

Pipeline Inspection, Protection, Enforcement and Safety (PIPES) Act 9 Elements

(1) Participation by operators, excavators, and other stakeholders in the development and implementation of methods for establishing and maintaining effective communications between stakeholders from receipt of an excavation notification until successful completion of the excavation, as appropriate.

EDPI proposes that Element #1 focus is strengthening the partnership built in Element 2 and building on success.

(2) A process for fostering and ensuring the support and partnership of stakeholders, including excavators, operators, locators, designers, and local government in all phases of the underground facilities locate program.

EDPI recommends that Element # 2 be the beginning – building partnerships. *Citizens Committee Damage Prevention*

(3) A process for reviewing the adequacy of a pipeline operator's internal performance measures regarding persons performing locating services and quality assurance programs.

(4) Participation by operators, excavators, and other stakeholders in the development and implementation of effective employee training programs to ensure that operators, the one-call center, the enforcing agency, and the excavators have partnered to design and implement training for the employees of operators, excavators, and locators.

EDPI suggests that Elements #3 and #4 are interrelated and that #3 precedes #4

5) A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities. . *Citizens Committee Damage Prevention*

(6) A process for resolving disputes that defines the State authority's role as a partner and facilitator to resolve issues.

(7) Enforcement of State damage prevention laws and regulations for all aspects of the damage prevention process, including public education, and the use of civil penalties for violations assessable by the appropriate State authority.

EDPI suggests that Elements #6 and #7 are also interrelated

(8) A process for fostering and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground pipeline locating capability, and gathering and analyzing information about the accuracy and effectiveness of locating programs.

9) A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews.

**UTC Damage Prevention Recommended Action Plan
that is doable and satisfies the 9 elements of the PIPES Act of 2006**

Steps that have been taken

1. Establish Phase 1 of Excavator Complaint Review

Encourage the use of the UTC's toll-free consumer complaint line for purposes of taking complaints from excavators regarding timeliness and accuracy of locates performed by regulated owners of underground utilities. UTC complaint investigators gather and share information from both sides which fosters an environment for dispute resolution. Clear violations of state law will be noted and tracked. The complaint phone line is 1-800-562-6150/

2. Formalize UTC/Attorney General Involvement in the Dig Law Offender Escalation Process

Formalize a process for involving the UTC/Attorney General in communicating with excavators who have allegedly violated the state dig law. Currently, most pipeline operators have a process for escalating the attention on an excavator who repeatedly violates the state's dig law. The UTC has worked out a process for referring to the Attorney General's office repeat dig law offenders for purposes of sending a stern warning letter. Referrals from pipeline companies should include when and where the violations occurred, allegations of wrongdoing and a description of the threat or damage that occurred. These referrals should go to David Lykken (dlykken@utc.wa.gov, 360-664-1219).

Steps to be taken in 2008

3. Clarify the Meaning/Interpretation of the Dig Law

The state's dig law is not a clearly written law. Responsibilities of the excavator and underground utilities are intertwined through the act, making the law difficult to read and understand. As a result, not everyone is in agreement on what exactly the law says on some key points. The UTC is preparing a rewritten version of Chapter 19.122 RCW which is intended to not change the law but rather state more clearly what the UTC perceives as the contents of that chapter. Future rewrite of the law is included in Step 7 below.

4) Establish a Forum to Share Best Training Practices & Resources

Organize a state team of volunteer damage prevention trainers, including contractor participation, to share damage prevention training ideas, needs and resources. A successful training initiative will identify the various target audiences, the key learnings and recommended curriculum. This initiative should be ongoing to allow for establishing a list of available trainers and to share training class schedules. This group also can start work on Item 9 below.

5) Facilitate Inter-agency /Inter-jurisdictional Collaboration

Work with Association of Washington Cities, Washington Association of Counties and their members along with state agencies to take action on opportunities for collaboration.

- a) Identify practices adopted by local governments who have successfully encouraged dig law compliance within their jurisdictions.
- b) Collaborate with Department of Labor and Industries in communicating with excavators on the worker safety aspect of pipeline damage prevention.

- c) Identify how Department of Transportation can help raise awareness of damage prevention.

6) Improve and Extend Damage Prevention Rules To All Regulated Utilities

The UTC can use its own authority more effectively in a fair and reasonable manner. While recent rule amendments to our state's pipeline safety rules have referenced the requirements of Chapter 19.122, the new rules provide little guidance on how to comply. In addition, the rules only apply to pipeline facilities and not to other underground facilities whose owners are regulated by the UTC. The following topics should be considered in a rulemaking workshop involving pipeline, electric, telephone and water utilities regulated by the commission.

- a) Membership to the one-call number locator service
- b) Accuracy and timeliness of locates.
- c) Actions that should be taken by the underground facility owner when it cannot complete a locate within two full business days or before the scheduled excavation.
- d) Circumstances that would require an underground facility owner to have a representative present during excavation.
- e) Reporting requirements, including standards for reporting repeat offenders.
- f) Performance measures for timeliness and accuracy of locates.

Steps to be taken by early 2009

7) Support/Facilitate/Initiate a Legislative Rewrite of Chapter 19.122

Following up on the process, started in step 3, of identifying ambiguity in the current law, the UTC should continue to work with stakeholders to identify ways to improve the dig law, including possibly:

- a) Defining emergency locates and the role of short notice locate requests.
- b) Identifying methods to ensure excavators know when it is safe to start excavating.
- c) Requiring all locators who mark pipelines, including those hired by excavators, to be Operator Qualified under Title 49 Part 192/195.
- d) Determining ways to appropriately determine the depth of a buried facility.
- e) Require excavators to mark the area for excavation with white paint.
- f) Identify information that should be in the locate request, such as the contact information excavator's field person
- g) Require that heavy equipment operators sign off on locate ticket before beginning work.

8) Promote Development of Formal Training Opportunities

Work with unions/apprenticeship programs and vocational schools in instituting a damage prevention training component to their training curriculum for equipment operators.

9) Develop a Dig Safely Credential

Work with stakeholders, including excavators and the group of trainers who worked on Item 4 above, on establishing a public-private cooperative "seal of approval" or credential for excavators who meet criteria such as the following:

- a) Fully trained staff (training developed by Step 4 above)

- b) Existence of damage prevention safety plan
- c) Record of securing locates and digging safely
- d) Practice of identifying depth of facility using non-invasive methods before mechanical excavation.
- e) Trained in mark maintenance

Using this credential process, develop a means for communicating damage prevention concerns to project owners/developers so that contracts recognize this credential and avoid creating incentives that negate or work against damage prevention measures.

10) Plan a Statewide Damage Prevention Conference

Some time in 2009, the UTC should sponsor a statewide damage prevention conference with breakout sessions to share best practices and to continue growing awareness and understanding of all stakeholder needs.