



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

1200 New Jersey Avenue, SE
Washington, DC 20590

July 23, 2020

Via Email

Mr. Dave Danner
Chairman
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

Dear Chairman Danner:

On June 9, 2020, a representative of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an evaluation of the Washington Utilities and Transportation Commission (Commission) enforcement of the Washington 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 Washington State'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' 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, RCW 19.122.50, requires that if a damage causes an emergency condition, the excavator causing the damage shall alert the appropriate local public safety agencies. RCW 19.122.020 defines an "Emergency" as any condition constituting a clear and present danger to life or property, or a customer service outage. Obviously, certain damages causing a release of PHMSA regulated gas or hazardous liquid may not constitute an "emergency" as defined in RCW 19.122.020 and not require a call to 911. This is potentially in conflict with the Federal regulation. PHMSA appreciates a response relative to this issue within 60 days from the date of this letter.

In closing, 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.

Chairman Danner

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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.

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: Sean Mayo, Director, Pipeline Safety Division,
Washington Utilities and Transportation Commission