



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

1200 New Jersey Avenue, SE  
Washington, DC 20590

August 10, 2020

Via Email

Mr. Anthony Manni  
Deputy Administrator  
Rhode Island Public Utilities Commission  
89 Jefferson Blvd.  
Warwick, RI 02888

Dear Deputy Administrator Manni:

On July 31, 2020, a representative of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an evaluation of the Rhode Island Public Utilities Commission's (Commission) enforcement of the Rhode Island excavation damage prevention law. PHMSA conducted this evaluation pursuant to 49 United States Code § 60114 and 49 Code of Federal Regulations Part 198, Subpart D -- State Damage Prevention Enforcement Programs. Based on this evaluation, PHMSA has determined that the enforcement of Rhode Island's excavation damage prevention law is "adequate."

Notwithstanding this determination, PHMSA would like to bring to your attention an issue involving the requirements of 49 CFR 198.55(a)(6)(iii)(B). This is one of the evaluation criteria for states' excavation damage prevention enforcement program and requires that the program include a requirement that if an excavator 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 or another emergency telephone number. As you know, Rhode Island General Law § 39-1.2-11 identifies a requirement, in part, to call 911 if an excavation damage "presents an immediate danger to life and health of employees or pedestrians in the surrounding area." Obviously, certain damages causing a release of a PHMSA regulated gas or hazardous liquid may not present an immediate danger to life and health as identified in § 39-1.2-11 and not warrant a call to 911. This is potentially in conflict with the Federal regulation. PHMSA recognizes the Commission's current efforts to enact legislative changes to address this concern and appreciates a response relative to this issue within 60 days from the date of this letter.

As you may be aware, excavation damage continues to be a leading cause of pipeline failures, some of which have resulted in fatalities, serious injuries, and environmental damage.

Deputy Administrator Manni

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Nationwide statistics show that effective enforcement of state damage prevention laws reduces excavation damage and pipeline incidents, resulting in enhanced public safety.

In closing, PHMSA appreciates your dedication to safety. Should you have any questions regarding this letter, please contact Mr. David Appelbaum, PHMSA State Evaluator, at (202) 617-6329 or by email at David.Appelbaum@dot.gov.

Sincerely,

A handwritten signature in blue ink, consisting of stylized, overlapping loops and curves, positioned above the printed name and title.

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

cc: Robert Bailey, Supervising Civil Engineer,  
Rhode Island Public Utilities Commission