



## 10th Annual Report to the Governor and the General Assembly of Maryland



2021

### MARYLAND UNDERGROUND FACILITIES DAMAGE PREVENTION AUTHORITY

2020 State Damage Prevention  
Program Review

The Maryland Underground Facilities Damage Prevention Authority (the Authority)

7223 Parkway Drive, Suite 100, Hanover, Maryland 21076

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**On the cover:** 2020 natural gas explosion event August 10, 2019 in Baltimore City, Maryland....

The August explosion that leveled these rowhomes in a Northwest Baltimore neighborhood, killing two, was caused by a large natural gas buildup the day after a contractor worked on an HVAC system in one of the homes, city officials said Tuesday.



**Maryland Underground Facilities  
Damage Prevention Authority**

7223 Parkway Drive, Suite 100  
Hanover, MD 21076  
(410) 782-2102

February 2021

Michael I. Jewell – Columbia Gas  
*Facility Owner Representative*  
**Chairman**

Paul Kwiatkowski - Howard County  
*MACo Representative*  
**Vice-Chairman**

Tamara Neal - Washington Gas  
*Facility Owner Representative*  
**Treasurer**

Kellyn H. Ruddo - OCC Inc. *One*  
*Call Center Representative*  
**Secretary**

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*Members*

Amber Brengel  
Beltsville Construction Supply  
*Contractor Representative - PWCA*

Joyce P. Brooks  
Retired  
**Public Member**

David Gaines  
Gaines & Company, Inc.  
*Contractor Representative - AUC*

Eric L. Phillips  
Utiliquist  
*Contract Locator Representative*

Derek Shreves  
Town of Sykesville  
*MML Representative*

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Susan A. M. Stroud *Deputy*  
*Director*  
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The Honorable Larry Hogan  
State House  
100 State Circle  
Annapolis, Maryland 21401

The Honorable William Ferguson  
President  
Senate of Maryland  
State House, H-107  
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones  
Speaker  
Maryland House of Delegates  
State House, H-101  
Annapolis, Maryland 21401

Re: Report Required by Public Utilities Article  
§12-144 (MSAR#)

Ladies and Gentlemen:

As the 2021 Chair of the Maryland Underground Facilities  
Damage Prevention Authority, I submit this Tenth Annual Report  
to you. This document serves as an outline of the Authority's  
activities and accomplishments for the 2020 calendar year.

Sincerely,

Michael I. Jewell  
Chairman

cc: Sarah Albert, Department of Legislative Services

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## About the Maryland Authority

**T**he Maryland Underground Facilities Damage Prevention Authority (The Authority) was established in 2010 by the Maryland legislature (Senate Bill 911); which updated the existing Maryland Underground Facilities Damage Prevention Law, more commonly known as the “Miss Utility” or 811 law. The Authority is a peer driven organization, that has been authorized to enforce the Miss Utility law in the form of mandatory training or fines for violators.

The Authority is an agency of the Executive Branch of Maryland State government; and acts as a quasi-judicial body governed by APA rules when reviewing and hearing violations of the 811 law. The Authority also has the ability to assess civil penalties. All fines collected by the Authority are used solely to underwrite its Educational and Outreach activities.

The Authority is self-funded through a nominal surcharge on “Miss Utility” tickets. The Authority also competes annually for the U.S. Department of Transportation’s – Pipeline and Hazardous Materials Safety Administration (PHMSA) – State Damage Prevention grants, that help to support some Authority activities. The Authority does not receive any state funds or appropriations.

The nine members of the Authority are appointed by the Governor to serve staggered two-year terms. As Authority members, these individuals sit as Administrative judges, when hearing and determining probable violations. They do not receive any compensation or any reimbursement for expenses.

### MARYLAND AUTHORITY MISSION STATEMENT<sup>1</sup>

**T**he Authority seeks to protect underground facilities of owners in the State of Maryland from destruction, damage, or dislocation to prevent: death or injury to individuals; property damage to private and public property; and the loss of services provided to the general public.

To accomplish this, the Authority seeks to promote, enhance, and assist the State of Maryland in enforcing the Maryland underground utility damage enforcement, effective public education, and the constant knowledge that public safety through reduced damages is our prime concern.

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<sup>1</sup> Pursuant to the legislative intent enacted by the Maryland General Assembly, as part of the State Underground Facilities law, Article Public Utilities, Title 12, Section 12-102, the mission statement adopted by the Authority in 2010.

**2021<sup>2</sup>**  
**MARYLAND UNDERGROUND FACILITIES**  
**DAMAGE PREVENTION**  
**AUTHORITY MEMBERS**

|  |   |                                    |
|--|---|------------------------------------|
| Joyce P. Brooks<br>Exp. 9/30/2021                          | General Public                            | Self-employed                      |
| David Gaines<br>Exp. 09/30/2022                            | Assoc. Utility Contractors of<br>Maryland | Gaines and Company                 |
| Paul Kwiatkowski<br><i>Vice Chairman</i><br>Exp. 9/30/2021 | MACo                                      | Howard County                      |
| Derek Shreves<br>Exp. 9/30/2022                            | Maryland Municipal League                 | Town of Sykesville<br>Public Works |
| Michael J. Jewell<br><i>Chairman</i><br>Exp. 9/30/2022     | Underground Facility Owner                | Columbia Gas                       |
| Tamara Neal<br><i>Treasurer</i><br>Exp. 9/30/2021          | Underground Facilities Owner              | Washington Gas                     |
| Erik L. Philips<br>Exp. 9/30/2021                          | Underground Utility Locator               | Utiliquest                         |
| Kellyn H. Ruddo<br><i>Secretary</i><br>Exp. 9/30/2021      | One Call Centers                          | One Call Concepts, Inc.            |
| Amber D. Brengel<br>Exp. 9/30/2021                         | Public Works Contractors<br>Association   | Beltsville Construction Supply     |

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<sup>2</sup> Public Utilities Article §12-107. Membership – All Authority members are appointed by the Governor of Maryland and must represent specific entities and organizations. The Authority strives for diversity in its membership (geographically, racially and sexual orientation) in order to best represent the State of Maryland and its people.

## 2021 Authority Meeting Calendar

Miss Utility Conference Center  
7223 Parkway Drive,  
Hanover, Maryland

ALL OPEN SESSIONS BEGIN AT 9:00 A.M.  
(Hearings on Probable Violations are held during the open portion of the meetings)

|                  |   |  |
|------------------|---|--|
| Wednesday        | January 6 <sup>th</sup>                           | Open Session & Closed Executive Session<br>(1 <sup>st</sup> Quarter Business Mtg & Election of Officers) |
| General Assembly | January 13 <sup>th</sup> - April 14 <sup>th</sup> | Annapolis, MD  |
| Wednesday        | February 3 <sup>rd</sup>                          | Public Hearings & Closed Executive Session   |
| Wednesday        | March 3 <sup>rd</sup>                             | Closed Executive Session   |
| Wednesday        | April 7 <sup>th</sup>                             | Open Session & Closed Executive Session<br>(2 <sup>nd</sup> Quarter Business Mtg)                        |
| Wednesday        | May 5 <sup>th</sup>                               | Public Hearings & Closed Executive Session   |
| Wednesday        | June 2 <sup>nd</sup>                              | Closed Executive Session   |
| MML Conference   | June 27 <sup>th</sup> – 30 <sup>th</sup>          | Ocean City, MD   |
| Wednesday        | July 7 <sup>th</sup>                              | Open Session & Closed Executive Session<br>(3 <sup>rd</sup> Quarter Business mtg.)                       |
| Tawes Crab Feast | July 21 <sup>st</sup>                             | Crisfield, MD  |
| Wednesday        | August  | Cancelled/Office Closed  |
| MACo Conference  | August 18 <sup>th</sup> – 21 <sup>st</sup>        | Ocean City, MD   |
| Wednesday        | September 1 <sup>st</sup>                         | Public Hearings & Closed Executive Session   |
| Wednesday        | October 6 <sup>th</sup>                           | Open Session & Closed Executive Session<br>(4 <sup>th</sup> Quarter Business Mtg.)                       |
| CGA Conference   | October 12 <sup>th</sup> – 15 <sup>th</sup>       | Orlando, FL  |
| GCDPC            | October 26 <sup>th</sup> - 29 <sup>th</sup>       | Ocean City, MD   |
| Wednesday        | November 3 <sup>rd</sup>                          | Public Hearings & Closed Executive Session   |
| Wednesday        | December 1 <sup>st</sup>                          | Closed Executive Session   |

## 2020 Challenges

As with all things, Covid-19 has had an immense impact on the Authority. Our offices have been closed since March of 2020, with all staff working remotely. While this arrangement has worked well, it does not replace the day-to-day personal interaction which makes for smoother communication and a creative atmosphere. Many of the Authority's ongoing projects have been slowed due to the limited availability of project consultant's during the pandemic.

Of great concern to the Authority is the marked reduction of NPV's filed in 2020. Just forty-five (45) Notices of Probable (NPVs) were submitted compared to sixty-one (61) in 2019 and ninety-four (94) in 2018. The 2020 NPV breakdown is as follows: Twenty-five (25) NPVs were file by Facility Owners (18 each; §12-124 – No Ticket; 7 each; §12-127 – Duties of Excavator). One encouraging change was a marked increase in the number of NPVs filed by Contractors. Nineteen (19) were filed in 2020 with all of them being marking violations. The Authority also had one (1) NPV submitted by a Homeowner (§12-124 – No Ticket). Some of this could be Covid-19 related, but we have observed this trend over the past three years. Unfortunately, there is little the Authority can do to compel companies to file NPVs. This will remain the case until mandatory reporting becomes part of the statute. However, there is little interest on the part of the Facility Owners to see this requirement become law.

Though ticket volumes remain at a pre-Covid high, the industry has been severely affected by key shortages in the contract locating arena, which is of course is the driver of construction schedules. There is growing concern on the part of utility contractors and facility owners about the situation. Marking delays are very costly, both in overhead and timelines. Covid has had a direct impact on the locating industry in that this is an in-person activity which must adhere to specific rules laid out in the Title XII Statute and the One-Call Center's ticket rules and requirements. Unfortunately, industry workers continue to get sick and must quarantine and, in many cases, there is no-one available to fill-in for the day or days the technician is unavailable. As a reactive enforcement agency, the Authority has little ability to affect outcomes when these marking delays occur.

During the course of a normal year, the Authority participates in a number of national, state, and local conferences, provides insight, and updates to organizations and participates in training events. A majority of these activities were either cancelled or postponed, therefore the Authority's usual active outreach programs and efforts were seriously curtailed. Once things begin to normalize, the Authority fully intends to re-double its outreach and in-person educational efforts.



## 2020 Accomplishments

- The Authority met seven (7) times during the 2020 calendar year (down from eleven (11) in 2019). Of the seven meetings two (2) were in person and the other five (5) were conducted via Zoom. Four (4) of these meetings were open to the public as required by statute and three (3) were Closed Executive sessions held for personnel and judicial deliberations. In addition, one formal hearing was held at the March open meeting. There have also been six (6) requests for hearings, which have not yet been scheduled. The Authority reviewed forty-two (42) probable violations during this period. Of those forty-two NPV's, nine (9) were carried over from 2019. The remaining thirty-three (33) violations were received, reviewed, and acted upon in 2020. Three (3) NPV's were dismissed for insufficient evidence and two (2) NPV's were withdrawn by the complainant.
- The total fines assessed in 2020 were \$41,360. The Authority also recommended Title XII Damage Prevention Safety training to all companies in violation of the statute or required written policy statements in order to mitigate internal shortfalls to their damage prevention programs. The Authority provides Damage Prevention Training via the MD/DC DPC at no charge to the violator). In calendar year 2020, the Authority has collected \$39,440 in fines and spent \$27,140 on Education and Outreach Initiatives. These dollar figures represent an improvement in fine collections over the past several years. Generally, the Authority is able to recoup approximately 50% of the exacted fines.
- Despite an uptick nationwide in underground facility damages, Maryland remains one of the states with the lowest "hit rate." – .17%; percent damages per 1000 Miss Utility tickets last reporting period (2020).
- The Authority received a \$97,000 PHMSA - State Damage Prevention (SDP) grant which was used to complete work on the new website launch and the development of two (2) mobile apps (android & apple), which will allow easy access for industry workers in the field who wish to look up sections of the Title XII statute, obtain up to the minute information about damage trends, pay fines and even file NPV's.
- The remainder of the 2020 grant will be used to develop a testing platform for the Authority's on-line training program. Since education and the enforcement are key elements of the Maryland state damage prevention program, the Damage Prevention Training program must be as comprehensive as current funding levels allow. Plans for the platform include instructive videos, section overviews of the Title XII statute, section quizzes, and a certificate of course completion. All of these features will be available on the Authority website free of charge to any interested party in both English and Spanish. The estimated launch of the program will be the fall of 2021. Additional funds are being applied for in the 2021 PHMSA SDP grant to complete the project.

- The Pipeline and Hazardous Material Safety Administration (PHMSA) which is a division of the United States Department of Transportation, once again evaluated the Authority for the 2018 State Damage Prevention Program for “Adequacy” in 2019. This review was the fourth annual evaluation for the Authority. Once again, the Authority received an “Adequate” rating (highest level) for its program, scoring 252 out of 258 points.
- Our major focus for 2019, which continued into 2020, was the complete overhaul of the Authority’s website which will be more robust, interactive with instructional videos and a number of safety related subjects. The Authority launched their new website on August 1, 2020 (811 day). Since the launch, [www.mddpa.org](http://www.mddpa.org) has received an astonishing number of visits, which last at least 3 minutes, which by industry standards is considered successful. The website is to have a Case Management System (CSM) tool built into it, which would allow for ease in reporting violations, information sharing and report generation. Unfortunately, the CMS portion of the project has been delayed due to issue with data corruption and coding issues. Late 2021 is the new target. This extensive undertaking was made possible by the Authority’s success in obtaining grants from PHMSA for special projects.
- The Authority’s emphasis continues to focus on enforcement as required by changes to the Federal Rules governing the State-based Compliance programs (Rule 9). As a result, a permanent funding source for the Authority’s day-to-day operations was needed, since the Authority is an independent agency and does not receive taxpayer funding.<sup>3</sup> Thus, during the ten (10) month reporting period in 2020 the Authority received \$188,554.83, which was a \$14, 210.68 increase of the previous year.
- The Title XII law has been in effect for nearly ten (10) years, with very few changes over the ensuing years. In order to modernize the law and correct unexpected consequences or deficiencies in the statute, the Authority filed SB 877 (Sen. Feldman, D-Montgomery County – Dist. 15) during the current legislative session. The Initiative also had a companion bill in the House of Delegates HB1330, sponsored by Economic Matters Chairman, Dereck Davis, D- Prince Georges County – Dist. 25. A working group comprised of the Maryland subscriber’s group (underground facility owners/operators) and other stakeholders; the Authority undertook the facilitation of the complete overhaul of the Title XII statute. Senate Bill 877 was passed during the 2020 session of the MD legislature. However, suffered a veto by the Governor due to fiscal concerns. To-date, Senate Bill 877 has had a successful over-ride vote in the Senate and is awaiting action in the House. If SB 877 prevails, the Authority will begin the task of educating the industry on the pertinent changes to the law, utilizing its new on-line tools as well as traditional literature and training sessions once in person meetings resume.

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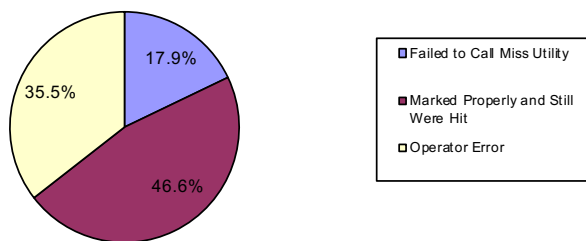
<sup>3</sup> The 2016 Maryland legislature approved the Authority’s request for a dedicated revenue stream (HB696/SB480) which is generated by a .05 cent surcharge on all out-going Miss Utility tickets.

## 2018 – 2019 Damages in Maryland<sup>4</sup>

**Damages for 2019**

|                                    |     |       |
|------------------------------------|-----|-------|
| Failed to Call Miss Utility        | 168 | 17.9% |
| Marked Properly and Still Were Hit | 437 | 46.6% |
| Operator Error                     | 333 | 35.5% |
| Total                              | 938 | 100%  |

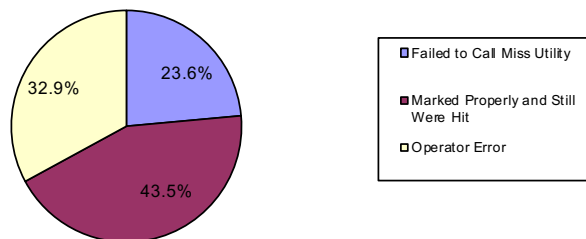
**Damages for State  
2019**



**Damages for 2018**

|                                    |      |       |
|------------------------------------|------|-------|
| Failed to Call Miss Utility        | 237  | 23.6% |
| Marked Properly and Still Were Hit | 438  | 43.5% |
| Operator Error                     | 331  | 32.9% |
| Total                              | 1006 | 100%  |

**Damages for State  
2018**



<sup>4</sup> Source: Maryland Public Service Commission Annual Report.

## 2011 – 2019 Damage Trend Reports<sup>5</sup>

Table A

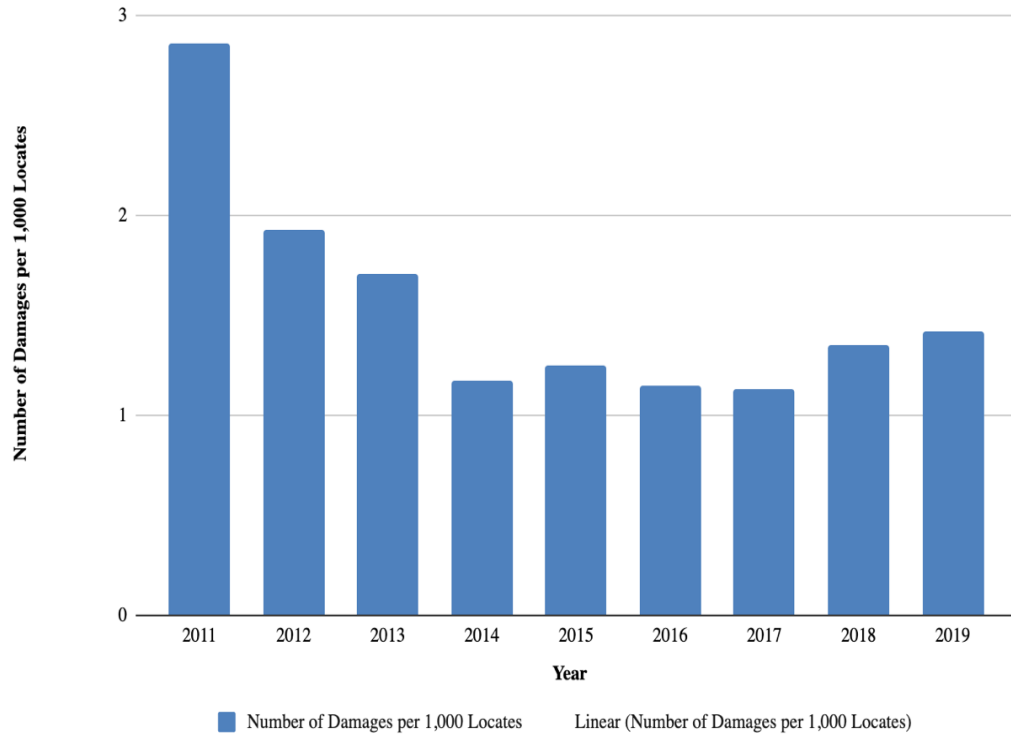
| Number of Damages per 1,000 Locates | YEAR |
|-------------------------------------|------|
|                                     |      |
|                                     |      |
| 2.86                                | 2011 |
| 1.93                                | 2012 |
| 1.71                                | 2013 |
| 1.17                                | 2014 |
| 1.25                                | 2015 |
| 1.15                                | 2016 |
| 1.13                                | 2017 |
| 1.35                                | 2018 |
| 1.42                                | 2019 |
|                                     |      |

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<sup>5</sup> Source: Maryland Public Service Commission 2019 Annual Report.

Table B

### Excavation Damage Trend



## 2020 County by County Damages<sup>6</sup>

### 2020 MD/DC Subscribers Damage Summary Report

County Annual

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<sup>6</sup> Source: Miss Utility Voluntary Damage Reporting Program.

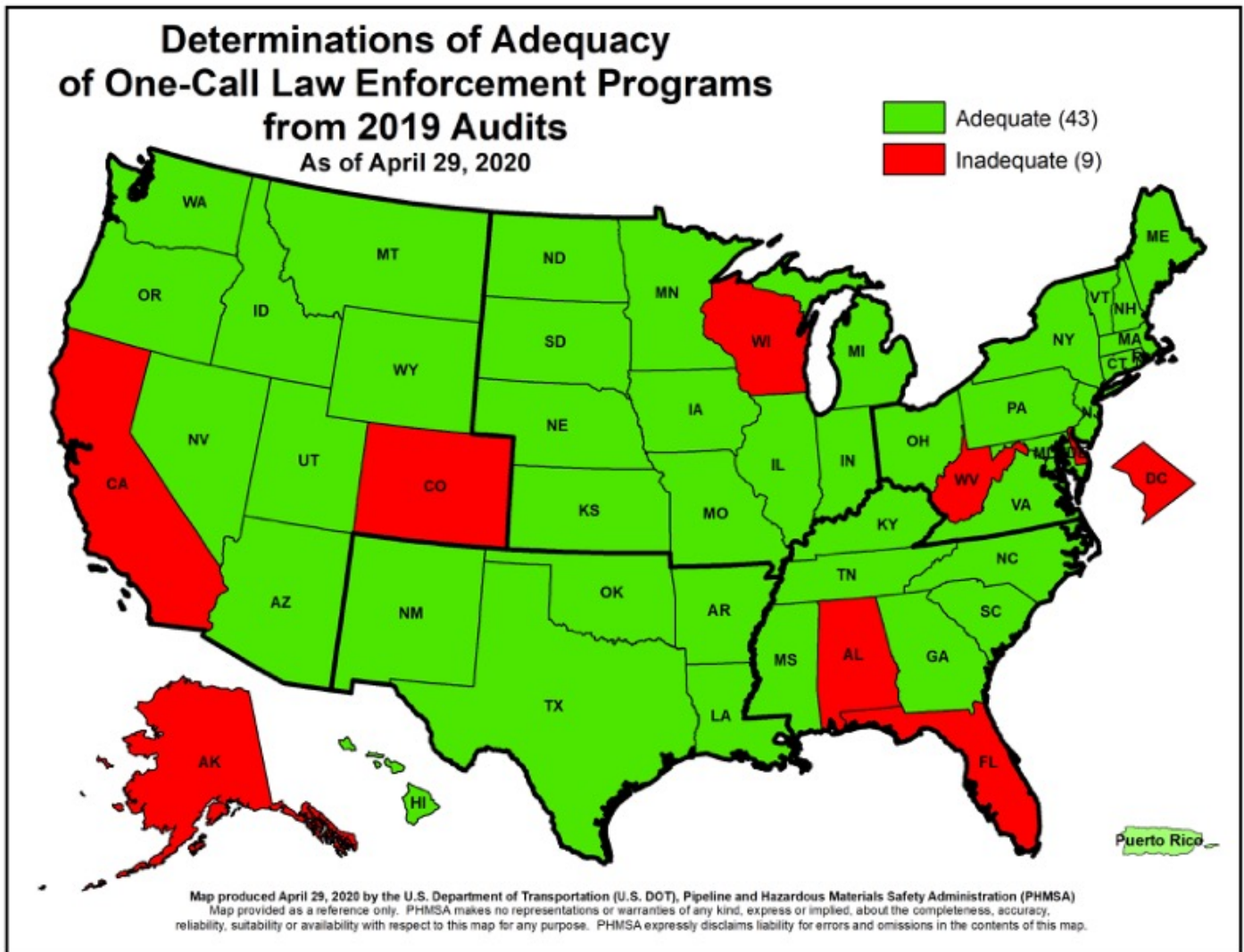
|                              |           |               |     |                     |        |        |       |  |     |
|------------------------------|-----------|---------------|-----|---------------------|--------|--------|-------|--|-----|
| Member Reported Tickets      | 1,305,960 | 254           | 656 | 255                 | 323    | 263    | 69    |  | 910 |
| Call Center Released Tickets | 5,367,378 | Total Damages |     | Percentage by Cause |        |        |       |  |     |
| Reporting %                  | 24.33%    | 910           |     | 28.02%              | 35.49% | 28.90% | 7.58% |  |     |

|                  |           |                                     |      |      |      |  |      |
|------------------|-----------|-------------------------------------|------|------|------|--|------|
|                  | # Tickets | Damages per 10,000 Tickets Received |      |      |      |  |      |
| Reported Tickets | 1,305,960 | 1.95                                | 2.47 | 2.01 | 0.53 |  | 6.97 |
| Total Tickets    | 5,367,378 | 0.48                                | 0.60 | 0.49 | 0.13 |  | 1.70 |

|                  |           |                                    |      |      |      |  |      |
|------------------|-----------|------------------------------------|------|------|------|--|------|
|                  | # Tickets | Damages per 1,000 Tickets Received |      |      |      |  |      |
| Reported Tickets | 1,305,960 | 0.20                               | 0.25 | 0.20 | 0.05 |  | 0.70 |
| Total Tickets    | 5,367,378 | 0.05                               | 0.06 | 0.05 | 0.01 |  | 0.17 |

## Federal Enforcement Programs Audit

7



<sup>7</sup> Source: USDOT – Pipeline and Hazardous Materials Safety Administration, 2020 Audit Results





U.S. Department  
of Transportation

Pipeline and Hazardous  
Materials Safety  
Administration

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

JAN 06 2020

Overnight Express Mail

Mr. Jim Barron  
Executive Director  
Maryland Underground Facilities Damage Prevention Authority  
7223 Parkway Drive, Suite 100  
Hanover, Maryland 21076

Dear Executive Director Barron:

On November 21, 2019, a representative of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an evaluation of Maryland's enforcement of its 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 Maryland's excavation damage prevention law is "adequate."

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. 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 and encourages the Maryland Underground Facilities Damage Prevention Authority to continue to support damage prevention outreach initiatives that promote 811 and safe digging practices. Should you have any questions regarding this letter, please contact Dr. Christie Murray, our Director of Outreach and Engagement, at (202) 366-4996 or by email at [Christie.Murray@dot.gov](mailto:Christie.Murray@dot.gov).

Sincerely,

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

cc: Ms. Susan Ann Mary Stroud, Deputy Director, Maryland Underground Facilities Damage Prevention Authority



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