

IMPACT OF EXEMPTIONS ON SAFETY

An Excavator Perspective

Jennifer Reams, MA/MBA

Crestline Paving & Excavating Co., Inc

National Utility Contractors Association of Ohio

PREFACE

- “The responsibility for preventing excavation damage is shared by all stakeholders, and includes elements such as planning, effective use of one-call systems, accurate location and marking of underground facilities, adherence to safe digging practices, proper placement of facilities, and strong public education and awareness. “ (1999, Common Ground)
- ❑ Any “misstep” or lack of fulfillment of responsibilities in the above stakeholder responsibility matrix greatly increases the likelihood of damage.

EXCAVATOR VESTED INTEREST/KNOWLEDGE

- ❑ Damage occurs in the “excavation” phase of the process; ie. If the stakeholder obligations are not fulfilled this will have a DIRECT impact on the excavation part of the project process.
- ❑ Our employee safety risk factor is directly affected by the additions and/or eliminations of exemptions.
- ❑ A great deal of contractor resources are spent on incident investigation. Why did this happen? How can we make sure it does not happen again?
- ❑ How do we view exemptions? The “right” to not fulfill responsibilities

EXEMPTIONS

× Common Types of Exemptions

- + Depth exemptions (Ohio, Texas, Indiana, New Jersey)
- + Design exemptions (Ohio)
- + Rural exemptions (Indiana)
- + Municipality exemption (Ohio, Texas, Pennsylvania, Indiana)
- + Facility type exemptions (Pennsylvania, Texas, Indiana, New Jersey)

× What are they exempt from?

- × One Call notification
- × Locating
- × Providing all approximate location information
- × Obligations associated with effective damage prevention practices.

IMPLICATIONS OF EXEMPTIONS

- How does it affect the process?

THE DESIGN PHASE

1. Designers notify underground facilities of intent of project design involving excavation.
2. Facility owners provide approximate locations of facilities with in the project area
3. Approximate locations of facilities are provided on plans

BENEFIT OF OBLIGATION

1. Gives notice of upcoming projects to facility owners.
2. Plans are designed to reduce/eliminate conflict with existing facilities
3. Serves as a “check system” with marks on ground

CONSEQUENCE OF EXEMPTION

1. Facility owner are not given timely notice of projects within their right of ways
2. Projects are designed without knowledge of what is under the ground
3. The excavator has only one source of information to rely on; no check and balance

LOCATING/MEMBERSHIP/UTILITY PHASE

1. Facilities shall register their infrastructure location with the One Call System
2. Upon notification, facilities shall stake and mark their facilities.
3. All facilities are located regardless of vicinity. I.e. rural vs. urban

BENEFIT OF OBLIGATION

1. Given notice that excavation will be performed within the area of underground facilities
2. Provide information to the excavator that there is an underground facility within the tolerance zone of the marks provided
3. All Facilities are marked where excavation is taking place.

CONSEQUENCE OF EXEMPTION

1. Facility owner are not given notice of pending excavations/unclear if notified
2. Excavator has no knowledge that there exists a facility within the area. Proprietary information of facility owner.
3. Excavation takes place in rural areas/rural areas become urban

EXEMPTIONS IN THE EXCAVATION PHASE

1. Contact the One Call Protection Service with intent to excavate regardless of depth of excavation

BENEFIT OF OBLIGATION

1. Given notice that excavation will be performed within the area of underground facilities

CONSEQUENCE OF EXEMPTION

- 1 a. With the exception of gas; There is often no minimum underground facility bury standard ie. Facilities can be buried at any depth.
- 1 b Although the gas industry has a Federal standard for depth of bury, the law is silent when it comes to maintaining the depth over time. Further, the standard went into effect in 1970; so older gas lines did not have to meet the Federal requirements of depth of bury at installation.

CONCLUSION

- ✘ PHMSA said it best “every exemption provides another opportunity for a completely preventable serious pipeline incident to occur.”
(Pipeline Safety New Voices Project – Briefing Paper #7 – *Excavation Damage Prevention*)
- ✘ Do not meet the intent of the 9 elements to better damage prevention- as being exempt from obligations means that these standards/laws put in place to enhance damage prevention and safety are not being fulfilled. Why?
- ✘ The bottom line: does it make the process safer? If there is any chance that there is a underground facility in the area of excavation. the answer is....

NO!