



ACT 50
2020 - A YEAR IN REVIEW

STATISTICAL REPORT

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Executive Summary

This Statistical Report tracks Alleged Violation Reports (AVRs) and the subsequent actions taken by the Damage Prevention Committee (DPC). Actions include the issuance of warning letters, administrative penalties and locator, excavator, designer, or complex project education. The information in this report is based on data derived from statistical software used to determine the number of AVRs sent to the Public Utility Commission (PUC) from each county and by each affected stakeholder. Additionally, this report summarizes the number of penalties and dollar amounts administered by the DPC during the period of January 2020 through December 2020, including the total dollar amount the PUC has currently collected. The report also provides data gathered from April 2018 through December 2019 as a historical comparison. This report was prepared by the Damage Prevention Section of the Pennsylvania PUC's Bureau of Investigation & Enforcement.

Damage Prevention Committee Members

Ms. Terri Cooper-Smith <u>Chairman</u>		Pennsylvania PUC
Mr. William Kiger		Pennsylvania One Call System
Mr. Jon Fleming		Pennsylvania Department of Transportation
Mr. Eric Swartley <u>Vice Chairman</u>	Gas Industry	UGI Utilities Inc.
Mr. Mark Santayana <u>Secretary</u>	Electric Industry	PPL Electric Utilities
Mr. James Dacey	Excavator	Doli Construction Corp.
Mr. Charles Dippo	Excavator	Utility Line Services Inc.
Mr. Armando Ferri	Excavator	Stefanik Next Generation Contracting Co.
Mr. Kevin German	Municipal Authority	Lehigh County Authority
Mr. Thomas Clark	Municipal Government	Derry Township
Mr. Rick Moslen	Cable	Comcast
Mr. Charles Shaw	Telecommunications	Consolidated Communications
Mr. Jeffrey Canfield	Water	Schuylkill County Municipal Authority

Introduction

In 2020, the Public Utility Commission (PUC) worked with all stakeholders to continue to pursue the goals outlined in the provisions of Act 287. Act 287, as amended by Act 50 is also referred to as the Underground Utility Line Protection Law (PA One Call Law). Although 2020 was a challenging year due to the COVID-19 pandemic, the Damage Prevention Committee (DPC) adjusted quickly to a virtual meeting format allowing for the continued evaluation of AVRs presented by the Bureau of Investigation and Enforcement's Damage Prevention Section. The DPC continued to interact with stakeholders and to function in its review and oversight role with minimal disruption throughout the calendar year.

This Statistical Report uses data from the beginning of the PUC's enforcement of Act 50 in order to examine the current violation trends in 2020. The information compiled in this report is utilized to help direct the education and enforcement efforts of the DPC. Data collection for this report began on April 28, 2018, the date of the transfer of enforcement responsibilities to the PUC from the PA Department of Labor and Industry (L&I).

Report Background and Organization

Report Background

On Oct. 30, 2017, the Governor signed Act 50 requiring the DPC to submit an annual report containing relevant damage prevention data to the Committee on Consumer Protection and Professional Licensure of the Senate, the Committee on Consumer Affairs of the House of Representatives and the PUC.

Report Organization

This report focuses on the enforcement activities of the DPC from January through December 2020. Despite the challenges presented by the COVID-19 pandemic, the DPC remained productive in the exercise of its responsibilities. The Commission's leadership, through the appropriation of staff and efforts of the MIS team, seamlessly adjusted workflow to the virtual format necessary to meet the Commission's mission statement. A total of 52 stakeholders were brought into compliance by completing their mandated education as recommended by the DPC. The Commission's Damage Prevention Section sent out 91 warning letters to homeowners and various stakeholders; opened 350 investigations; presented 371 cases for review at the monthly DPC meetings; and administered 1,630 recommended penalties amounting to a total of \$871,235. Enforcement activities have resulted in the collection of penalties totaling \$527,875 for Jan. 1 through Dec. 31, 2020.

PA PUC Statistical Update

Since the inception of the PUC’s enforcement responsibilities in April 2018, the DPC has issued 3,022 violations to stakeholders with a total amount of \$1,700,610 in penalties.

The PUC has received a total of 20,540 Alleged Violation Reports (AVRs) from the Pennsylvania One Call System (POCS) via a data exchange service created to facilitate the process. Figure A below presents a monthly breakdown of the total number of AVRs received since enforcement responsibility was taken on by PUC. Figures B through D break down the AVRs by industry group and by county.

Figure A

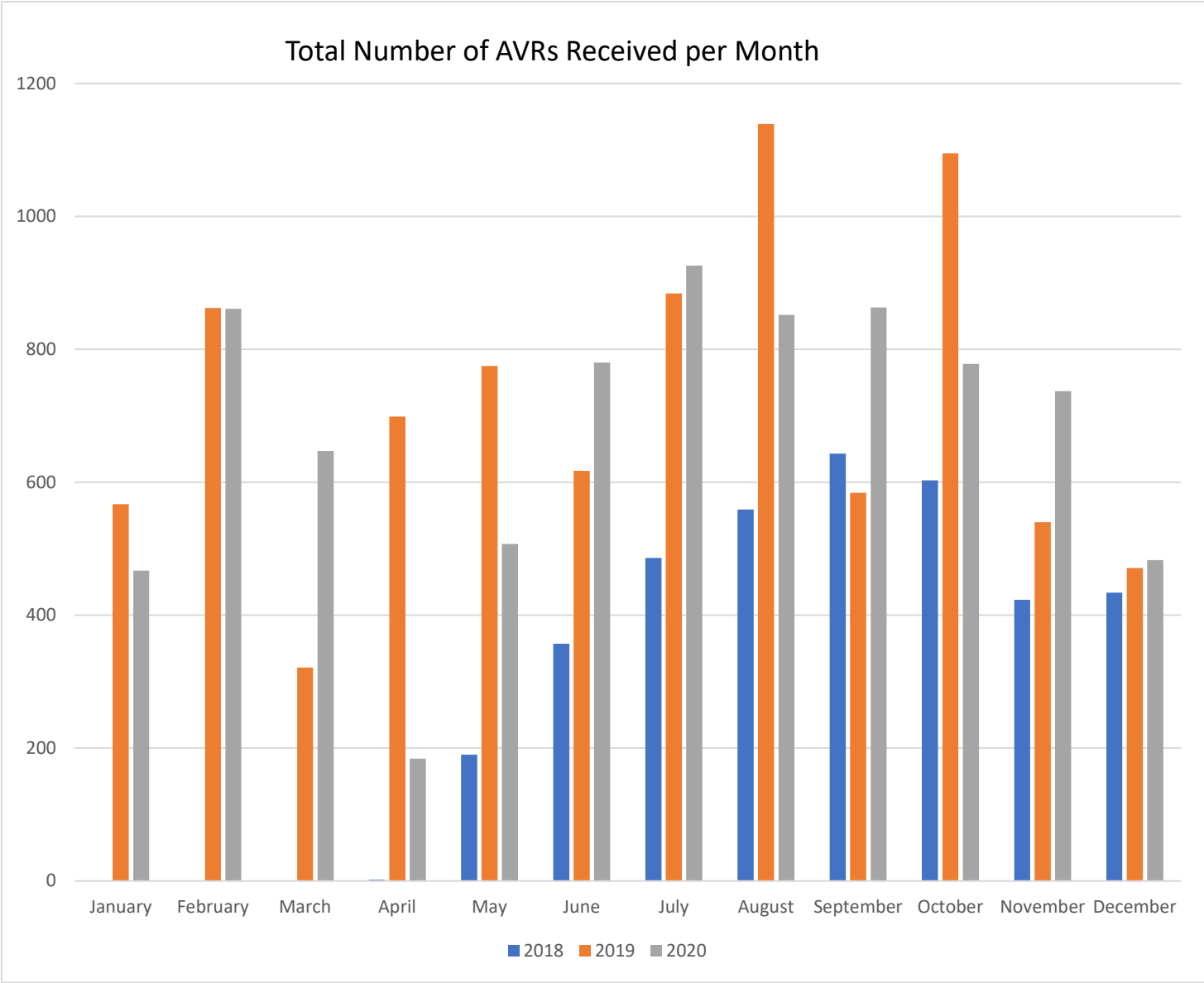


Figure B

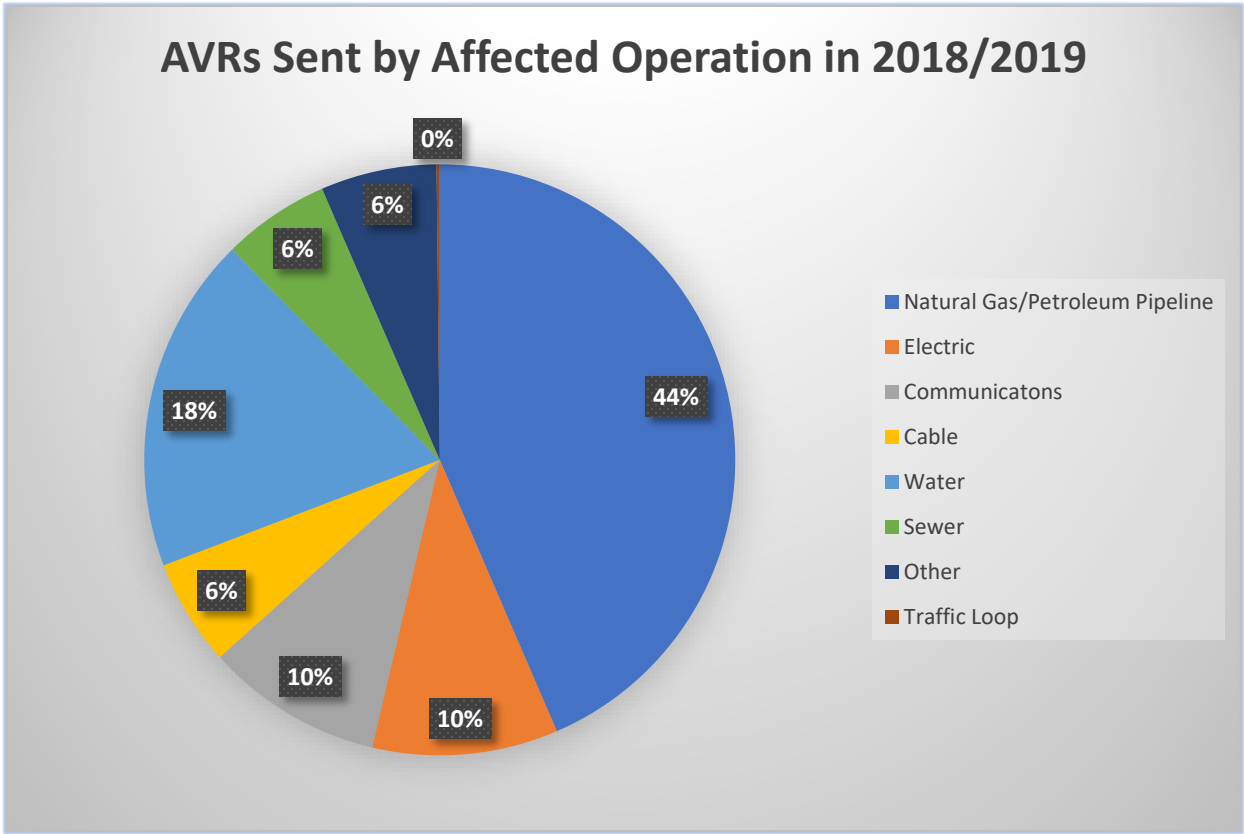


Figure C

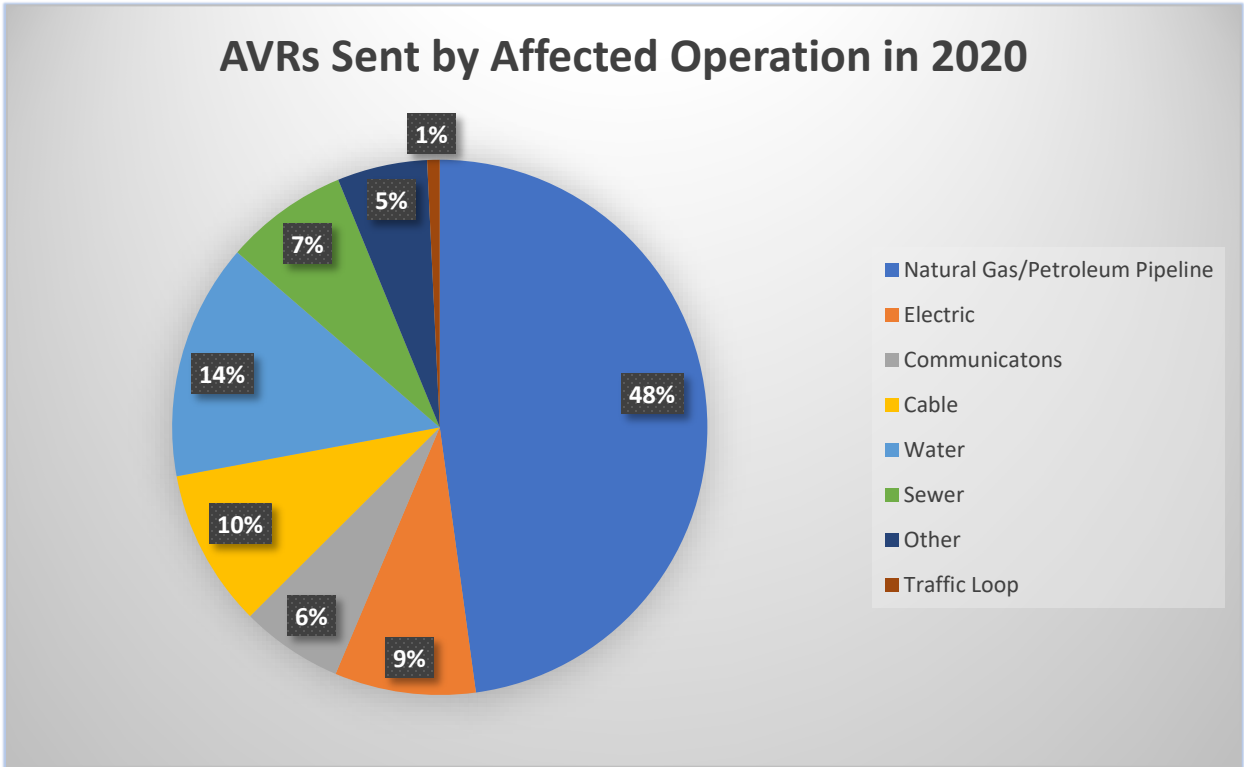
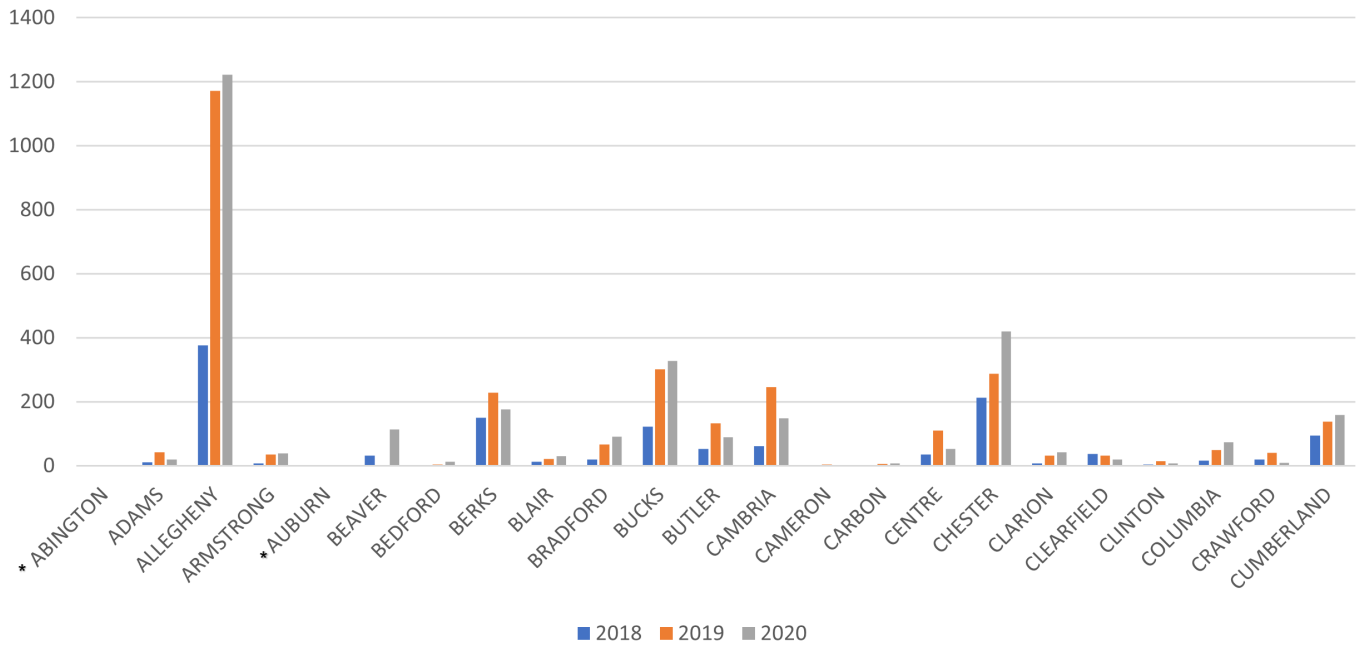
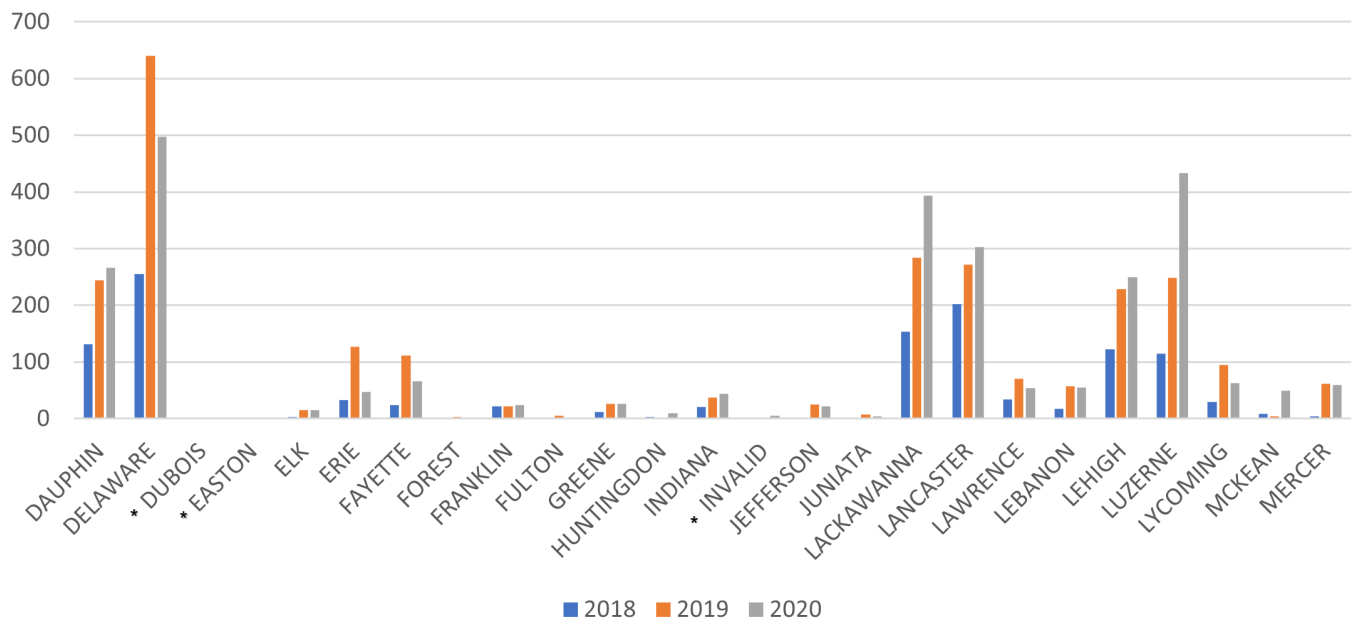


Figure D1: Total AVR's Sent by County



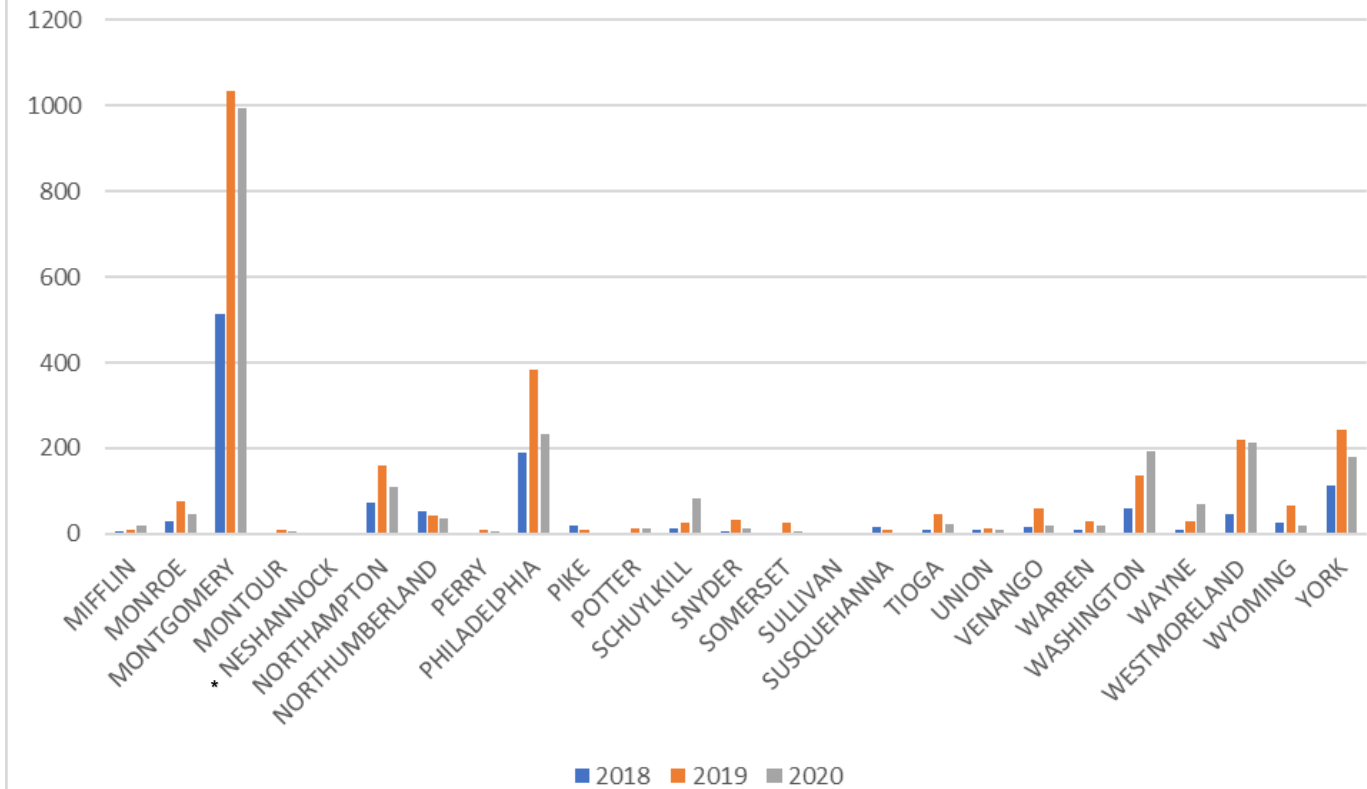
*The 2018-19 AVR process allowed submitters to manually type names in lieu of counties, this resulted in additional Township/Borough names.

Figure D2: Total AVR's Sent by County



*The 2018-19 AVR process allowed submitters to manually type names in lieu of counties, this resulted in additional Township/Borough names.

Figure D3: Total AVR's Sent by County



*The 2018-19 AVR process allowed submitters to manually type names in lieu of counties, this resulted in additional Township/Borough names.

One of the PUC's Damage Prevention goals is to progressively reduce the number of underground utility line hits each year. The number of tickets¹ issued by the Pennsylvania One Call System (POCS) were 1,037,463 in 2019, and 991,975 in 2020 which was an approximate 4.4% decrease. Additionally, the number of AVR's the PUC received in 2019 was 8,419 and 8,085 in 2020 which was an approximate 4% reduction. Some of this reduction may be attributed to the COVID 19 Pandemic. Reporting of AVR's and damages is expected to increase in the first few years of these enforcement efforts due to enhanced knowledge and enforcement efforts. The establishment of a baseline number for the annual hits and AVR's will present itself over the next years.

Allegheny County had the most reported damages in 2020 followed closely by Montgomery County. Natural Gas/Petroleum Pipeline remains the most reported damaged facility type, which may be due to the stricter mandated Pipeline and Hazardous Materials Safety Administration (PHMSA) regulatory reporting requirements.

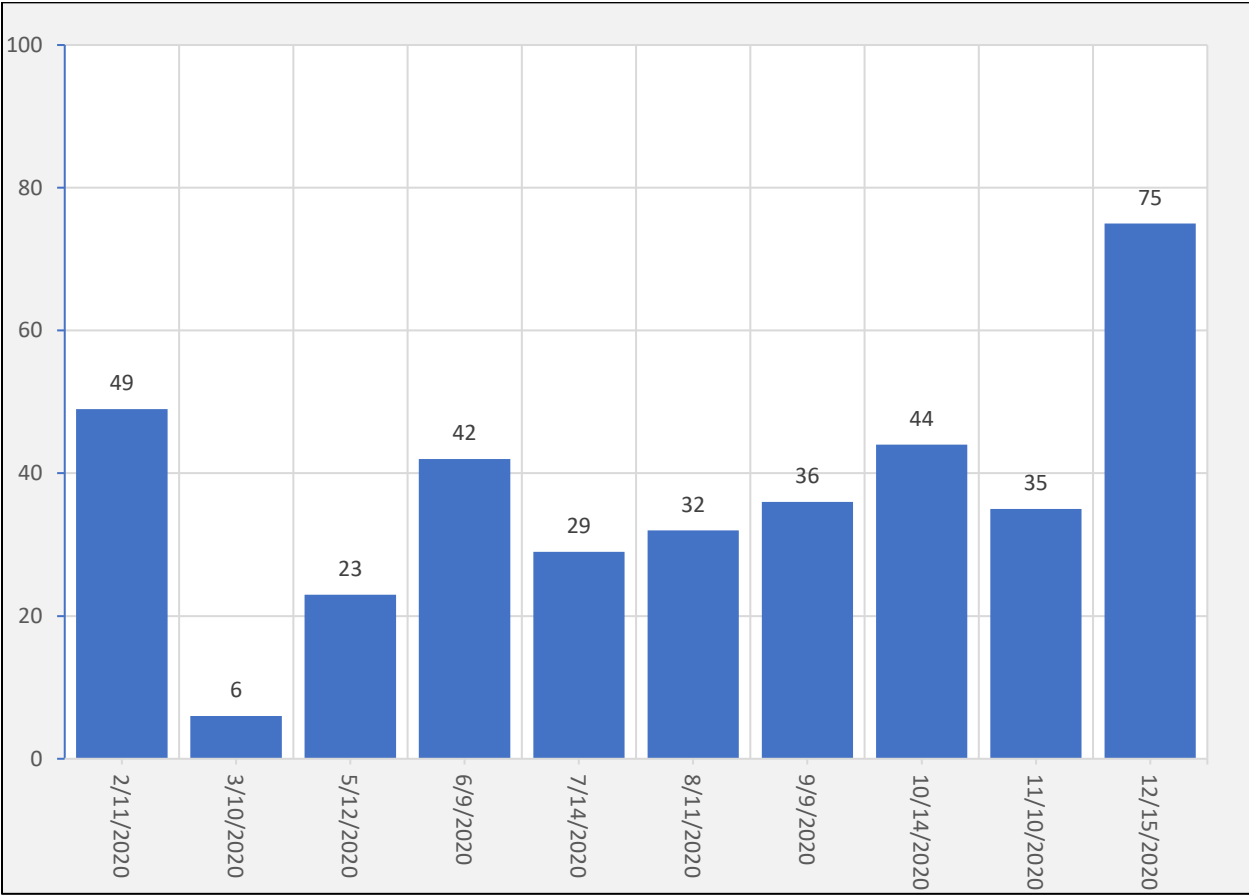
In 2020, the Damage Prevention Section adapted to the changed work environment while continuing to meet the task of Act 50 Enforcement throughout the Commonwealth.

¹ Information obtained from Pennsylvania One Call.

The worldwide pandemic caused the PUC to cancel the April 2020 DPC meeting. The PUC and DPC worked diligently to adapt the Damage Prevention Program to a virtual platform with minimal interruptions to the process. Virtual DPC Meetings continued the following month, eventually increasing participation amongst stakeholders who would not have had the opportunity to attend a physical meeting in Harrisburg. In 2020 the PUC approved new DPC bylaws to be effective January 2021. The new bylaws, as well as an enhanced internal case management software system, will provide new efficiencies to the damage prevention workflow.

Figures E-H provide statistical data for cases, penalties and violations

Figure E



Number of cases heard by DPC per month

Figure F: Penalties Sanctioned by Statute 2018-2019

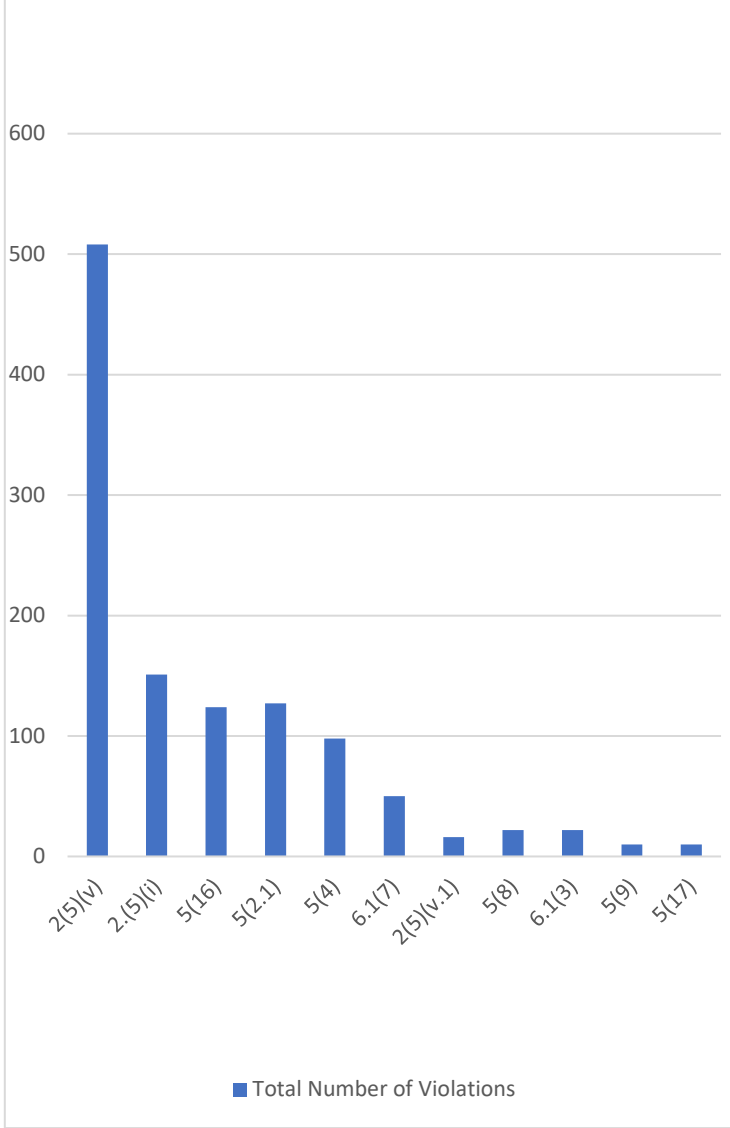


Figure G: Penalties Sanctioned by Statute 2020

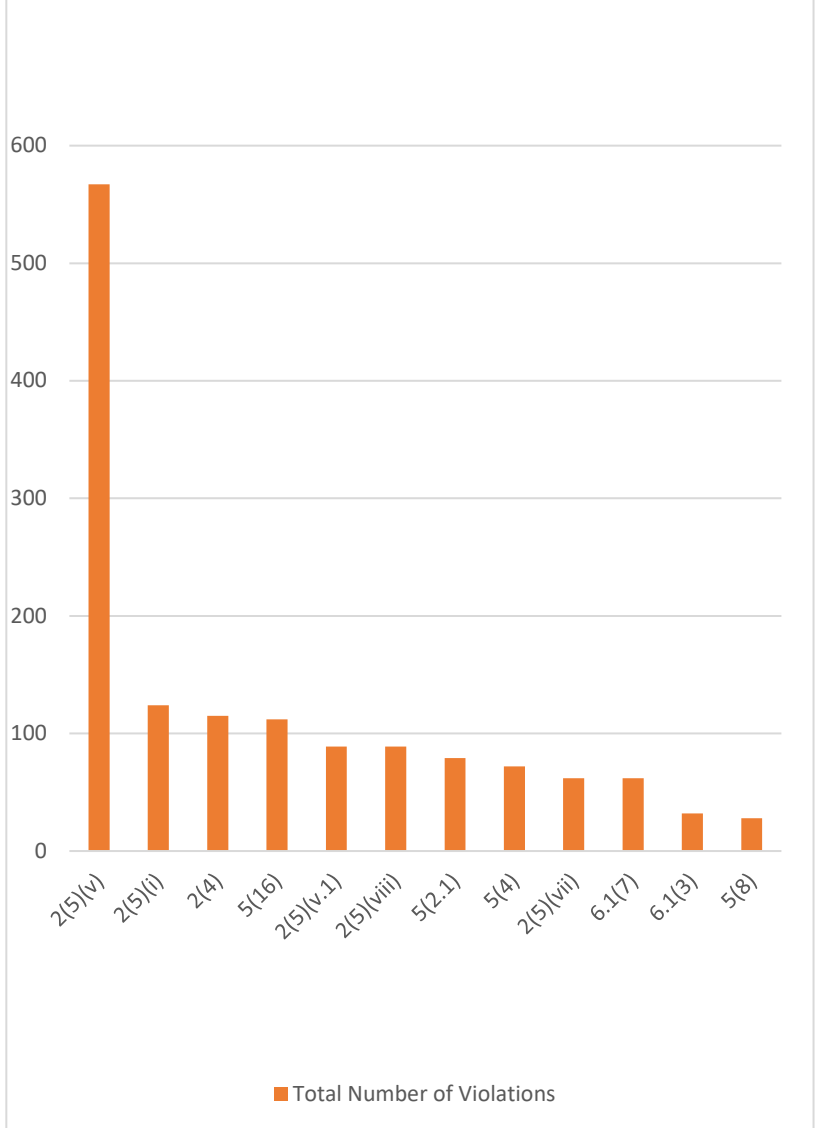


Figure F1		
Statute	Description	Count
2(5)(v)	Failed to respond to a routine One Call Ticket	508
2(5)(i)	Failed to locate underground lines within 18 inches horizontally of the outside wall of the line	151
5(16)	Failed to submit an Alleged Violation Report within 10 business days of striking a line	124
5(4)	Failed to exercise due care and employ prudent techniques	98
5(2.1)	Excavator failed to submit a location request to One Call within the correct timeframe	97
6.1(7)	Project Owner failed to submit an Alleged Violation Report within 10 business days of a line strike	50
5(2.1)	Homeowner failed to submit a location request to One Call within the correct timeframe	30
5(8)	Failed to immediately notify 911 and the facility owner when damage resulted in the escape of gas or liquid which may endanger life, health or property	22
2(5)(v.1)	Failed to communicate directly with the excavator within 2 hours of a renotification	16
5(9)	Emergency notification does not meet the requirements of an emergency as defined in Section 1	10
6.1(3)	Released a project to bid or construction before final design was complete	22
5(17)	Failed to comply with all request for information from PUC staff within 30 days of the receipt of the request	10

Figure G1		
Statute	Description	Count
2(5)(v)	Failed to respond to a routine One Call Ticket	543
2(5)(i)	Failed to locate underground lines within 18 inches horizontally of the outside wall of the line	116
2(4)	Failed to respond to Designer's request for information within 10 business days	111
5(16)	Failed to submit an Alleged Violation Report within 10 business days of striking a line	111
2(5)(viii)	Failed to participate in preconstruction meetings for a complex project or as described in section 5(3)	86
2(5)(v.1)	Failed to communicate directly with excavator within 2 hours of renotification	78
5(2.1)	Excavator failed to submit a location request to One Call within the correct timeframe	78
5(4)	Failed to exercise due care and employ prudent excavation techniques	71
6.1(7)	Project owner failed to submit an Alleged Violation Report within 10 business days of a line strike	61
2(5)(vii)	Failed to respond to an emergency notification as soon as practicable following notification	60
6.1(3)	Released a project to bid or construction before final design was complete	32
5(8)	Failed to immediately notify 911 and the facility owner when damage resulted in the escape of gas or liquid which may endanger life, health or property	28

Figure H

2020 Penalties by Statute

Statute	Description	Count	Penalty	Factor	Total Penalty
2 (5)(v)	Failed to respond to a routine One Call ticket within the required amount of time	280	\$109,500.00	\$0.00	\$109,500.00
2 (5)(v)	Failed to respond to a routine One Call ticket	263	\$186,250.00	\$0.00	\$186,250.00
2 (5)(i)	Failed to locate underground lines within 18 inches horizontally of the outside wall of line	116	\$91,000.00	\$3,260.00	\$94,260.00
2 (4)	Failed to respond to Designer's request for information within 10 business Days	111	\$39,500.00	\$0.00	\$39,500.00
5 (16)	Failed to submit an Alleged Violation Report within 10 business days of striking a line	111	\$25,875.00	\$0.00	\$25,875.00
2 (5)(viii)	Failed to participate in preconstruction meetings for a complex project or as described in section 5(3)	86	\$55,500.00	\$0.00	\$55,500.00
2 (5)(v.1)	Failed to communicate directly with excavator within 2 hours of renotification	78	\$40,000.00	\$0.00	\$40,000.00
5 (2.1)	Excavator failed to submit a location request to One Call within the correct timeframe	78	\$74,250.00	\$3,000.00	\$77,250.00
5 (4)	Failed to exercise due care and employ prudent excavation techniques	71	\$35,250.00	\$600.00	\$35,850.00
6.1 (7)	Project owner failed to submit an Alleged Violation Report within 10 business days of a line strike	61	\$18,000.00	\$0.00	\$18,000.00
2 (5)(vii)	Failed to respond to an emergency notification as soon as practicable following notification	60	\$52,750.00	\$0.00	\$52,750.00
6.1 (3)	Released a project to bid or construction before final design was complete	32	\$17,000.00	\$0.00	\$17,000.00
5 (8)	Failed to immediately notify 911 and the facility owner when damage resulted in the escape of gas or liquid which may endanger life, health or property	28	\$26,500.00	\$1,600.00	\$28,100.00
2 (5)(i.1)	Failed to locate an actually known facility's point of connection to its facilities	20	\$5,750.00	\$0.00	\$5,750.00
5 (17)	Failed to comply with all requests for information from PUC staff within thirty days of the receipt of the request	20	\$4,750.00	\$0.00	\$4,750.00
4 (8)	Designer failed to submit an Alleged Violation Report through the One Call System within 30 business days of being made aware that a line strike occurred during excavation or demolition	18	\$3,250.00	\$0.00	\$3,250.00
2 (10)	Facility owner failed to submit an Alleged Violation Report through the One Call System within 30 business days of receiving notice that one of its lines had been damaged	17	\$4,500.00	\$0.00	\$4,500.00
5 (3)	Excavator failed to hold a preconstruction meeting prior to beginning a complex project	16	\$3,250.00	\$0.00	\$3,250.00
5 (11.2)	When using horizontal directional drilling (HDD), failed to utilize the best practices published by the HDD Consortium	13	\$6,500.00	\$0.00	\$6,500.00
5 (3)	Failed to preserve mark-outs or request a remark	11	\$5,500.00	\$150.00	\$5,650.00
5 (7)	Failed to immediately report to the facility owner any break or leak in its lines, or any dent, gouge, groove or other damage to such lines or to their coating or cathodic protection made or discovered in the course of the excavation or demolition work	11	\$11,000.00	\$0.00	\$11,000.00
5 (9)	Emergency notification does not meet the requirements of "emergency" as defined in Section 1	11	\$10,000.00	\$0.00	\$10,000.00
5 (20)	Failed to renotify One Call of an unmarked or incorrectly marked facility upon arrival at a work site and wait at least 3 hours for the facility owner to provide additional information	10	\$2,000.00	\$0.00	\$2,000.00
5 (6)(i)	Failed to plan the excavation or demolition work to avoid damage to or minimize interference with a facility owner's facilities in the construction area	10	\$2,250.00	\$125.00	\$2,375.00
5 (3.1)	Scope of project exceeds the maximum area of a routine ticket	9	\$2,000.00	\$0.00	\$2,000.00
2 (5)(vi)	Lines were not marked in compliance with the Common Ground Alliance Best Practices for Temporary Marking (ANSI standard Z535.1)	8	\$2,250.00	\$0.00	\$2,250.00
5 (13)	Changed the location, scope or duration of a proposed excavation without notifying the One Call System.	8	\$2,000.00	\$0.00	\$2,000.00
5 (21)	Excavator failed to pay the annual fee for services provided by the One Call system	7	\$1,500.00	\$0.00	\$1,500.00
2 (1)	Facility owner is not a member of One Call	6	\$1,500.00	\$325.00	\$1,825.00
2 (5)(iii.1)	Facility owner failed to propose a mutually agreeable scheduling by which the excavator, facility owner or designer may locate underground facilities	6	\$1,500.00	\$0.00	\$1,500.00
5 (2.2)	Failed to provide exact information to identify the worksite	6	\$1,500.00	\$0.00	\$1,500.00

Figure H Continued

2020 Penalties by Statute cont.

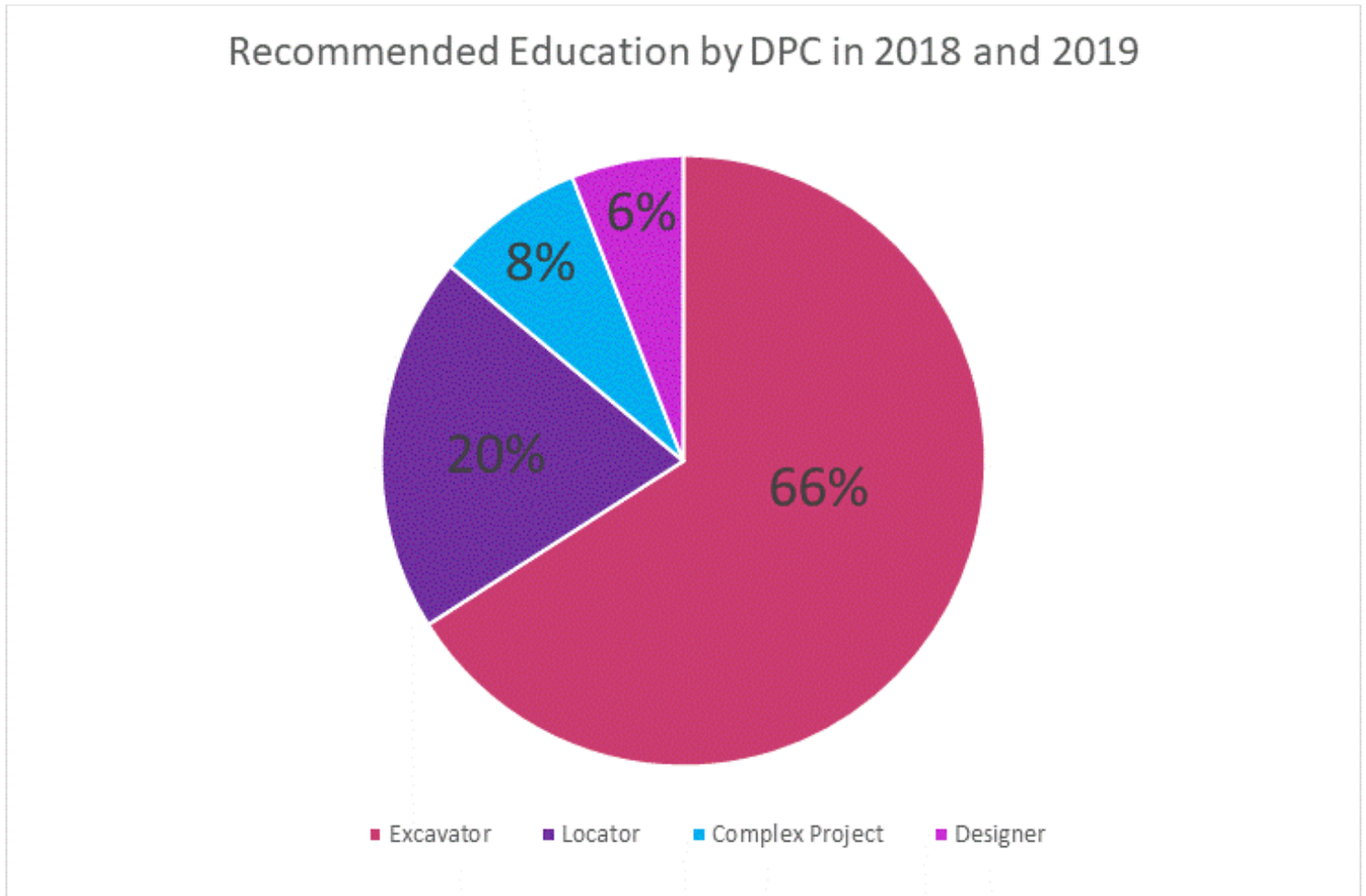
Statute	Description	Count	Penalty	Factor	Total Penalty	
5 (6)(ii)	Failed to provide support and mechanical protection for known facility owner's lines at the construction work site during the excavation or demolition work, including during backfilling operations	5	\$2,500.00	\$0.00	\$2,500.00	
2 (1)(ii)(A)	Failed to provide the One Call System with the counties, municipalities, and wards in which its lines are located.	4	\$1,000.00	\$0.00	\$1,000.00	
2 (11)	Facility owner failed to comply with all requests for information by the Commission relating to the Commission's enforcement authority under Act 50	4	\$1,000.00	\$0.00	\$1,000.00	
4 (2)	Designer failed to request the line and facility information prescribed by section 2 (4) from the One Call System not less than ten nor more than ninety business days before final design is to be completed	4	\$2,000.00	\$0.00	\$2,000.00	
5 (11)	Failed to use the color white to mark a proposed excavation work site when exact work site information could not be provided	4	\$500.00	\$0.00	\$500.00	
5 (2.1)	Homeowner failed to submit a location request to One Call within the correct timeframe	4	\$0.00	\$0.00	\$0.00	
5 (8)	Excavator vacated worksite after causing damage that resulted in the escape of gas or liquid which may endanger life, health or property	4	\$4,000.00	\$300.00	\$4,300.00	
6.1 (1)	Failed to utilize sufficient quality levels of subsurface utility engineering or other similar techniques to properly determine the existence and positions of underground facilities when designing known complex projects having an estimated cost of four hundred thousand dollars (\$400,000) or more	4	\$2,000.00	\$0.00	\$2,000.00	
5 (19)	Failed to provide accurate information to the One Call System	3	\$750.00	\$0.00	\$750.00	
4 (5)	Designer's drawing does not include One Call's toll-free number and the serial number of the ticket	2	\$500.00	\$0.00	\$500.00	
5 (5)	Failed to exercise due care when facility owner is unable to mark within a mutually agreeable time frame.	2	\$1,000.00	\$0.00	\$1,000.00	
1.1	Excavation did not begin within legal timeframe	1	\$1,000.00	\$0.00	\$1,000.00	
10	Intentionally removed or tampered with a facility owner's marking	1	\$1,000.00	\$0.00	\$1,000.00	
2 (12)	Failed to participate in the One Call System's Member Mapping Solutions, as determined by the One Call System's board of directors	1	\$0.00	\$0.00	\$0.00	
2 (5)(13)	Failed to mark and maintain existing records of abandoned Lines	1	\$250.00	\$0.00	\$250.00	
2 (5)(ix)	Facility owner failed to respond promptly to the site of an excavation where its underground line was damaged causing an escape of a flammable, toxic or corrosive gas or liquid which endangered life, health or property	1	\$1,000.00	\$0.00	\$1,000.00	
4 (4)	Failed to prepare construction drawings to avoid damage to and minimize interference with facilities in the construction area	1	\$250.00	\$0.00	\$250.00	
5 (3)	Excavator failed to schedule work as agreed upon during a preconstruction meeting	1	\$500.00	\$0.00	\$500.00	
5 (6)	Failed to inform each operator employed by the excavator at the work site of the information obtained by the excavator pursuant to clauses (2.1) through (5)	1	\$250.00	\$0.00	\$250.00	
		Totals	1630	\$861,875.00	\$9,360.00	\$871,235.00

Bureau of Investigation and Enforcement. (March 22, 2021). Damage Prevention Reports 2020. Retrieved from our statistical software; Damage Prevention Dashboard.

Education

In some cases, in lieu of substantiated administrative penalties, the DPC designates education as an alternative method of enforcement. Between 2018 and 2019, the DPC heard 109 Discussion Cases and voted on 340 Omnibus Cases. Of the 449 cases voted on by the DPC, 48 of them included an educational component as part of the recommendation.

Figure: I



In 2020, the DPC heard 29 Discussion Cases and voted on 422 Omnibus Cases. Of the 451 cases voted on by the DPC, 43 of them included an educational component as part of the recommendation from the DPC.

Figure: J

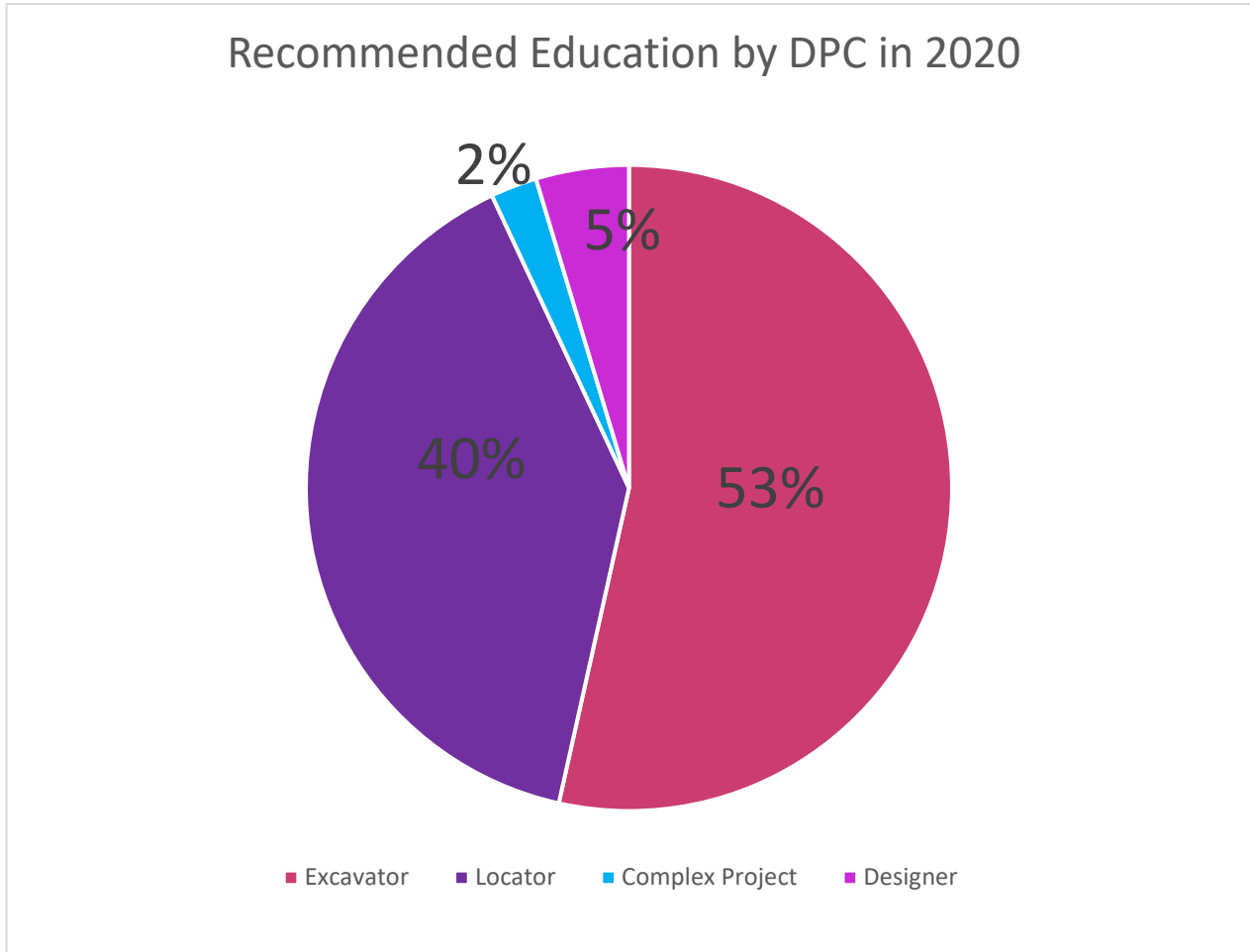
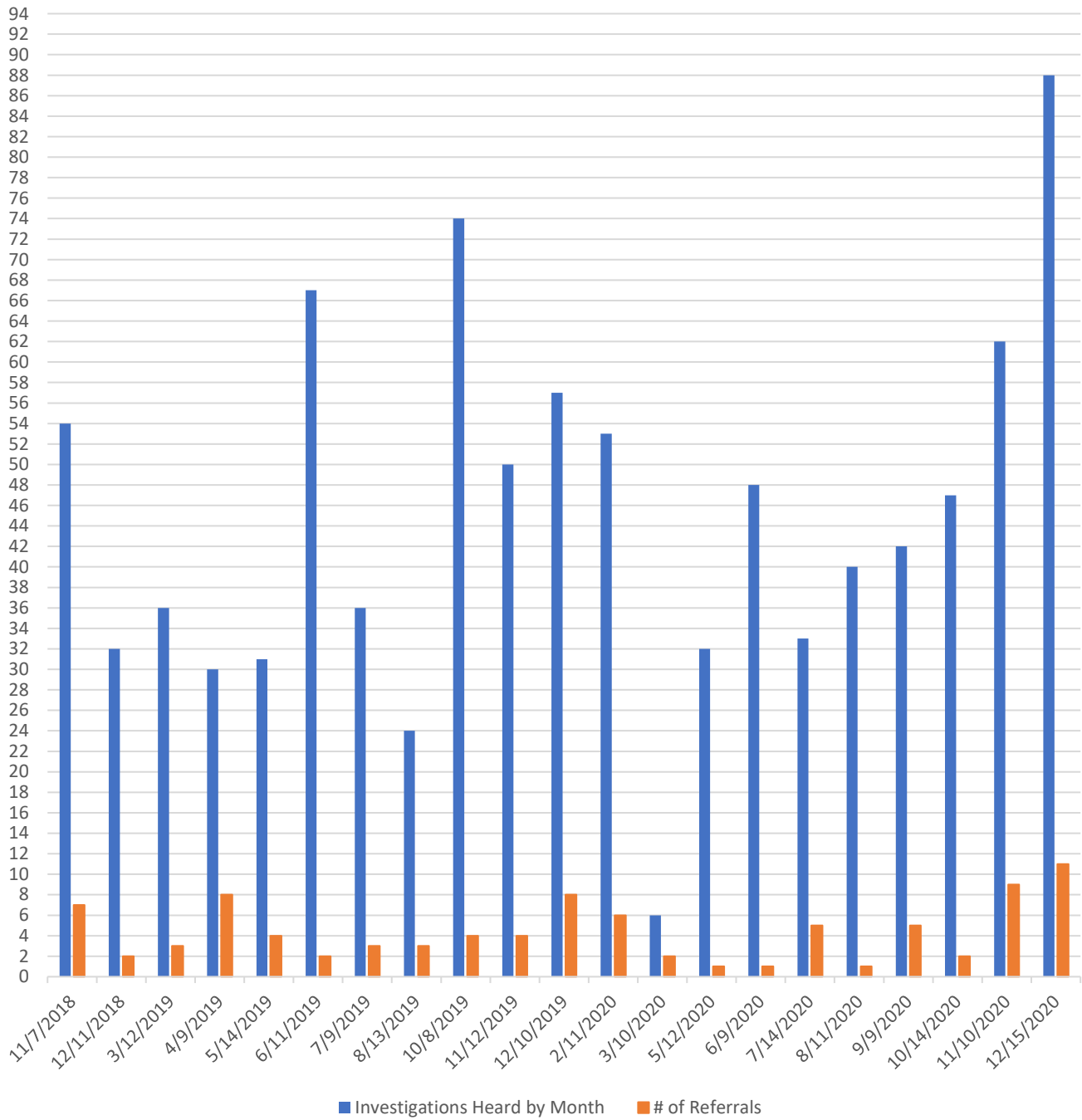


Figure K: Number of Cases the DPC Referred to Education per Meeting



***The PUC did not conduct a DPC Meeting on 1/1/2019, 2/1/2019, 9/1/2019, 1/14/2020 or 4/14/2020.**

Figure K shows the total number of cases voted on by the Damage Prevention Committee at the identified meetings as well as the number of cases where the resolution included a recommendation of further education to the interested party.

The POCS modified its education program in 2020 adapting to the needs of the DPC becoming a virtual environment. With education modules and compliance tests tailored to an online format, the education component of the DPC has been streamlined into a more accessible, and more efficient resource for continuing education compliance recommendations.

The PUC is optimistic that given the enhanced virtual resources, more stakeholders will be able to access education and training in 2021. With many entities turning towards online tools and platforms to develop and access information, we encourage the excavation community to utilize these formats to improve their internal procedures for a more reliable, safer Pennsylvania.

Summary

This report presented statistics for the period of enforcement of Act 50 since coming under the PUC's jurisdiction in April 2018. The data gathered is utilized to track trends in accomplishments and deficiencies in damage prevention enforcement in the excavation community.

Every year poses new challenges. 2020 challenged every aspect of our personal and professional lives due to the Pandemic. The PUC, along with the Damage Prevention community, was committed to adapting to the changing environment. This commitment resulted in the creation of new efficiencies and pathways to fulfill the Damage Prevention Committee's mission. While creating and initiating a new virtual platform was initially a technical challenge, the implementation was highly successful and resulted in less barriers for meeting participation. Many excavation jobs were cancelled or delayed in 2020 due to COVID 19 limitations. It is unclear at this time how that ultimately effected statistics gathered through the year. With that being said, the Commission's Damage Prevention Section, DPC, and the Pennsylvania One Call remain committed to upholding the standards of ACT 50 with the goal of reducing underground damaged facilities and continuing to make Pennsylvania safer.

References

Bureau of Investigation and Enforcement. (March 22, 2021). *Damage Prevention Reports 2020*. Retrieved from PUC's statistical software; Damage Prevention Dashboard. (Figures A, B, C, D1, D2, D3, E, F, F1, G, G1, H, I, J, K)

Pennsylvania One Call System



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