal operator must markout but.. ***no penalty for mismarks, no penalty for not marking out in time***
- NH Municipal operators are exempt because they are not considered public utilities but can voluntarily join
- RI Municipalities are exempt but can voluntarily join.
...Should strongly consider participation ..and should be marked appropriately
- ME municipals can be considered ***non members and contacted directly***





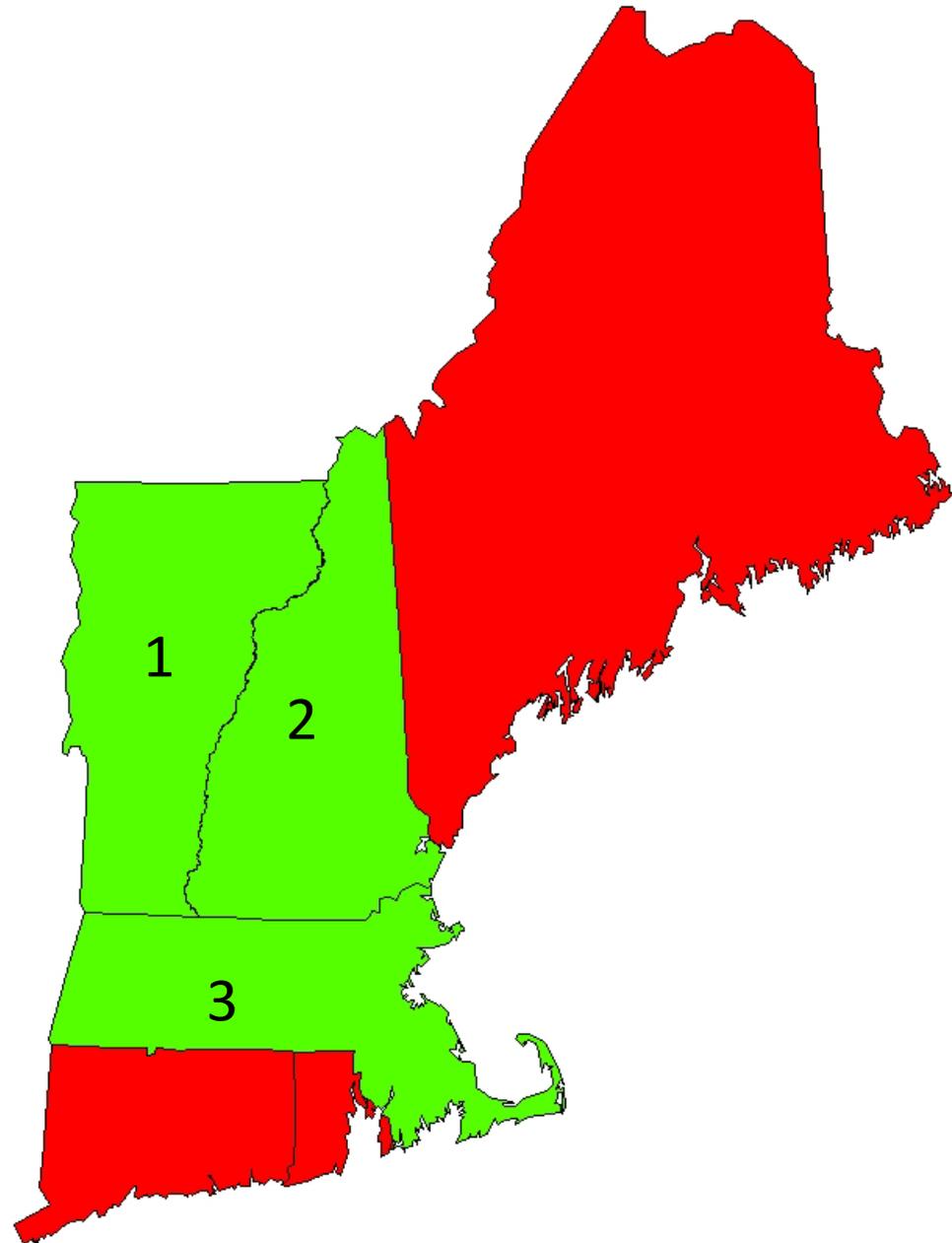
Notification of LP Operators

- NH, VT and RI is LP jurisdictional facilities only required to comply with CFR 49 Part 192.614
- ME is LP jurisdictional facilities + any underground tanks (even those not regulated by CFR 49 Part 192.614
- CT is all underground facilities inclusive jurisdictional and non jurisdictional
- MA no requirement for LP Operators whether jurisdictional and non jurisdictional



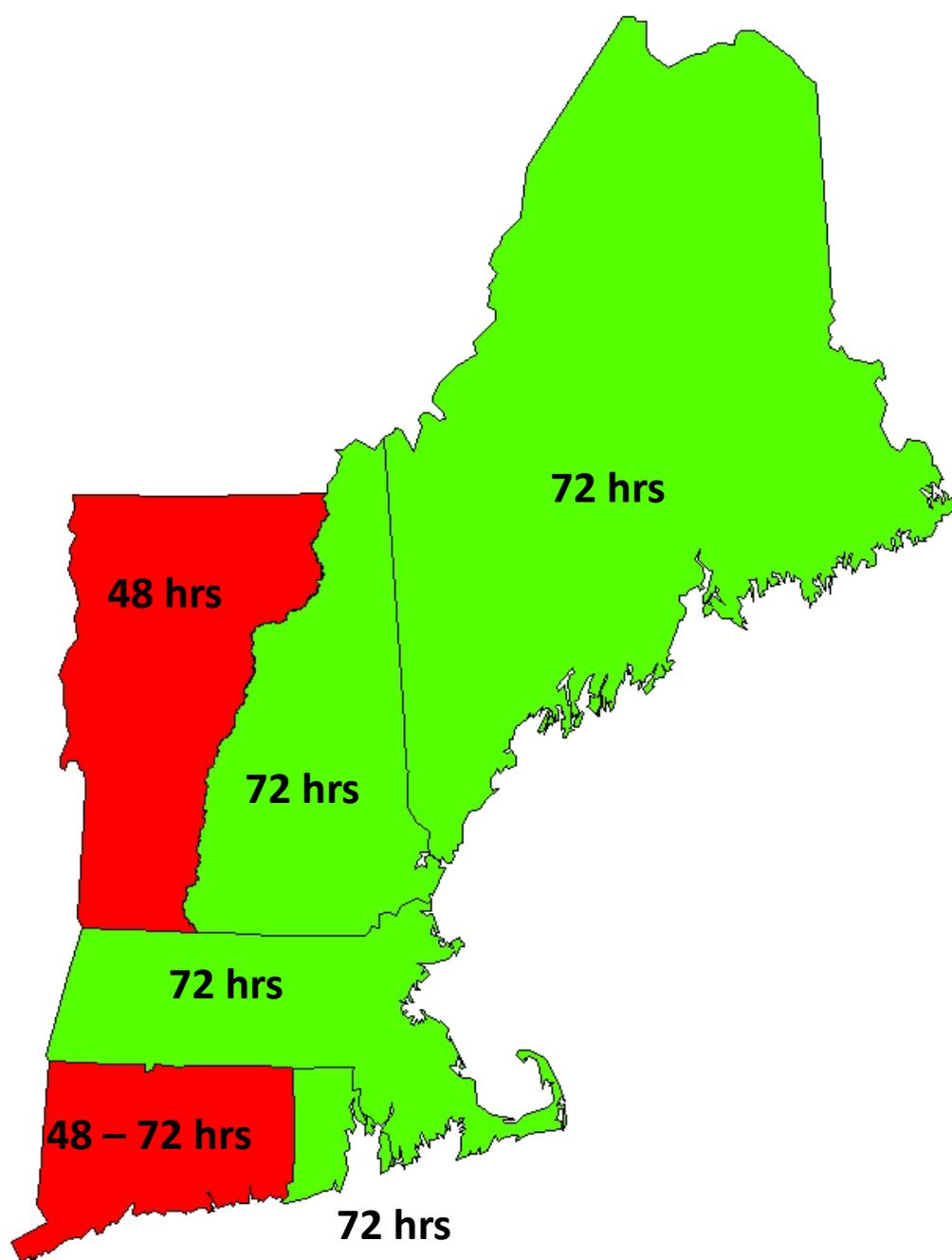
Notification Required for Hand Tools

- ME, CT, RI have no requirement for notification unless power tools
- VT exempts routine gardening w/ hand tools outside public ROW & easements if for highway maintenance, and company personnel to locate and service company facilities {i.e. elec poles}
Chapter 86 -7001 (4)
- NH exempts landscaping & maintenance of res property performed w/non-mechanized equipment *RSA 374:48 (III)*
- MA exempts excavation by tools manipulated only by human power for gardening purposes *MA Chap 82 Section 40*



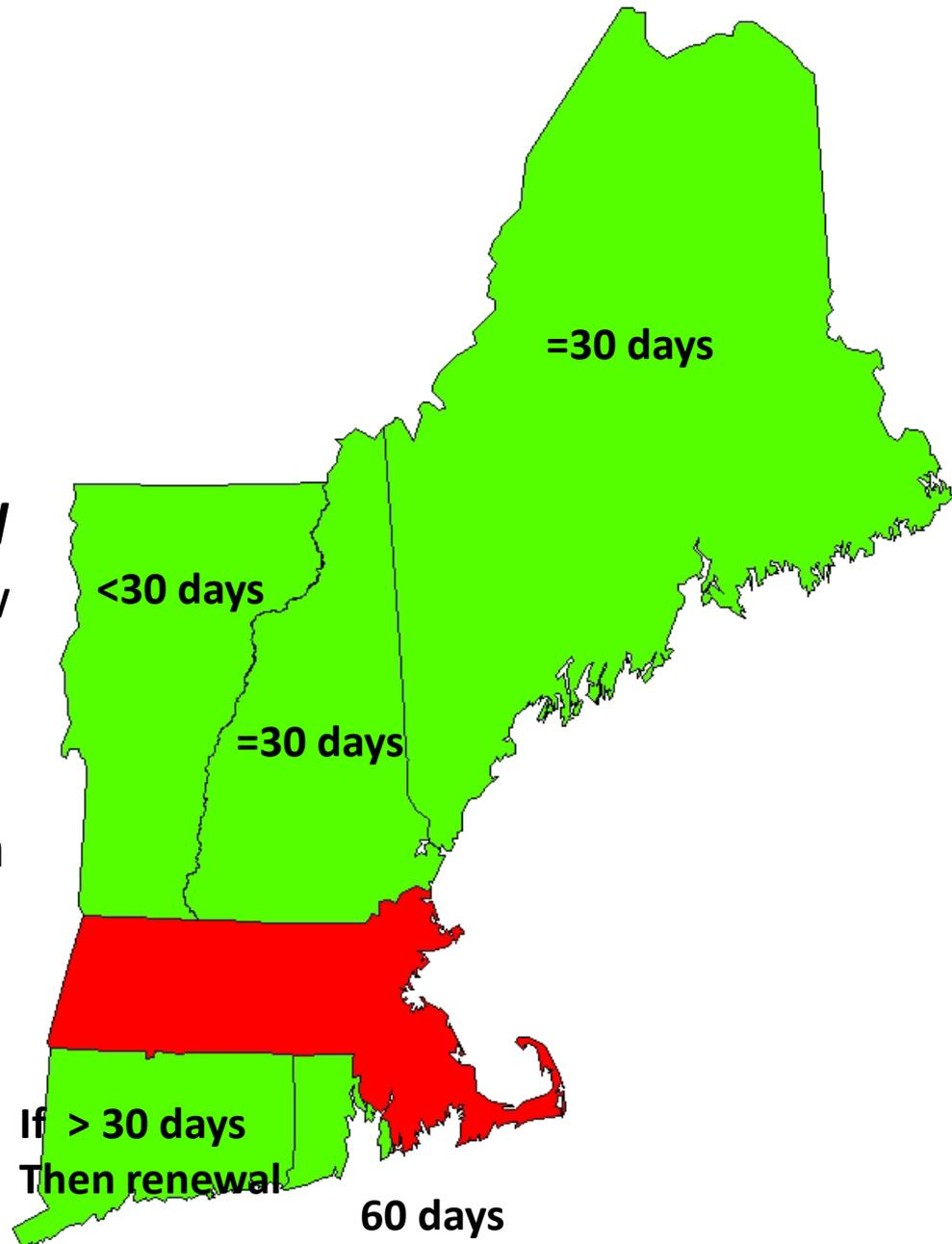
Wait Times

- Vermont has always been **48** hours
- Rhode Island recently switched from **48** hours to **72** hours *in November 2009*
- Massachusetts and Maine and New Hampshire, have always been **72** hours
- Connecticut requires **2 full days** (working) not necessarily **48** hours



Expiration Date

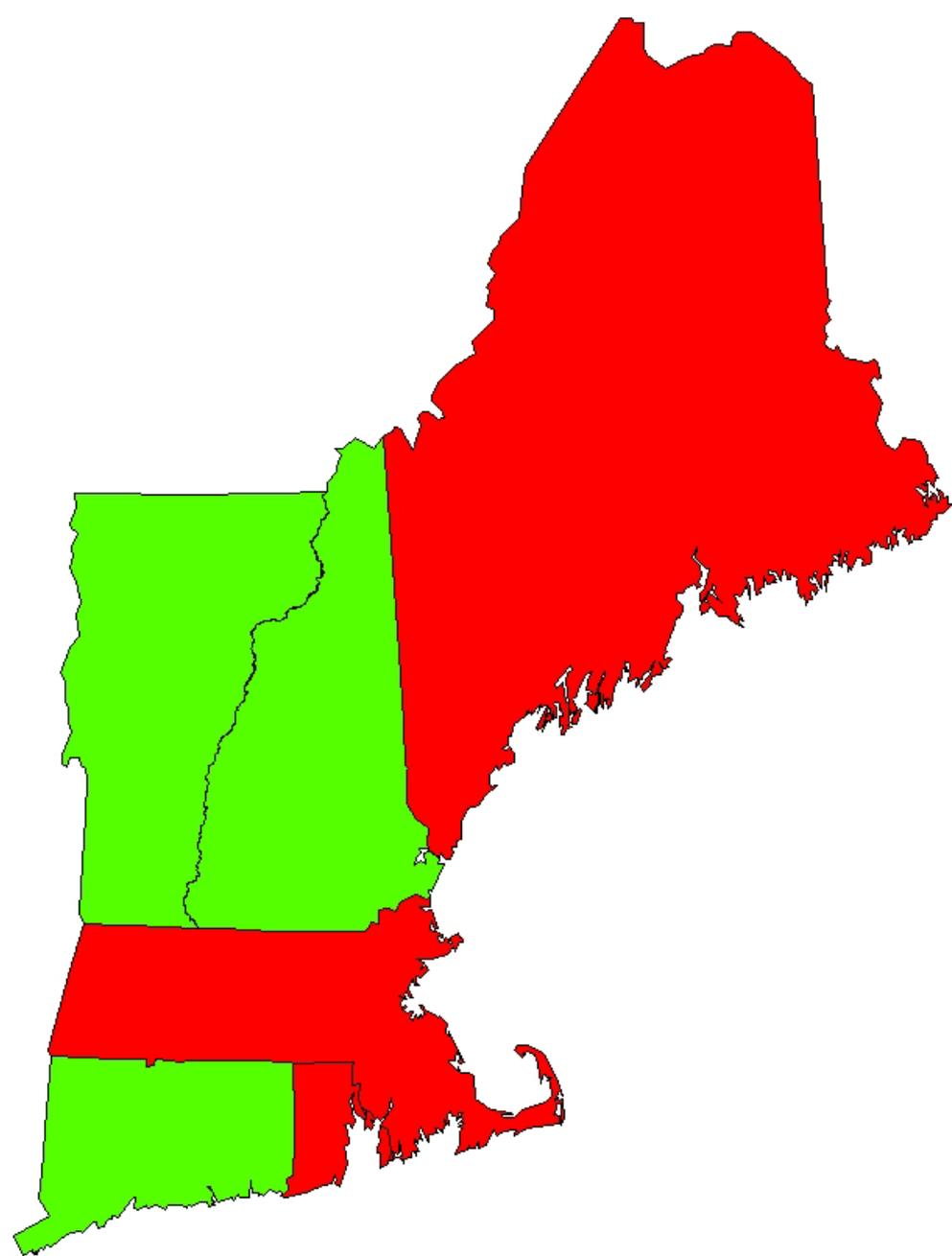
- Rhode Island has start within **30 days** but construction completed within **60 days**.
- Maine and New Hampshire, have always been **30 Days and no renewal allowed**, thus new ticket
- Vermont is **up to 30 days**
- Connecticut has 30 days **then renewal of existing ticket**
- Massachusetts has no expiration if: **marks are not faded, emergency rectified, new facilities installed in the area of marking**



Trenchless

Technology Provision

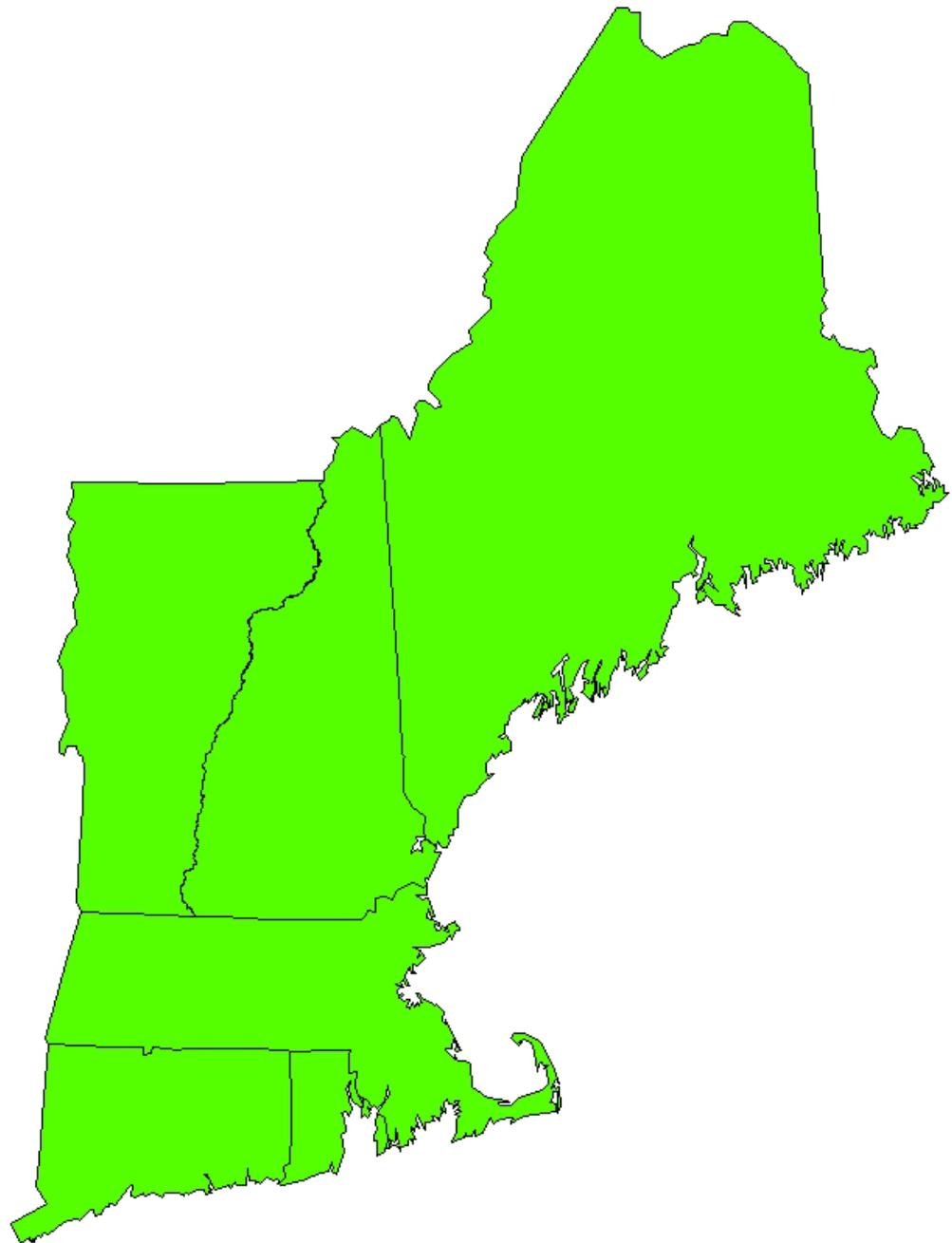
- VT expose, determine depth and location for crossings and reasonable intervals for parallel excavations Chapter 86 -7600(b)
- NH for HDD, Boring, Jacking, Tunneling, Pavement Reclamation determine exact depth and clearance and incorporate details into procedure Puc 805.02 e
- CT if using trenchless excavation then precise location is required when crossed or encroached. CT 16-345-4 (5)
- ME, MA and RI do not have specific provisions





18 Inch Tolerance Zone

- NH known as ***“tolerance zone”***
- MA known as ***“safety zone”***
- ME uses ***“safety zone”*** for excavator and ***“tolerance zone”*** for marking.
- RI, VT use ***“approximate location of underground facilities”***
- CT uses ***“approximate strip of land”***

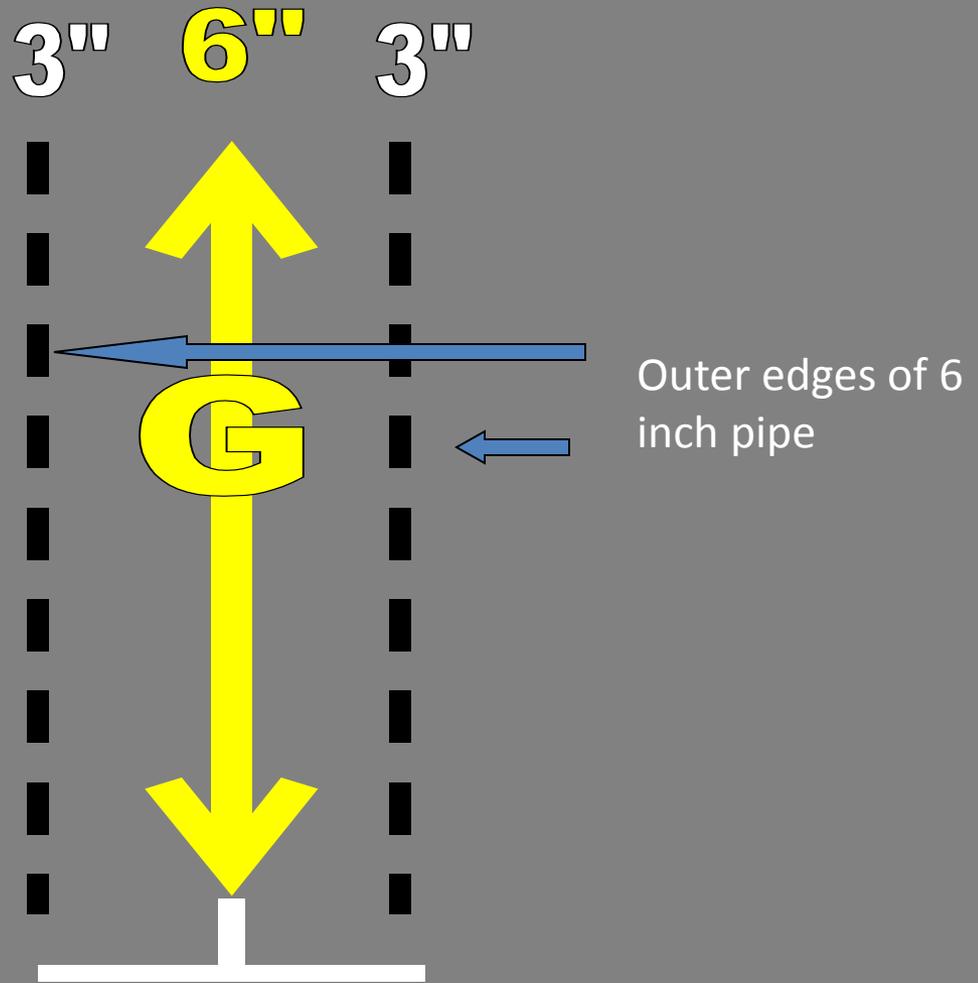


"Center line" Marks

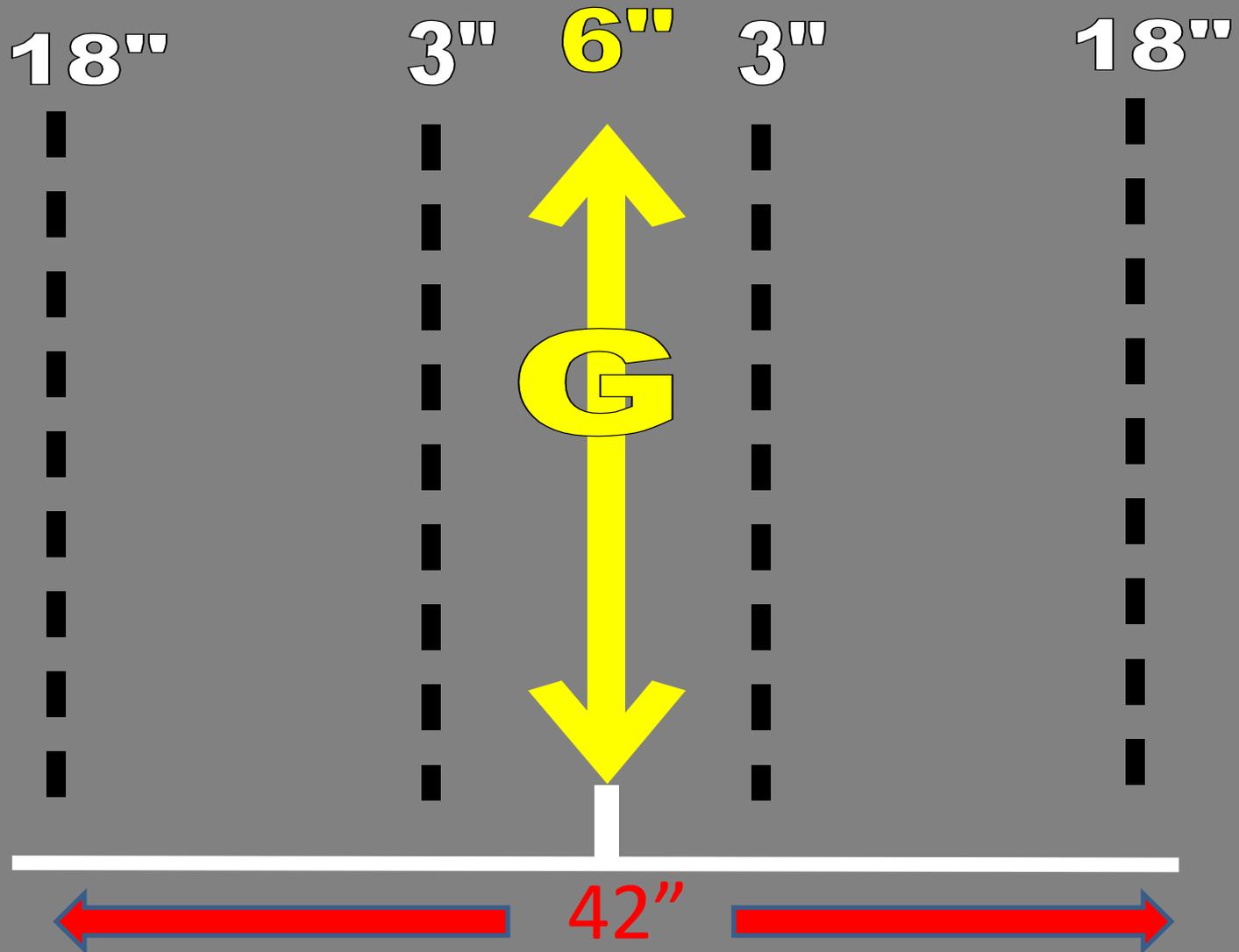
6"



"Center line" Marks



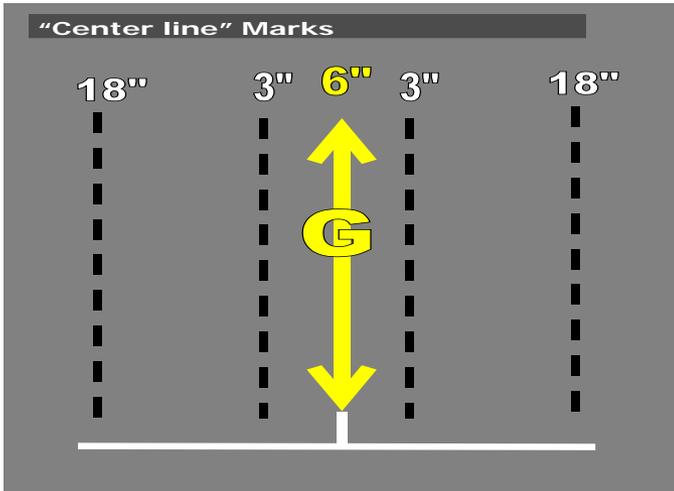
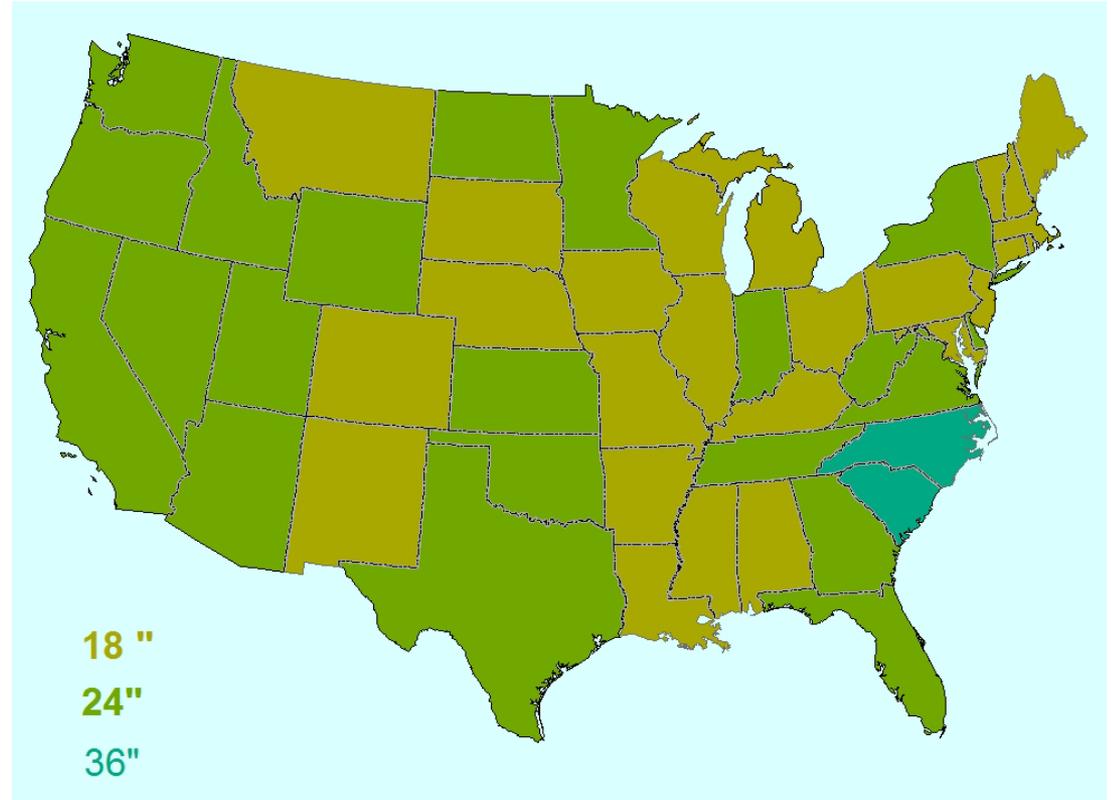
"Center line" Marks



Tolerance Zones

Nationally:

- 26 states have 18 inch
- 20 states have 24 inch
- 2 states have 36 inch



Positive Response Required

- CT requires *reasonable efforts* be made to notify the excavator that no underground facilities are in the area and document it. 16-

345-3 (B)

- NH spells out 3 methods:

(1) Field Marking

(2) Job Site Meeting

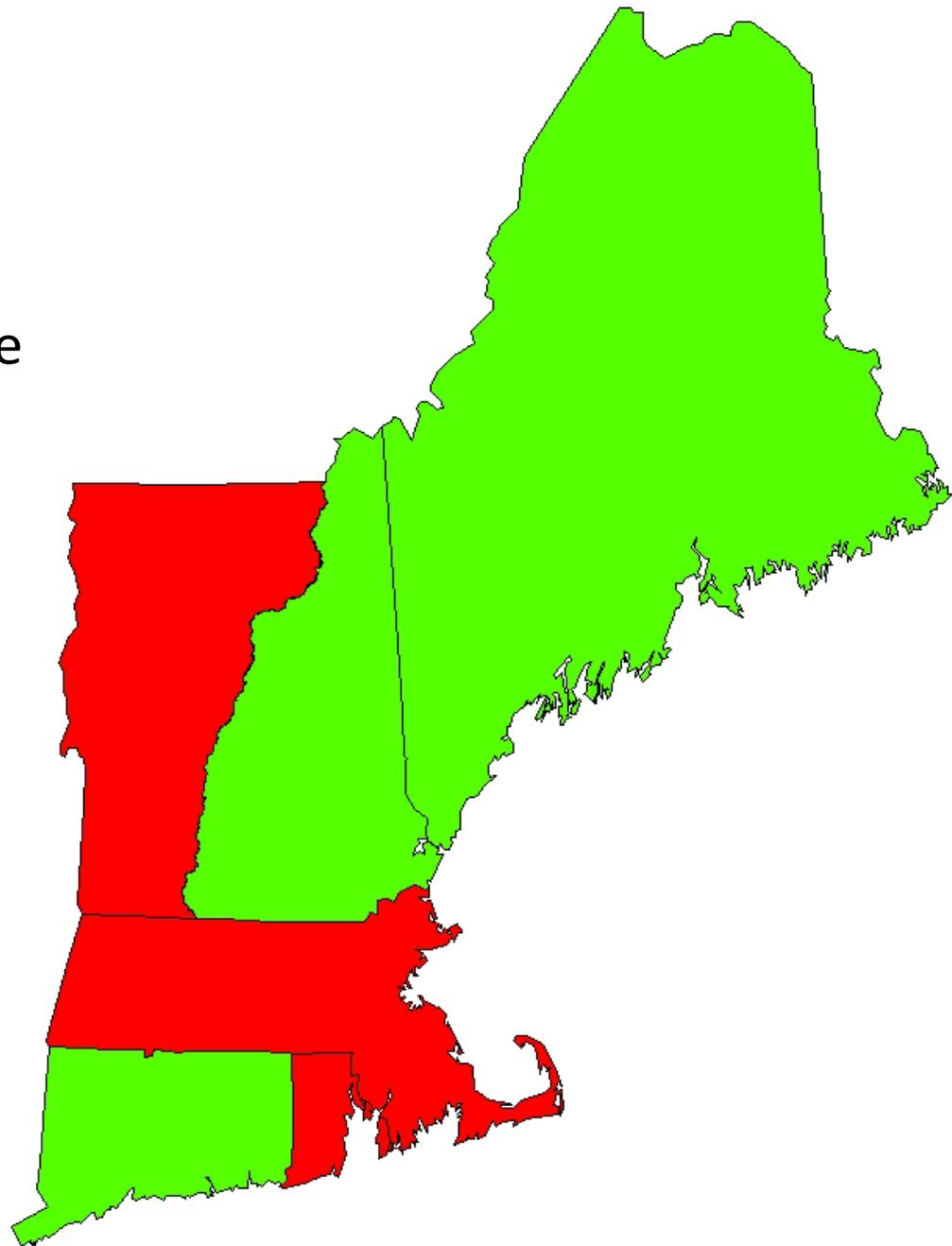
(3) Electronic Communication

NH Puc 804.02 (e)

- ME is similar to NH's methods 1 and 3 above

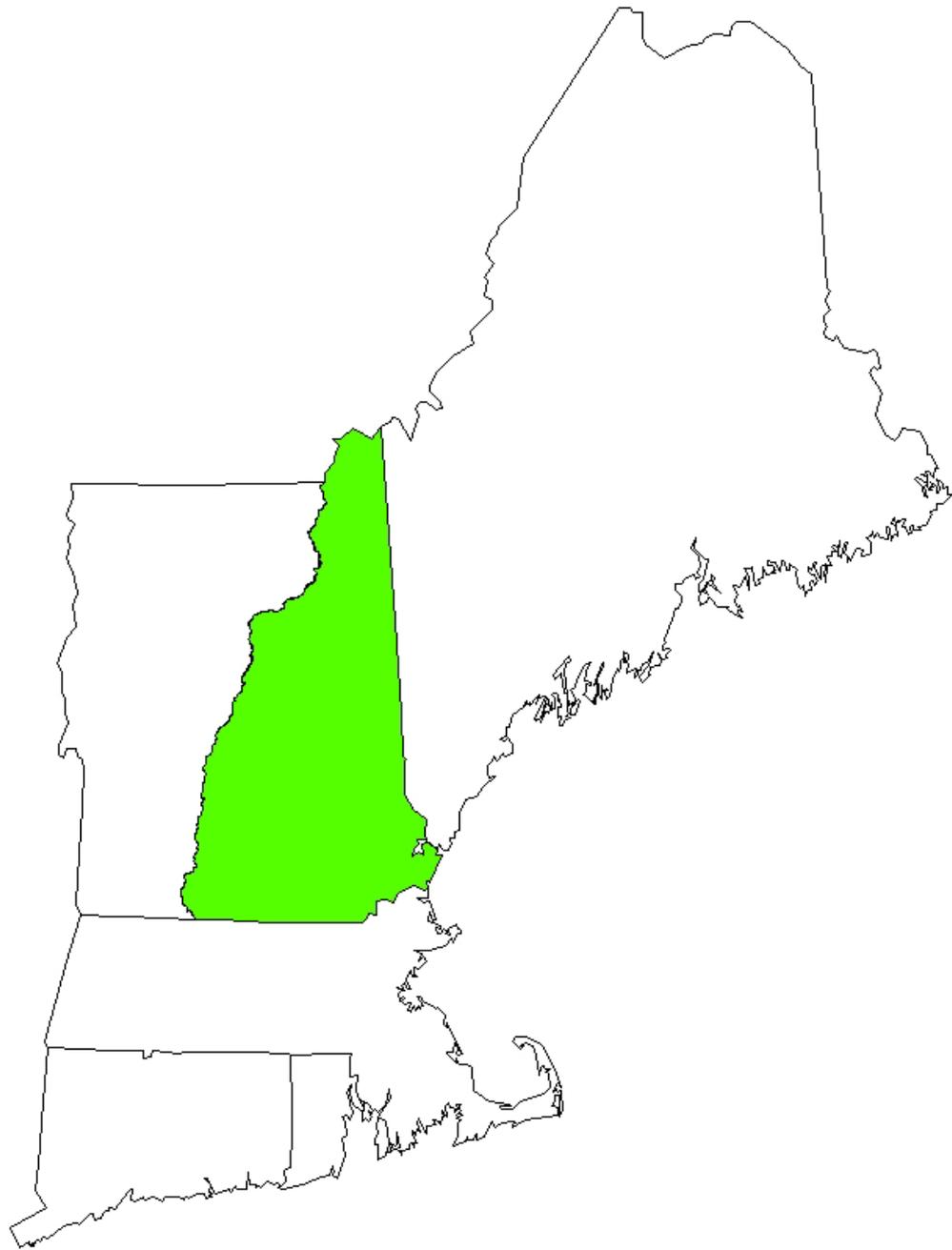
Chapter 895 Section 6 Responsibilities of Operator

B Marking Subsection (1)



Required to Call 911 if Damage

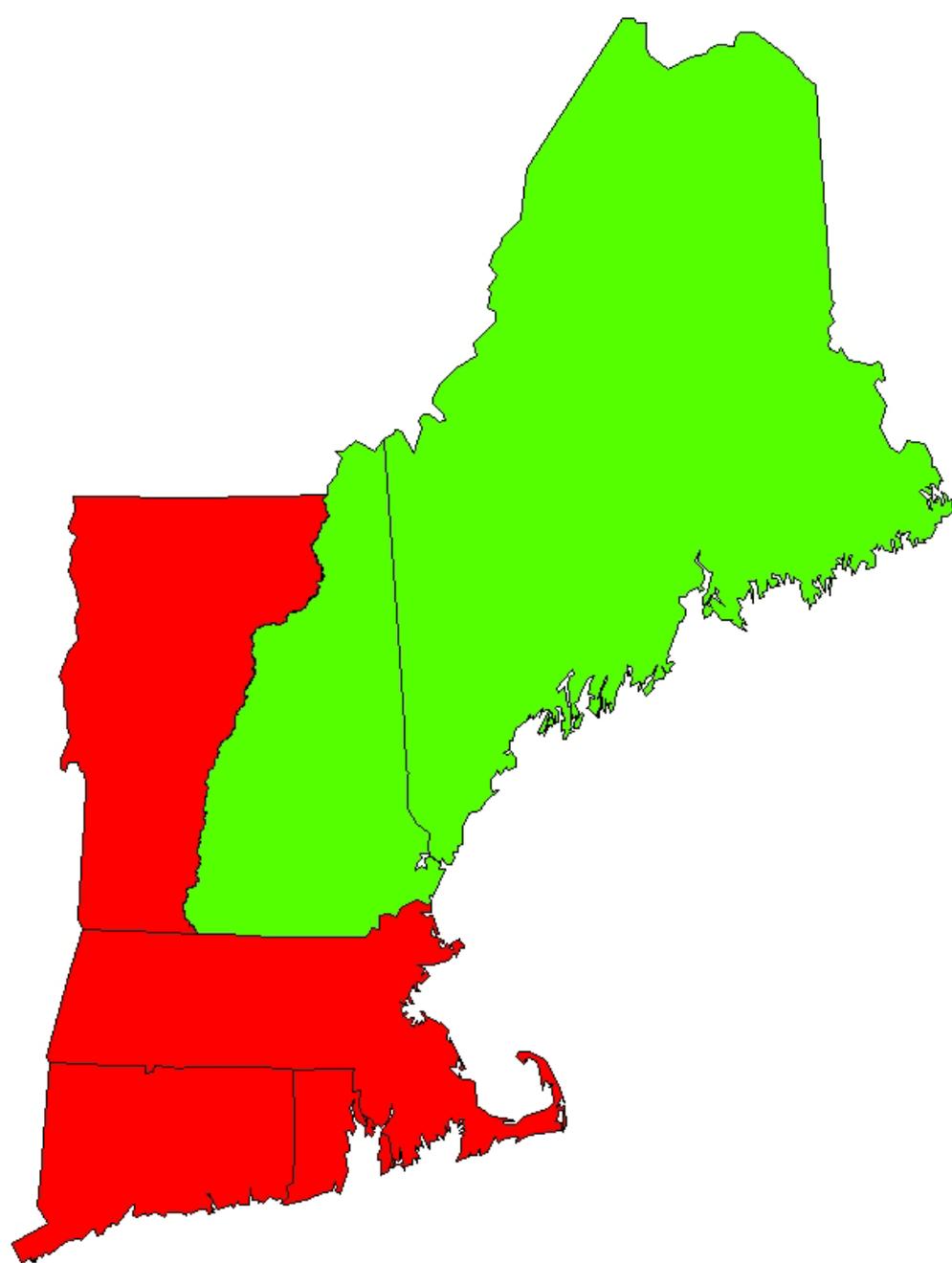
- CT No requirement - only gas per CFR 192 or hazardous liquid
- ME no requirement
- VT no requirement
- RI no requirement
- NH required if release of gas or electric shock





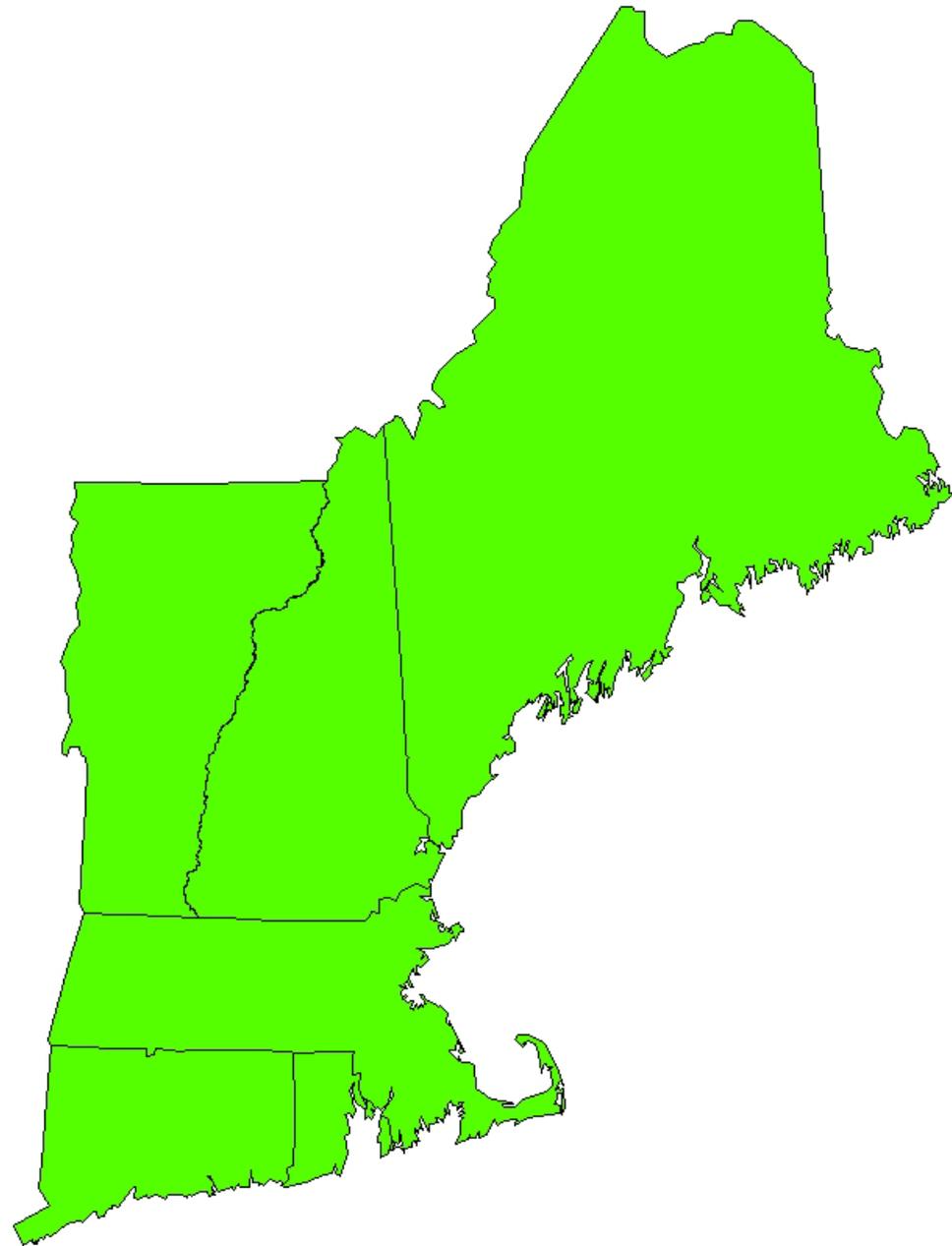
Excavator Required to Report Damage to Commission

- VT, MA, RI, CT have no requirements
- NH PUC 805.05 (a) (6) doesn't specify when or how
- ME Maine Chapter 895
- Section 4 *Responsibilities of Excavator*
D Reporting Subsection (2)



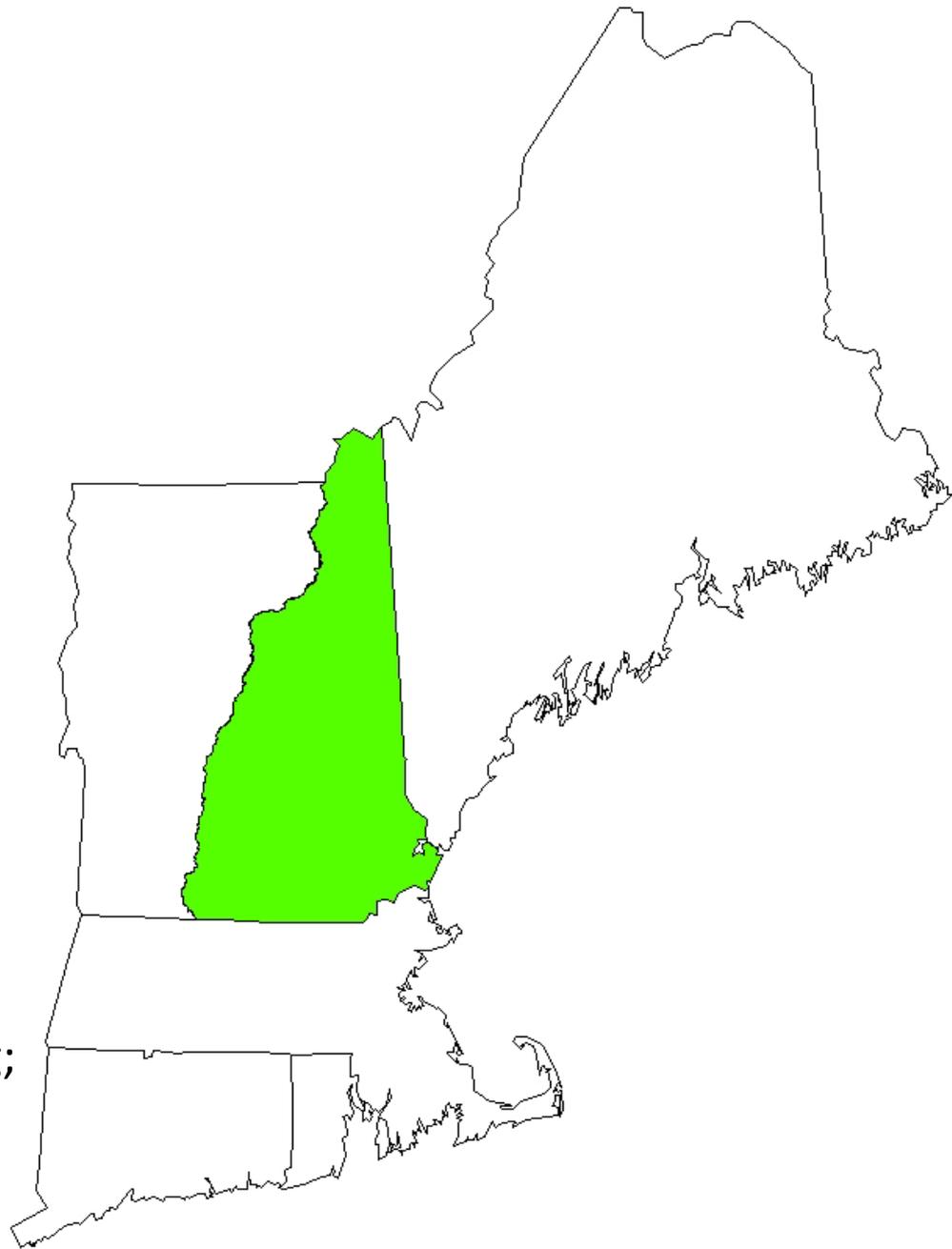
Operator Required to Report Damage

- Rhode Island only gas companies report damage
- NH, CT, ME, MA and VT all utilities and operators report damage (LP, electric water, telecom, CATV, gas..)



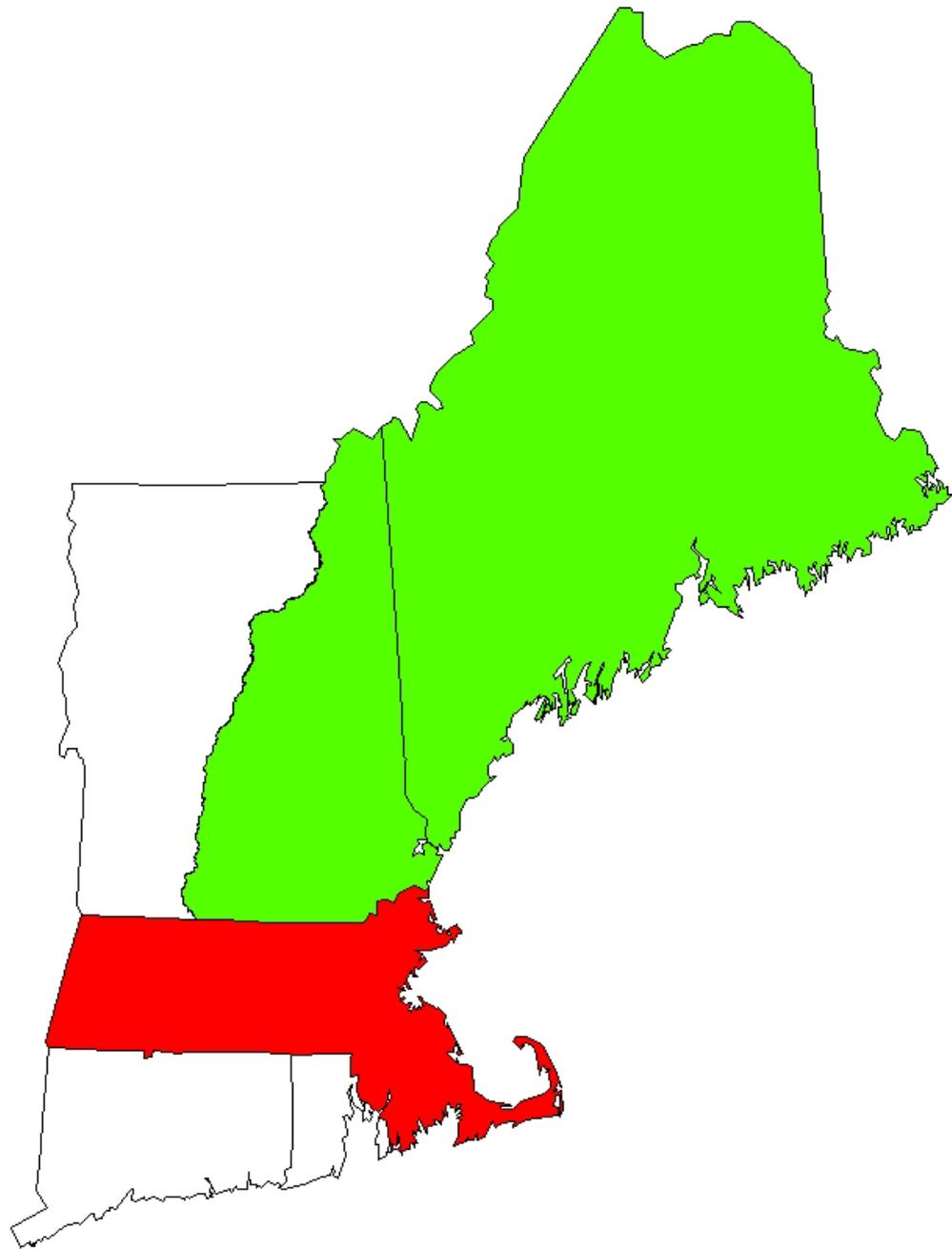
Required Training for Locators

- ME, MA, RI, CT, VT have no training requirements for locators, all gas pipeline operators would rely on Operator Qualifications
- NH requires NULCA training or equivalent based on the at least the following competencies
 - (1) Electromagnetic locating;
 - (2) Instruction in the use of transmitters and receivers;
 - (3) Procedures for marking underground facilities;
 - (4) Training in the identification of facilities;
 - (5) Safety procedures;
 - (6) Operator map and record reading; and
 - (7) Familiarity with the NH specific rules



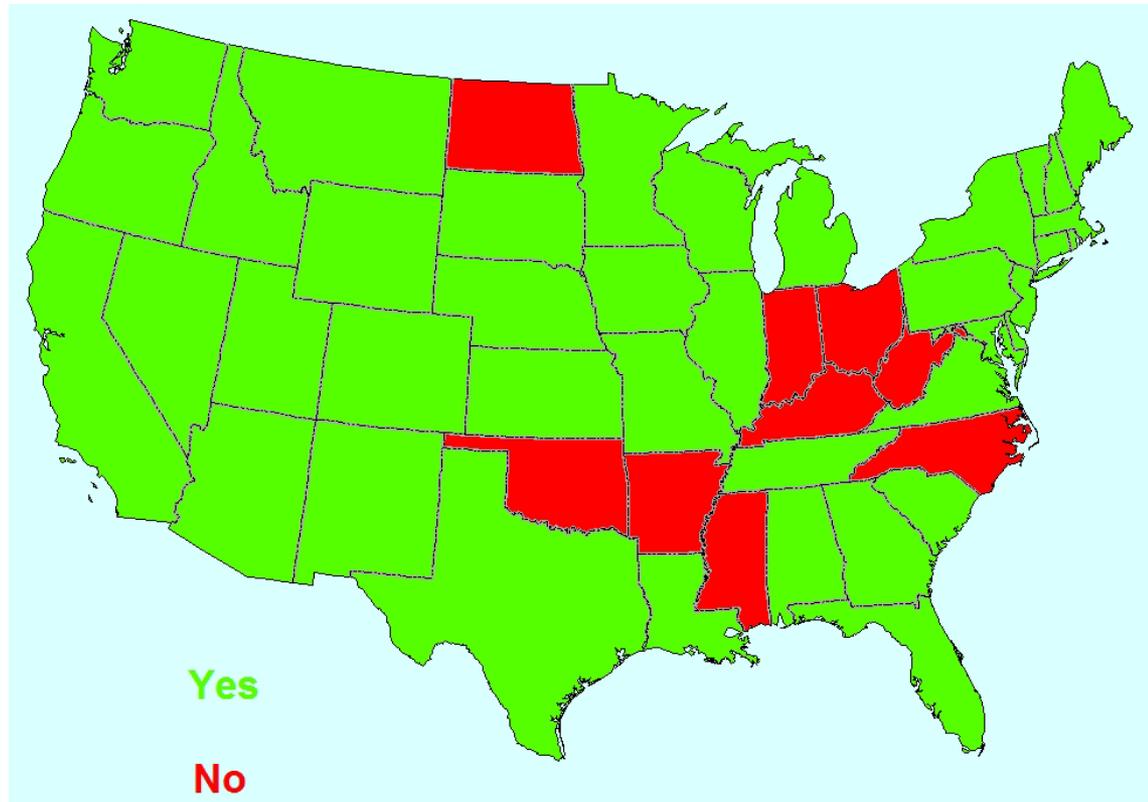
Civil Penalty Training Provided by Commission

- MA provides training but does it indirectly through MUST group
- CT has no provision for training but relies on One Call Center to provide training
- ME and NH directly provide training
- RI and VT have no requirements to provide training



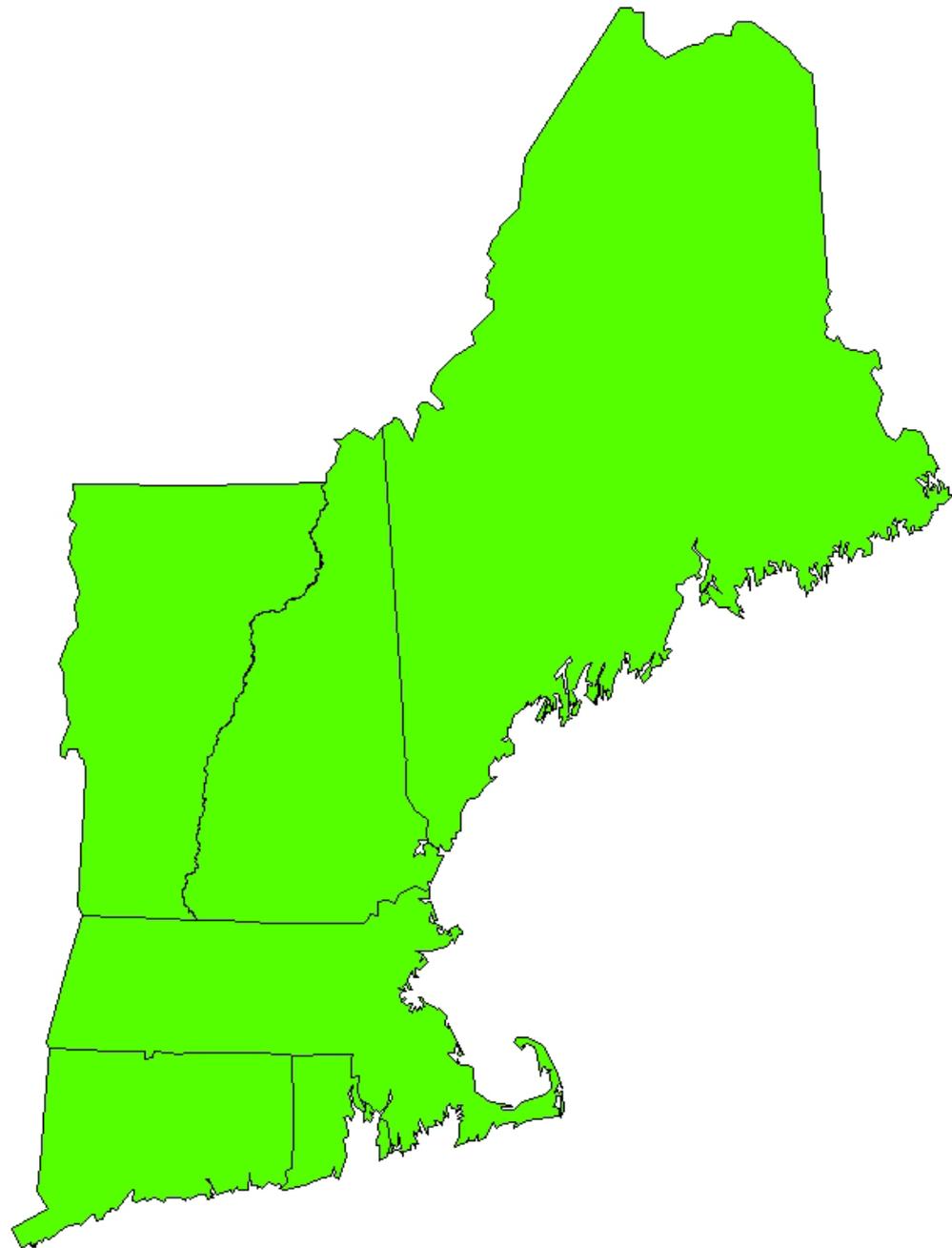
Civil Penalty

- 9 states remain without Civil Penalty Provisions
- Many of the remaining states use AG office or another Agency (weak)



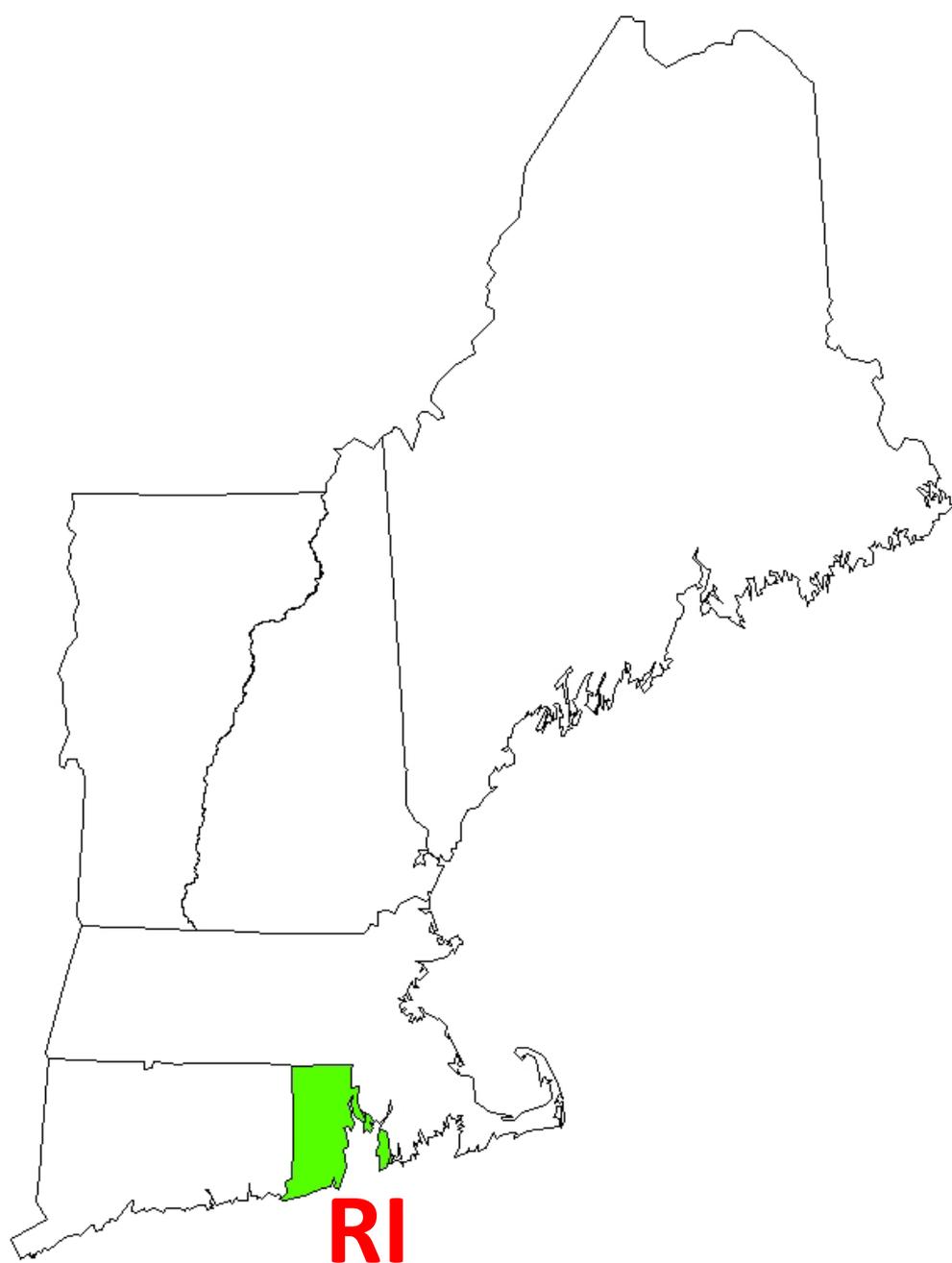
Enforcement by Commission

- RI - No enforcement by Commission but by Division staff only
- NH – Enforcement delegated to Staff with an appeal process if necessary
- ME – Enforcement delegated to Staff w/appeal process
- CT – Enforcement with Staff
- VT – Staff makes recommendation to Board which 95% of time accepts rec
- MA – Enforcement with Staff with appeal process if necessary



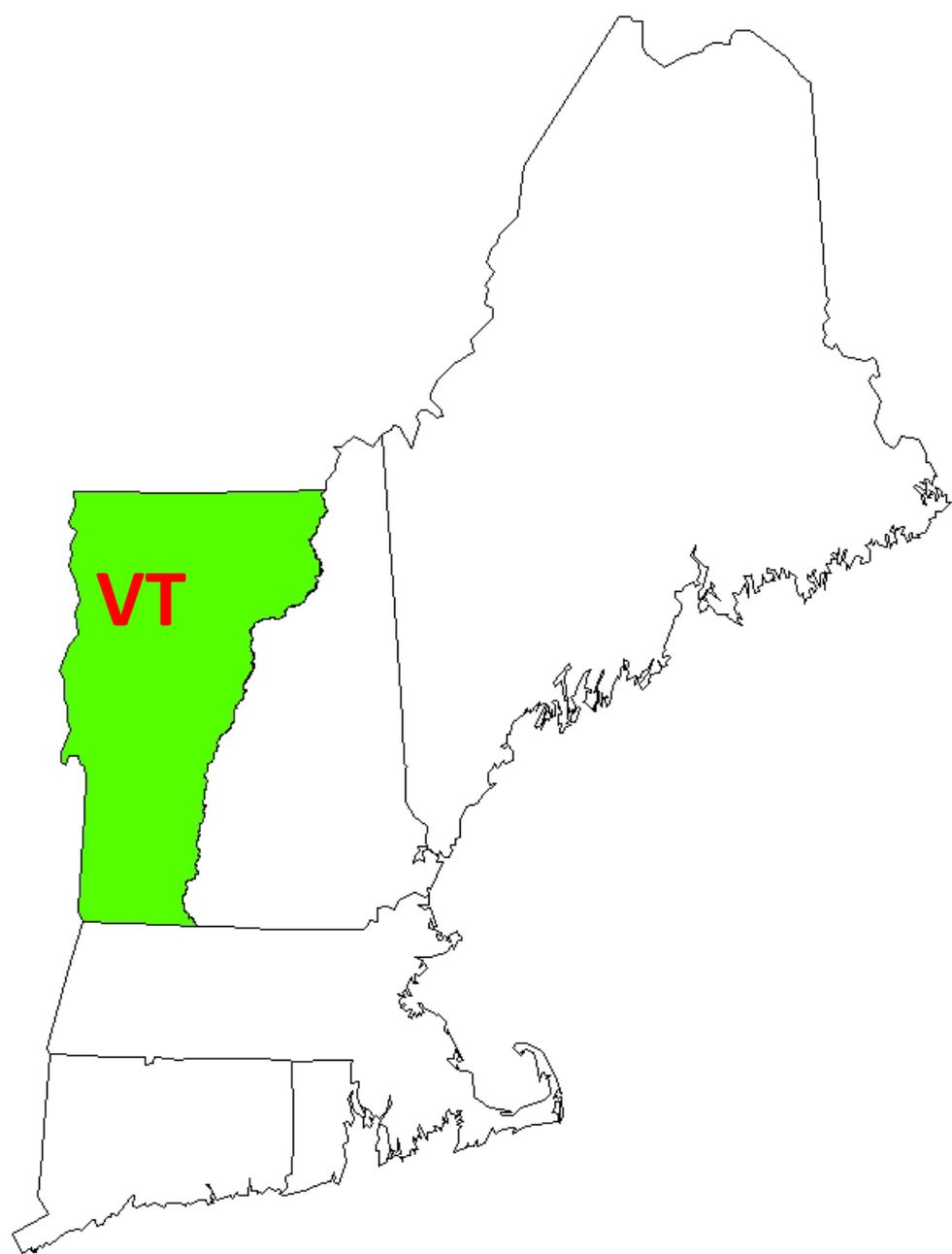
Civil Penalties

- **RI 39-1.2-13. Penalties.**
- **1st offense up to \$350**
- **2nd offense between \$500 and \$2,500 if within 12 months**
- **This is an increase from \$200 and \$200 to \$1,000**
- **Ineligible to bid on state funded, state regulated, state subsidized public works contract**
- **How Long? Forever**



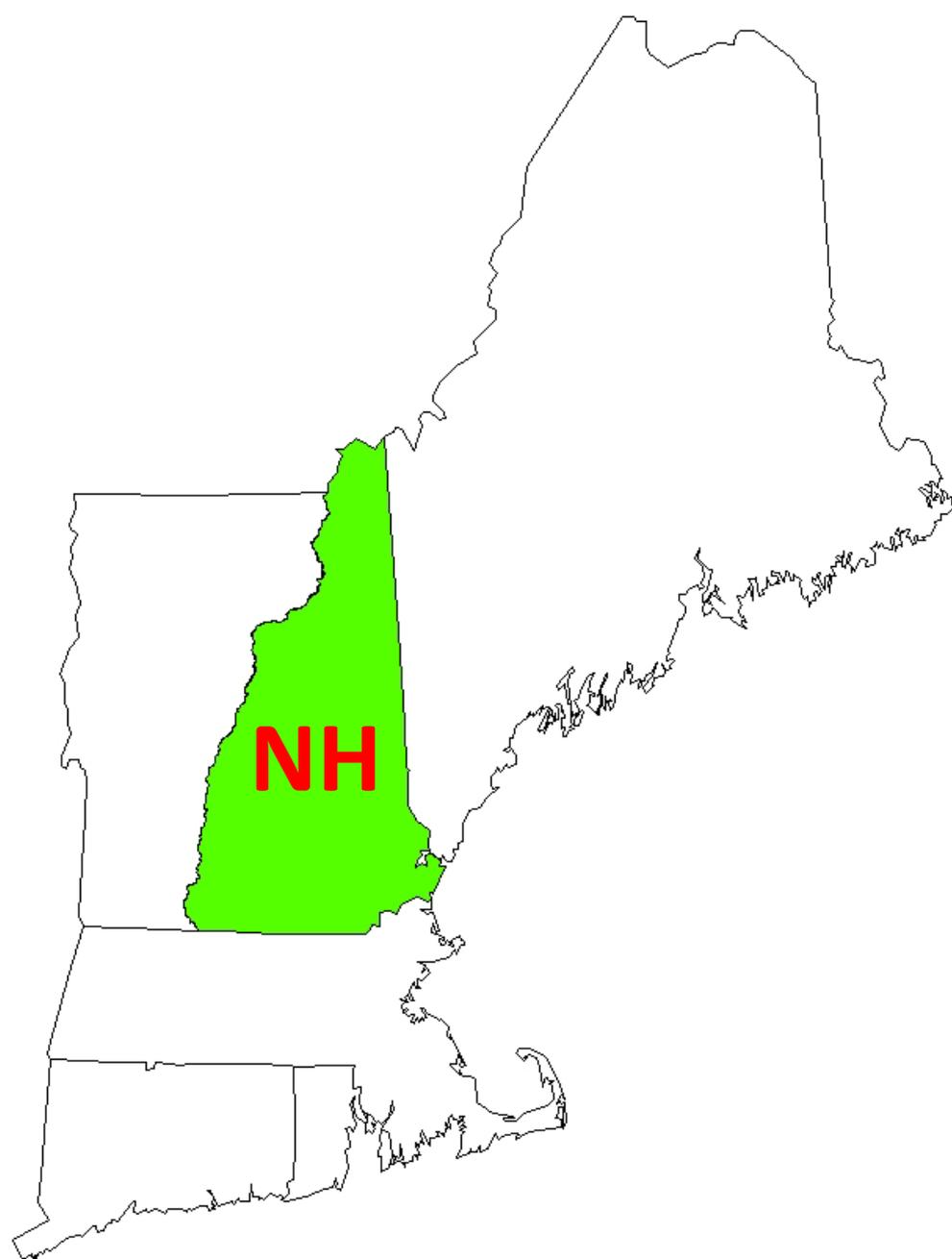
Civil Penalties

- **VT § 7008. Penalties**
- **1st offense up to \$500**
- **2nd offense up to \$1,000 within 12 months**
- **3rd offense up to \$1,500 within 12 months**
- **4th offense up to \$5,000**
- **based on date of violation**
- not when final determination is made



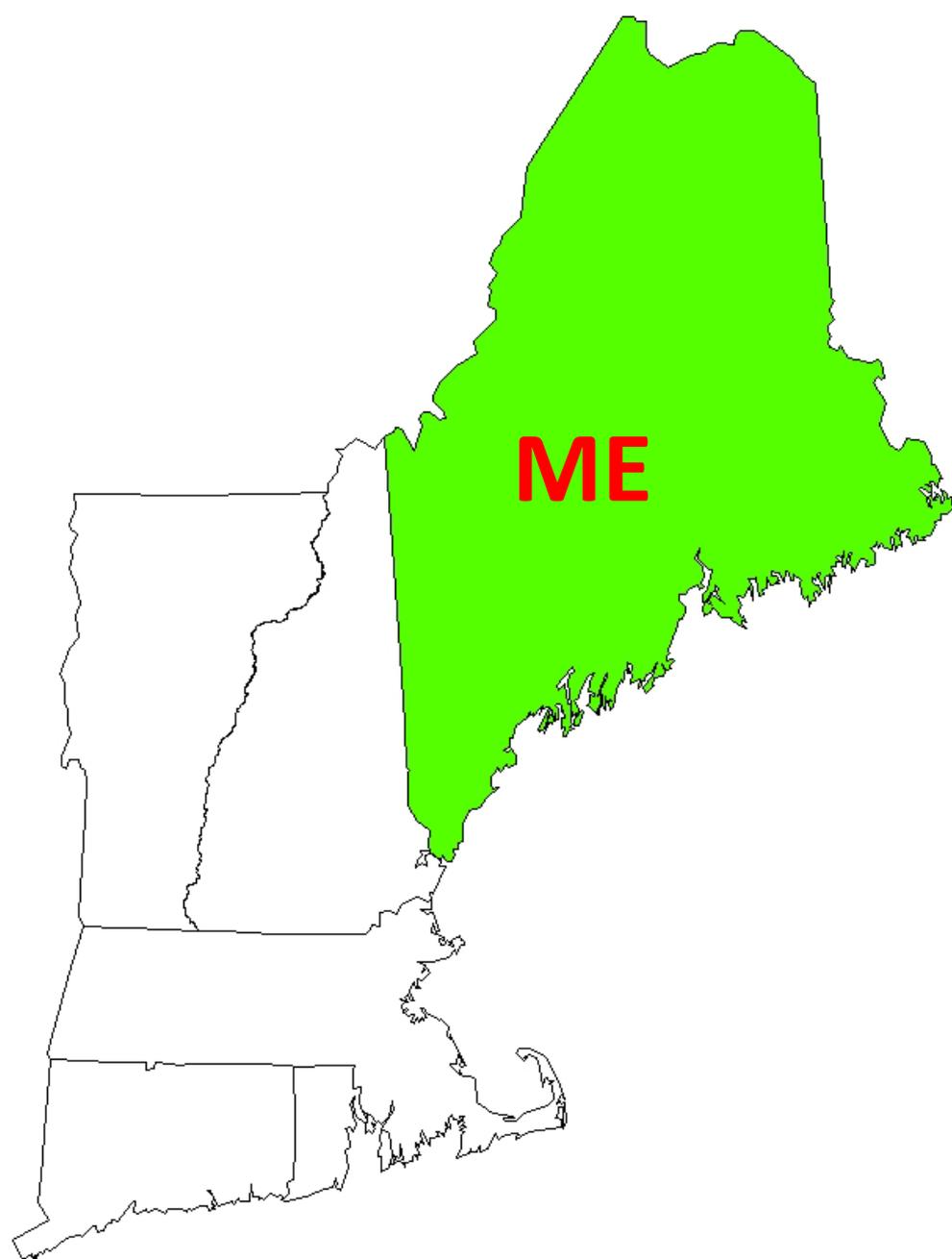
Civil Penalties

- **NH RSA 374:58 (VIII)**
- **1st offense up to \$500 or training approved by the commission (in house)**
- **2nd offense up to \$5,000 if within 12 months or if property damage greater than \$50,000 or if bodily injury**
- **3rd offense and beyond up to \$5,000 if within 12 months**
- **Home owners receive no penalty if digging on own property (otherwise training)**



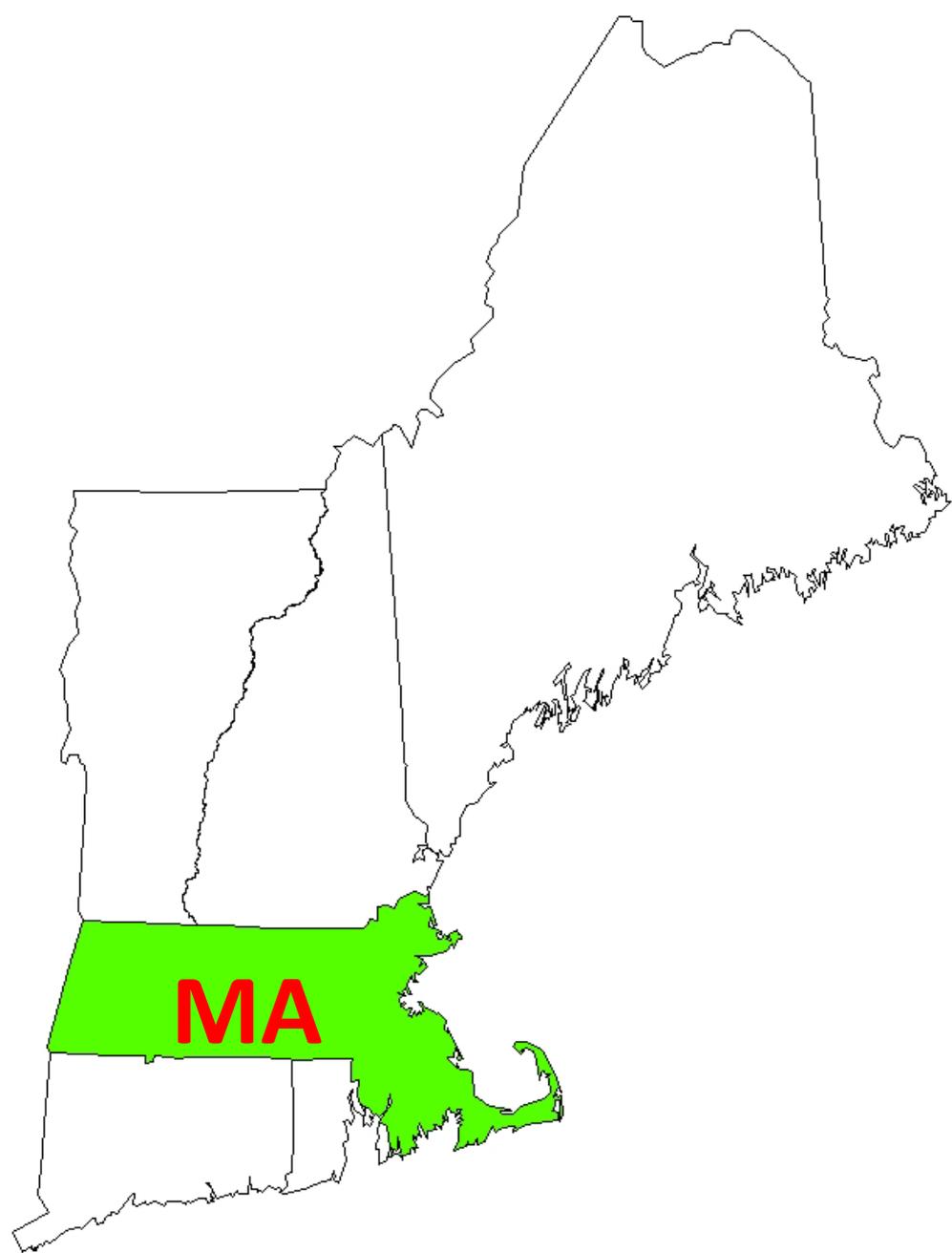
Civil Penalties

- **ME Chapter 895 § 8**
ADMINISTRATIVE PENALTIES
(D) penalty level
- **1st offense up to \$500 or training approved by the commission (in house)**
- **2nd offense up to \$5,000 within 12 months**
- **3rd offense and beyond up to \$5,000 within 12 months**



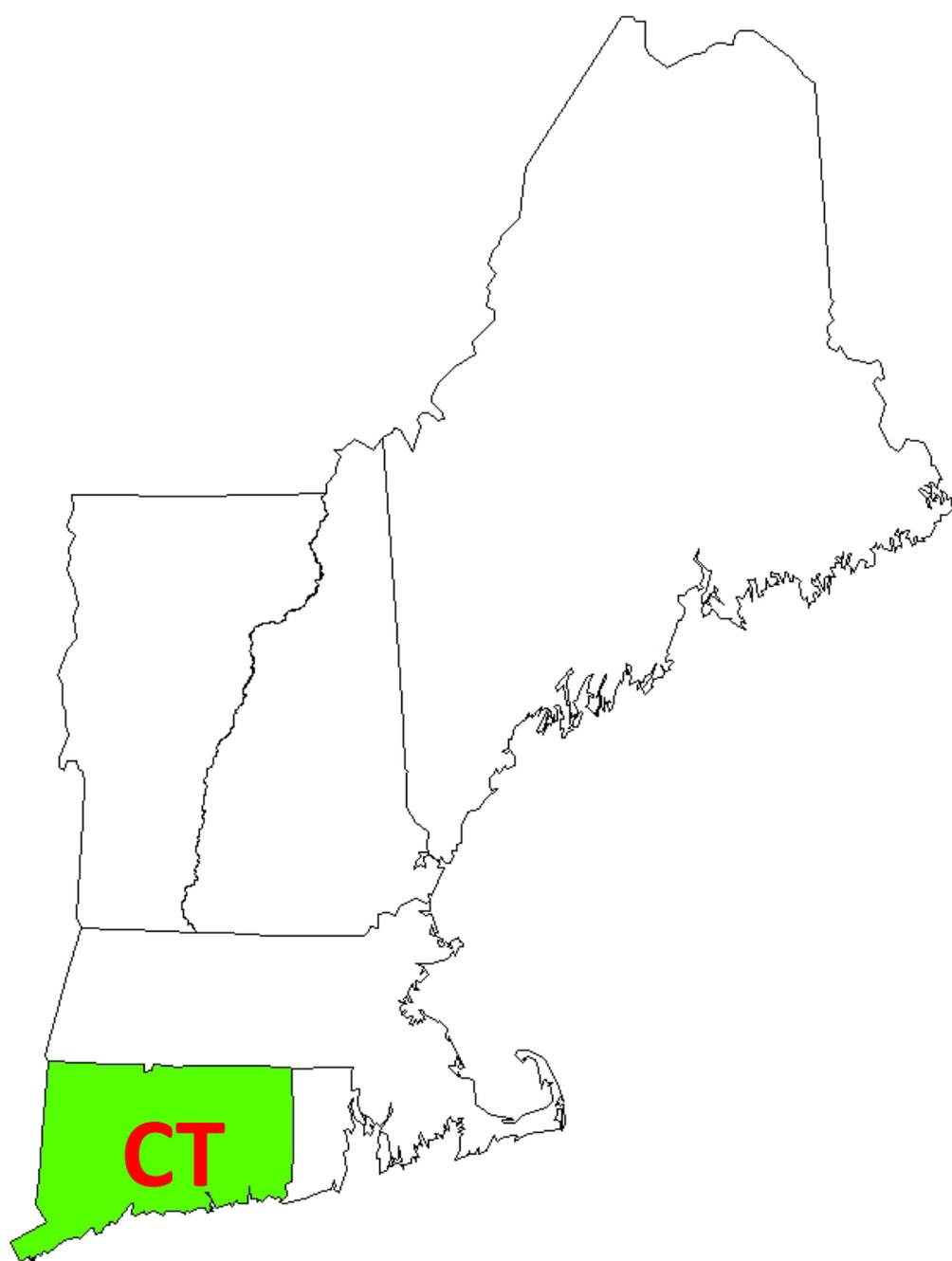
Civil Penalties

- **MA 99.12: Civil Penalties**
- **1st offense up to \$1,000**
- **2nd offense between \$5,000 and \$10,000**
- **If second offense is more than 12 months from the first offense then reverts back to \$1,000**



Civil Penalties

- **CT Sec. 16-345-9.**
Assessment of civil penalties
- **If no bodily injury and or property damage then..**
 - 1st offense \$200**
 - 2nd offense up to \$5,000**
 - 3rd offense up to \$40,000**
- **If property damage is \$3,000 or less penalty is up to \$12,000**
- **If property damage is between \$3,000 and \$20,000 penalty is up to \$20,000**
- **If property damage is \$20,000 or greater penalty is up to \$40,000**



See
you in

THANK YOU

Newport, RI
2011



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