



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

November 20, 2020

Via Email

Ms. Gladys M. Brown-Dutrieuille  
Chairman  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Dear Chairman Brown-Dutrieuille:

On September 10, 2020, a representative of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an evaluation of the Pennsylvania Public Utility Commission's (PAPUC) enforcement of the Pennsylvania State excavation damage prevention law. PHMSA conducted this evaluation pursuant to 49 United States Code (USC) § 60114 and 49 Code of Federal Regulations (CFR) Part 198, Subpart D—State Damage Prevention Enforcement Programs. Based on this evaluation, PHMSA has determined that the enforcement of the Pennsylvania excavation damage prevention law is “adequate.”

PHMSA evaluates a state's excavation damage prevention enforcement program based on the criteria detailed in 49 CFR 198.55 and scores the state's compliance with those criteria. Although PAPUC's enforcement program was deemed “adequate” for calendar year (CY) 2019, this is not a finding by PHMSA that the state program has no room to further improve the program's effectiveness. Accordingly, PHMSA would like to bring to your attention an area of improvement involving the requirements of 49 CFR 198.55(a)(6)(iii)(B). This is one of the evaluation criteria for a state's program and assesses if state law requires 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. As you know, Pennsylvania's Underground Utility Line Protection Law, specifically Act 50, Section 5(8), requires an excavator “to immediately notify 911 and the facility owner if the excavation damage results in the escape of any flammable, toxic or corrosive gas or liquid which endangers life, health or property.” The statutory mandate found in 49 USC 60114(d)(3)(b), which is codified at 49 CFR 198.55(a)(6)(iii)(B) does not provide discretion for excavators to determine what might, or might not, endanger life, health or property. The mandate is “to promptly report to other appropriate authorities by calling the 911 emergency telephone number” if the “damage results

Chairman Brown-Dutrieuille

Page 2

in the escape of any flammable, toxic, or corrosive gas or liquid.” 49 USC 60114(d). PHMSA encourages the PAPUC to evaluate how it may improve its program in this regard and provide an update to PHMSA relative to this issue within 60 days from receipt of this letter

PHMSA appreciates your dedication to safety. As you are aware, excavation damage continues to be a leading cause of pipeline failures, some of which have resulted in fatalities, serious injuries, and environmental damage. Nationwide statistics show that effective enforcement of state damage prevention laws reduces excavation damage and pipeline incidents, resulting in enhanced public safety.

Should you or your staff have any questions regarding this letter, please contact David Appelbaum, PHMSA State Evaluator, at (202) 617-6329 or by email at [David.Appelbaum@dot.gov](mailto:David.Appelbaum@dot.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Tahamtani', with a long, sweeping horizontal line extending to the right.

Massoud Tahamtani  
Deputy Associate Administrator, Policy and Programs  
Office of Pipeline Safety

cc: Rob Horensky, Manager, Safety Division, Pennsylvania Public Utility Commission