






## Statewide Damage Prevention Programs and the Nine Elements

The PIPES Act of 2006 placed strong emphasis on addressing and improving state damage prevention programs. PHMSA's position is that effective damage prevention programs should be developed and implemented at the state level. However, there is considerable variability among state damage prevention laws and related damage prevention programs.

PHMSA seeks to characterize and document the states' damage prevention programs relative to the nine elements of effective damage prevention programs defined in the PIPES Act. PHMSA's goal in this effort is to gain a better understanding of the variability in state damage prevention programs across the United States at a level of detail that will assist PHMSA with making decisions regarding where and how to apply resources. PHMSA has created this document as the foundation of the state damage prevention program characterizations.

The purpose of this effort is *not* to assign scores to states' damage prevention programs or to compare state programs against each other. Rather, this effort is designed to illustrate damage prevention program strengths and areas that could use improvement relative to the nine elements. PHMSA is interested in presenting a "Consumer Reports" style characterization of state damage prevention programs for presentation on PHMSA's [Stakeholder Communications website](#). Thus, the characterization for each criterion will be indicated by the following symbols:

-  = Fully implemented and effective program element
-  = Partially implemented or marginally effective program element that needs improvement; actions are underway or planned for improvements
-  = Partially implemented or marginally effective program element that needs improvement; no actions are underway or planned for improvements
-  = Program element is not implemented and needs to be addressed
-  = No information available

### Sources of Characterization Criteria

PHMSA believes that the criteria listed under each element below are representative, for the most part, of the findings and recommendations of all parties (NAPSR, EDPI, PHMSA, and others) that were involved in interpreting and providing guidance for implementing the nine elements. In many cases, the Common Ground Alliance (CGA) Best Practices state the recommendations in

the most clear and concise way and are aligned with the intentions of the parties listed above. However, the use of CGA Best Practices as criteria should not be construed as a mandate for adoption of the CGA Best Practices. Please note that only a selection of CGA Best Practices was used in this document and only if the Best Practices aligned with one or more of the nine elements. PHMSA recognizes that effective damage prevention programs can take many forms and the intent of this effort is to simply document what state damage prevention programs are currently doing.

Certain elements are more easily analyzed than others. Accordingly, the number of questions for each element varies. The number of questions for each element should not be construed as an indicator of the importance of the element. All elements are considered equally important. Finally, this document is not intended to be used by PHMSA as a basis for adjusting scores or reducing funding for state pipeline safety base grants.

No single document was the driver for development of the criteria. The resources used to develop the criteria were:

- PHMSA personnel and support staff recommendations
- PHMSA's Damage Prevention Assistance Program (DPAP) Guide (<http://primis.phmsa.dot.gov/comm/publications/DPAP-Guide-FirstEdition-20080911.pdf?nocache=6648>)
- Common Ground Alliance (CGA) Best Practices v. 6.0 ([http://www.commongroundalliance.com/Content/NavigationMenu/Best\\_Practices/Best\\_Practices\\_2009/Best\\_Practices\\_Version\\_6\\_0.htm](http://www.commongroundalliance.com/Content/NavigationMenu/Best_Practices/Best_Practices_2009/Best_Practices_Version_6_0.htm))
- Integrity Management for Gas Distribution (DIMP) Phase I Report, December 2005 ([http://www.cycla.com/opsiswc/docs/S8/P0068/DIMP\\_PhaseIReport\\_Final.pdf](http://www.cycla.com/opsiswc/docs/S8/P0068/DIMP_PhaseIReport_Final.pdf))
- Excavation Damage Prevention Initiative (EDPI) Guide to the 9 Elements ([http://www.commongroundalliance.com/Content/ContentGroups/General\\_CGA/EDPI\\_GuideTo9Elements\\_CGAWebVersion.pdf](http://www.commongroundalliance.com/Content/ContentGroups/General_CGA/EDPI_GuideTo9Elements_CGAWebVersion.pdf))
- National Association of Pipeline Safety Representatives (NAPSR) member input

#### **Documentation of State Damage Prevention Programs Not Included in This Document**

- PHMSA's state damage prevention law review spreadsheet (currently under development)
- OCSI Resource Guide (2009-2010) one call law summary (p. 19)



## Montana – State Damage Prevention Program Characterization

**Interviewer:** Herb Wilhite, Cyclo

**Date of Interview:**

November 6, 2009






### **Persons Interviewed:**






- Joel Tierney, MT Public Service Commission;
- Michelle Slyder, MT Utilities Coordinating Council






### Element 1 – Effective Communications






**Overall Characterization:**          

*“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.”*

	<b>Characterization Criteria</b>						<b>Notes</b>
1.a	Unless otherwise specified in state law, excavators call the one call center at least two working days and no more than ten working days prior to beginning excavation. (CGA Best Practices v. 6.0, Best Practice 5-1; PHMSA)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MT damage prevention law (MCA Title 69 Chapter 4, Parts 501-514) requires minimum of two working days, but does not address no more than ten days before excavation. MUCC is actively trying to revise/update the MT law in the next legislative session to specifically address the nine elements. No issue with the “ten days” criteria, will re-

	Characterization Criteria						Notes
							mark if required.
1.b	All excavators must request the location of underground facilities at each site by notifying the facility owner/operator through the one call center. Few excavation activities are exempted from the one call requirement. Please list exemptions. (CGA Best Practices v. 6.0, Best Practice 5-1; PHMSA)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Exemptions noted in the law include road maintenance and land surveyors hand digging <12” deep. Road maintenance includes changes to ditch lines with no change to flow line.
1.c	The excavator has access to a one call center 24 hours per day, 7 days a week. (CGA Best Practices v. 6.0, Best Practice 5-7)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	24x7, includes live person, fax or web ticket entry.
1.d	The one call center(s) serving a specifically defined geopolitical area is (are) structured so that an excavator need only make one call and a facility owner/operator need only belong to a single one call center. (CGA Best Practices v. 6.0, Best Practice 3-2)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	One-call or 811 gets UULC or UDIG as appropriate. However, operator must belong to both if facilities in both areas. Will work with legislation to change latter, but may not happen.
1.e	All facility locate requests result in a positive response from the facility owner/operator to the excavator. A positive response may include one or more of the following: markings or documentation left at the job site, callback, fax, or automated response system. A positive response allows the excavator to know whether all facility owners/operators have marked the requested area prior to the beginning of the excavation. (CGA Best Practices v. 6.0, Best Practice 4-9)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No positive response required by law. Each operator handles differently. Ticket response and marking is required by law (within 2 working days). 2010 legislative effort will address. Excavators want the change to positive response.
1.f	The one call center, facility owners/operators, and excavators all have clearly defined written processes that define roles and responsibilities and facilitate communication between all parties. (CGA Best Practices v. 6.0, Best Practice 4-14)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	One call center does. No coordinated effort between excavator and operator. MUCC has participation of all. MUCC Board is not official, by law. Law defines stakeholder roles and responsibilities (minimally).

	<b>Characterization Criteria</b>						<b>Notes</b>
1.g	The communications processes support and encourage feedback from stakeholders on how the communication process can be improved. (PHMSA)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No formal processes. MUCC encourages feedback and holds quarterly and, often, monthly meetings. No regional CGA in place at this time.
1.h	The one call center has a process for receiving and transmitting requests for meetings between the excavator and facility operator(s) for the purpose of discussing locating facilities on large or complex jobs. (CGA Best Practices v. 6.0, Best Practice 3-14).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Requests for meetings are noted in the comments section of regular tickets. Operator not required by law to meet but is required to respond to ticket. Most operators are glad to support meeting requests.
1.i	When the excavation site cannot be clearly and adequately identified on the locate ticket, the excavator designates the route and/or area to be excavated using white pre-marking (white-lining) prior to the arrival of the locator. (CGA Best Practices v. 6.0, Best Practice 5-2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	White-lining not required by law on every request but is required if operator asks for it. Law doesn't specify 'white' color, but APWA color code is used and prescribes white for pre-marking.
1.j	A uniform color code and set of marking symbols is adopted. (CGA Best Practices v. 6.0, Best Practice 4-3)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Yes. APWA standard.
1.k	There are processes in place to encourage facility owners/operators to respond to locate requests promptly, accurately, in compliance with state law. (NAPSR)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Required in law to respond within 2 full working days, except for emergency tickets. Excavator must notify the one-call center if facilities are not marked. Problem is there is no penalty for noncompliance. Will address in legislative session.

	<b>Characterization Criteria</b>						<b>Notes</b>
1.1	Facility owners/operators provide the one call center with mapping data that will allow proper notification of excavation activities near the facility owners'/operators' infrastructure. (CGA Best Practices v. 6.0, Best Practice 6-12)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Required by call center. Have online system to capture discrepancies. Smaller operators can edit hard copy maps and send back to call center for digitizing.
1.m	The locator provides feedback to the one call center on land base mapping and location discrepancies [and the one call center has a process in place to address these discrepancies]. (CGA Best Practices v. 6.0, Best Practice 6-9)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	One issue is that road name discrepancies identified by the locator are not updated online due to the need for verification. MUCC is working on a resolution to this.
1.n	The excavator notifies the facility owner/operator directly or through the one call center if an underground facility is not found where one has been marked or if an unmarked underground facility is found. (CGA Best Practices v. 6.0, Best Practice 5-21)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Not required in law. Generally though, excavators do this. Will address in legislative changes.
1.o	An excavator discovering or causing damage to underground facilities notifies the facility owner/operator and the one call center. All breaks, leaks, nicks, dents, gouges, grooves, or other damages to facility lines, conduits, coatings or cathodic protection are reported. (CGA Best Practices v. 6.0, Best Practice 5-24; 49 USC Section 60114(d)(3)(A))	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Not required by law. Will address in legislative changes. May better define damage in legislation.
1.p	In the event of a damage that results in the escape of any flammable, toxic, or corrosive gas or liquid or endangers life, health or property, the excavator responsible for the damage immediately notifies 911 and the facility owner/operator. (CGA Best Practices v. 6.0, Best Practice 5-25; 49 USC section 60114(d)(3)(B))	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Not in current law. Will pursue in legislative changes. MUCC/PSC training refers to the PIPES Act requirements. Not all excavators get to the training meetings. Utilities notify 911 if they receive a call from the excavator.

	Characterization Criteria						Notes
							MUCC awareness and educational materials say call 911 in any release event.

**Element 2 – Comprehensive Stakeholder Support**

Overall Characterization:


*“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 program.”*

	Characterization Criteria						Notes
2.a	There is a prominent and recognizable damage prevention program champion (organization or person) in the lead on improving the damage prevention program in the state.(PHMSA)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The MUCC, MLGPA (MT Liquid and Gas Pipeline Assoc.) and PSC all work in unison to improve damage prevention. Most awareness campaigns are coordinated and sponsored by all 3 groups.
2.b	There are ongoing outreach efforts to engage and recruit stakeholders as partners in the damage prevention process. (PHMSA)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Marketing by groups noted above, contractors meetings, trade show booths.
2.c	There are few facility owners/operators that are exempt from one call membership. (CGA Best Practices v. 6.0, Best Practice 3-26)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Irrigation and landscaping operators are exempt. Issue is there is no enforcement of law requirements. One current situation is a gas gathering system operator

	Characterization Criteria						Notes
							that is not a member and this impedes excavators. The excavator must pursue locates on their own with this operator. The same operator continues to install non-locatable lines for gas gathering. Will pursue resolution in upcoming legislation.
2.d	The one call center board of directors is composed of representatives of all stakeholders, assuring that the viewpoints of all stakeholders will be considered in the policies and programs of the one call center. (CGA Best Practices v. 6.0, Best Practice 7-2: Incentive – One Call Center Board of Directors, p. 53)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will address in legislation changes, to establish a one-call board for the state. MUCC has good representation but is not recognized by law. MT has only one vote on the UULC board. Relationship with UULC is “strained” at this time.
2.e	All stakeholders have opportunity for providing input and feedback regarding the damage prevention process, including any efforts to change the state damage prevention law, rules, best practices, etc. (PHMSA; NAPSRS).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	At the MUCC level. Will address in legislation. A study has been performed with input from all stakeholders to lead into legislative changes.
2.f	The one call center or another entity routinely hosts and conducts in-house and field meetings with excavators, locators, and operators to educate, raise awareness, and encourage communication among stakeholders on how the damage prevention process can be improved. (PHMSA)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MUCC does. Not one-call center.













### Element 3 – Operator Internal Performance Measurement

Overall Characterization: 


*“A process for reviewing the adequacy of a pipeline operator’s internal performance measures regarding persons performing locating services and quality assurance programs.”*

Note: As stated in the PIPES Act, this element is focused on hazardous liquid and gas pipeline operators. The PHMSA DPAP Guidance expands the scope of this element to include all underground facility operators, although other facility operators are less likely to have such internal performance and QA programs.






	Characterization Criteria						Notes
3.a	Pipeline operators have a quality assurance program in place for monitoring the locating and marking of facilities. Facility owners/operators conduct regular field audits of the performance of locators/contractors and take action when necessary. (CGA Best Practices v. 6.0, Best Practice 4-18, NAPSRS)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Montana has jurisdiction over intrastate gas lines only. Those operators address QA. PSC looks at during standard inspections.
3.b	Pipeline operators include performance measures in facility locating services contracts with corresponding and meaningful incentives and penalties. (NAPSRS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	PSC looks only at Part 192 requirements, does not look at specifics of operator contracts.
3.c	Locate contractors address performance problems for persons performing locating services through mechanisms such as re-training, process change, or changes in staffing levels. (PHMSA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
3.d	Facility owners/operators periodically review the Operator Qualification plan criteria and methods used to qualify personnel to perform locates. (NAPSRS)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	PSC looks at during standard inspections.

	<b>Characterization Criteria</b>						<b>Notes</b>
3.e	During inspections of jurisdictional operators, the state pipeline safety agency reviews operators' locating and excavation <u>procedures</u> for compliance with state law and regulations. (NAPSR)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3.f	During inspections of jurisdictional operators, the state pipeline safety agency examines a sample of <u>records</u> to determine if locates are being made within the timeframes required by state law and regulations. (NAPSR)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3.g	During inspections of jurisdictional operators, the state pipeline safety agency determines if locating and excavating personnel are properly <u>qualified</u> in accordance with the operator's Operator Qualification plan and with federal and state requirements. (NAPSR)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

**Element 4 – Effective Employee Training**


Overall Characterization: 

*“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.”*

	Characterization Criteria						Notes
4.a	A multi-stakeholder training committee or equivalent has been established, with participation by the one call center, facility owners/operators, the state enforcement agency, excavators, locators, and other interested stakeholders. Input from the committee is factored into the identification of training needs and the development and implementation of employee training programs for operators, excavators and locators. Damage prevention program training needs are systematically and periodically identified. (NAPSR; PHMSA)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MUCC tailors spring meetings and promotional materials to training needs. Also does survey research into best messages and methods. PSC and PHMSA auditors are kept informed. MUCC asks for feedback on needs and issues.
4.b	Training curricula are prepared, readily available, and periodically reviewed for needed changes. (PHMSA)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MUCC documents and publishes curricula in that what is to be presented. Excavator spring meetings are not as well documented, but will be.
4.c	Employee training programs and the development process for these programs are periodically evaluated for effectiveness and needed changes. (PHMSA)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	See Item 4.a, above.
4.d	For all stakeholders, Employee training programs and needs are tailored to available data trends relative to performance,	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MUCC training tries to highlight specific

	complaints, near misses or damage incidents and, if necessary, in response to specific incidents. (PHMSA)						incidents if relevant to area. Also tailors to PPTS. Lacking in tracking and trending data for damages in Montana. Applied to PHMSA for grant to better utilize DIRT.
4.e	A training calendar is maintained and training is scheduled in support of the needs of stakeholders. (NAPSR)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MLGPA maps all meeting locations, dates, times and subjects. Available via direct mail and website. Also through PAPA (Pipeline Association for Public Awareness), as MLGPA members are also members of PAPA.
4.f	Training records for individuals are maintained. (PHMSA)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Not per se. Documentation of training and attendance via sign in sheets are maintained. These are not tracked by individual. NASFM train-the-trainer was tracked as a certificate program.

**Element 5 – Public Education**


  
**Overall Characterization:**

*“A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities.”*

	<b>Characterization Criteria</b>						<b>Notes</b>
5.a	Public education programs are used to promote compliance. A single entity is charged to promote comprehensive and appropriate programs to educate all stakeholders about the existence and content of the damage prevention laws and regulations. This is not meant to discourage individual stakeholders from providing educational programs. (CGA Best Practices v. 6.0, Best Practice 7-1 A)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MLGPA, MUCC, PSC all utilize education and awareness programs to promote compliance. There is no other ‘single’ entity.
5.b	The state damage prevention education program establishes strategic relationships in an effort to leverage common resources. These relationships are established between governmental agencies, emergency responders, associations of all types, media outlets, grass roots organizations, and others and involve partnering to further damage prevention education efforts. (CGA Best Practices v. 6.0, Best Practice 8-8)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MLGPA, MUCC, PSC all are strategically aligned. There is no other ‘single’ entity.
5.c	The state damage prevention education program includes a comprehensive, strategic marketing/advertising plan that focuses on setting realistic goals and allocating sufficient resources required to achieve these goals within specified timeframes. (CGA Best Practices v. 6.0, Best Practice 8-1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MUCC does.
5.d	Damage prevention stakeholders, including facility owners/operators, locators, excavators, government representatives, and others use field representatives to provide education anytime and anywhere it is needed. (NAPSR)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Damage prevention is constantly promoted by MUCC, PSC, UULC, operators and others. Regular statewide

	Characterization Criteria						Notes
							meetings are scheduled and held 23 times/ year.
5.e	The state damage prevention education program includes identification of target audiences and their individual needs. (CGA Best Practices v. 6.0, Best Practice 8-2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Via MUCC surveys.
5.f	The one call center has a documented, proactive public awareness, education and damage prevention program. (CGA Best Practices v. 6.0, Best Practice 3-1)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Now, yes. MUCC relationship with UULC is under review. Funding from MT to UULC is not being spent in MT.

**Element 6 – Dispute Resolution**

Overall Characterization:

*“A process for resolving disputes that defines the State authority’s role as a partner and facilitator to resolve issues.”*

**Interviewers: please ask for description of existing dispute resolution/enforcement process and description of any initiatives underway with respect to these elements. Document in summary paragraph on last page.**






	Characterization Criteria						Notes
6.a	A state authority is designated as having a clearly defined role as a partner and facilitator in resolving/mediating damage prevention disputes. (PHMSA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	There is no authority defined. There is currently no enforcement. Dispute resolution is via individual court actions. Will address in pursuing legislative changes






							toward the nine elements.
6.b	There is a due process for resolving disputes related to damage prevention issues. (PHMSA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.
6.c	The state authority operates under a transparent set of rules and procedures to resolve damage prevention disputes. (PHMSA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.
6.d	Dispute resolution is accomplished through a balanced committee of stakeholders. (PHMSA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.

**Element 7 – Enforcement**

  
**Overall Characterization:**

*“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.”*

	<b>Characterization Criteria</b>						<b>Notes</b>
7.a	A damage prevention enforcement authority is defined by state law or regulation. (PHMSA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.
7.b	The enforcement authority (if one exists) has a defined process for receiving reports of violations from any stakeholder. And a transparent violation review process and violation assessment considerations. (CGA Best Practices v. 6.0, Best Practice 7-5 A)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.
7.c	The violation review process and violation assessment considerations are transparent. (CGA Best Practices v. 6.0, Best Practice 7-5 A)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.
7.d	The enforcement authority (if one exists) collects and makes available to interested parties annual statistics on the numbers of incidents, investigations, enforcement actions, proposed penalties, and collected penalties. (PHMSA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.

	<b>Characterization Criteria</b>						<b>Notes</b>
7.e	Damage prevention law and regulations are reasonably enforced. Reasonable enforcement refers to actions by enforcement authority officials and enforcement processes, both of which aim to fairly arrive at rational outcomes without imposing unnecessarily high transaction costs on any participant. The penalty system (if one exists) does not allow any violator or class of violators to be shielded from the consequences of a violation (i.e., all stakeholders are held accountable). (CGA Best Practices v. 6.0, Best Practice 7-3) (CGA Best Practices v. 6.0, Best Practice 7-2; NAPSR)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.
7.f	The compliance program (if one exists) includes penalties for violations of the damage prevention laws or regulations. Performance and penalty incentives are equitably administered among stakeholders subject to one call provisions. The penalty system (if one exists) uses a tiered structure to distinguish violations by the level of severity or repeat offenses (e.g., warning letters, mandatory education, civil penalty amounts). (CGA Best Practices v. 6.0, Best Practice 7-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.
7.g	The enforcement authority (if one exists) has a defined process for involving stakeholders in periodic review and modification of enforcement processes. (CGA Best Practices v. 6.0, Best Practice 7-5 A)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.
7.h	The enforcement authority (if one exists) has the resources to respond to notifications of alleged violations in a timely manner. (CGA Best Practices v. 6.0, Best Practice 7-5 A)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.
7.i	Any time a pipeline damage occurs, the enforcement authority (if one exists) performs a proper investigation. This is to determine not only the responsible party but also the root cause of the damage. (CGA Best Practices v. 6.0, Best Practice 4-16)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.
7.j	During investigations of incidents or accidents resulting from excavation damage, the state pipeline safety agency determines if	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.



	Characterization Criteria						Notes
	state laws and regulations on locating and proper excavation were followed. (NAPSR)						
7.k	A structured review process is used to impartially adjudicate alleged violations. The review process is performed by either: <input type="checkbox"/> Type 1: A single entity, like a state pipeline regulatory authority, Attorney General, etc. Please indicate the entity performing reviews in notes.. <input type="checkbox"/> Type 2: An advisory committee (made up of stakeholders) partnered with the enforcement authority.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.
7.l	Regardless of type, the review process is considered effective by most stakeholders. (CGA Best Practices v. 6.0, Best Practice 7 B)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.
7.m	The enforcement authority (if one exists) uses incentives, such as performance and education credits, to encourage compliance by stakeholders. (NAPSR)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See 6.a, above.

**Element 8 – Technology**

Overall Characterization:

*“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.”*






	Characterization Criteria						Notes
8.a	A multi-stakeholder committee or equivalent has been established	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MUCC serves this function.

	<b>Characterization Criteria</b>						<b>Notes</b>
	to evaluate technologies that may improve damage prevention processes. The committee includes participation by the one call center, facility owners/operators, the state enforcement agency, excavators, locators, and other interested stakeholders. Damage prevention program technology needs are systematically and periodically identified. (PHMSA)						One example is a new mapping tool for use by operators in updating one-call center maps.
8.b	Implementation of technology among stakeholders is generally tailored to data trends relative to performance, complaints, near misses or damage incidents and, if necessary, in response to specific incidents. (PHMSA)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MUCC. Example, near miss identified was the result of dropped/missing database and resulted in improvements. Statewide damage tracking tool is another example.
8.c	Effective training accompanies the implementation of new technologies. (PHMSA)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MUCC. E.g., one-call ticket preparation and use of one-call center equipment. MUCC is pursuing a PHMSA grant for locator training across the state.
8.d	Critical stakeholders (such as the one call center and the enforcement authority) maintain records of key technologies that have been implemented, including disaster recovery and continuity of operations plans. (PHMSA)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	One-call center does. Call centers in other states can pick up the load if the call center for MT is down.
8.e	The one call center uses available technology whenever possible to enhance all aspects of its communications with members, excavators, and the general public. (NAPSR)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Within reason, and as applicable.

**Element 9 – Damage Prevention Program Review**

**Overall Characterization:**

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

	<b>Characterization Criteria</b>						<b>Notes</b>
9.a	Data analysis and program evaluation are used to support the effectiveness of the program and the One Call law, identification and implementation of program improvements, such as process changes, enforcement actions, legislative actions, rulemaking/regulatory actions, and decisions regarding resource allocation. (PHMSA)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MUCC does data analysis to support the one-call center operation and legislative changes.
9.b	The one call center establishes and monitors performance standards for the operation of the center, including average speed of answer, abandoned call rate, busy signal rate, customer satisfaction, locate request quality, and notification delivery. (CGA Best Practices v. 6.0, Best Practice 3-23)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	UULC does. MUCC audits UULC on a monthly basis.
9.c	Facility owners/operators, locators, excavators, or stakeholders with an interest in underground damage prevention report damages to the CGA Damage Information Reporting Tool (DIRT) or equivalent. (CGA Best Practices v. 6.0, Best Practice 9-1; PHMSA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Not now. Trying to get tool in place to report to DIRT (2010 One-call grant).
9.d	Training and education on how and when to complete the damage reporting form (via DIRT or equivalent) is made available. (CGA Best Practices v. 6.0, Best Practice 9-8)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	N/A
9.e	The reported damages data is used to assess and improve underground damage prevention efforts. (CGA Best Practices v. 6.0, Best Practice 9-16)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MUCC evaluates what is reported to them and uses the results to improve damage prevention.

	Characterization Criteria						Notes
9.f	Results of damage reports are quantified against a standardized risk factor. The risk factor considers a stakeholder's exposure to potential damage. This risk factor may be based on factors such as the number of miles of line installed or the number of one call center notification tickets. For example, a risk factor may compare how many underground damages occurred in a certain time period versus the total number of notification tickets issued. (CGA Best Practices v. 6.0, Best Practice 9-20)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9.g	Performance levels and trends are assessed against other organizations. (CGA Best Practices v. 6.0, Best Practice 9-21)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9.h	The reported damages data (in whole or summarized) is made available to the public. (PHMSA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Would it have been helpful to have other people on this call? If so, who?

- None identified.

Summary: In a paragraph, please summarize results, key points, challenges and initiatives underway for each state.

- The Montana Utilities Coordinating Council (MUCC) Vice President participated on the call. The two one-call centers (UULC and UDIG) were not specifically represented, otherwise. UDIG represents 2 of 56 MT counties. UULC call centers in Washington or Oregon handle the rest. Answers relative to one-call center generally address UULC only.
- The MUCC is not official damage prevention lead recognized by law. However, it has representatives of most stakeholder groups and its activities address many of the items noted in the questionnaire for each element.
- MUCC and PSC will submit/pursue legislative changes to MT damage prevention law in 2010 and beyond to address the nine elements. Many answers to the questionnaire are predicated on this intent to pursue changes.

- A significant issue in Montana is that there is no enforcement authority and, thus, no enforcement of the current law. Resolution of this situation will be pursued in upcoming legislation.

Interviewer: Herb Wilhite

Persons interviewed/organization:

- Joel Tierney, MT Public Service Commission;
- Michelle Slyder, MT Utilities Coordinating Council

Date: November 6, 2009