

*2013 Pipeline Safety Hazardous
Material Workshop
State Exemptions to One Call
Regulations
NAPSR Perspective*



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1 March 14, 2013

Who is NAPSAR?

- NAPSAR is comprised of state pipeline safety regulators from the lower 48 states and DC & PR
- Members include over 400 individuals and comprise approximately 75% of the pipeline inspection workforce in the US
- Inspect distribution and transmission gas pipelines and hazardous liquid pipelines
- The majority of NAPSAR members oversee and administer state underground damage prevention programs



NAPSR's Overall Position on Exemptions

- Broad Exemptions for an entire entity or activity should be minimized or eliminated. NAPSR does not favor these type of exemptions
- Narrow and Limited Exemptions for very specific activities may make sense

No Data to support that removing certain exemptions would decrease damages

Example 1:

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Exemption in one state for a **rock quarry** to not have to notify the one call center for daily activities involving blasting, drilling and cutting.



No Data to support that removing certain exemptions would decrease damages

Example 2:

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Exemption in multiple states for **cemeteries** to not have to call a one call center before each and every internment



Limited Exemptions

Tilling of Soil for seeding or agricultural purposes

What if the original easement document allowed for such use?

When does seeding become large and deep excavation?



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Provisions for Emergencies

While not worded as an exemption many states allow utilities to excavate immediately during emergency situations and notify one call centers “as soon as practical”



Types of Exemptions

- Entity Based
 - Governmental Based
 - Railroads
 - Utilities
- Activity Based
 - Gardening
 - Tilling for agricultural uses such as seeding
- Depth Exemptions
- Typically 12 inches, 18 inches
- Narrow and Limited Exemptions for specific activities may make sense



States Identified by PHMSA as potentially losing eligibility for Grants

- Applies to One Call Grants and State Damage Prevention Program Grants
- Ten States preliminarily deemed *probably ineligible* AL, AR, FL, NC, OH, OK, PA, SC, TX and WV
- Seven States preliminarily deemed *potential ineligible* GA, ID, IA, NH, SO, VT, WA

Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011

Public Law No: 112-90 Jan. 3, 2012

- § 60134. State Damage Prevention Programs
(a) (3) does not provide any exemptions to **municipalities**, **State agencies**, or **their contractors** from the one-call notification system requirements of the program. [this amendment takes effect 1/3/2014]

Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011

Public Law No: 112-90 Jan. 3, 2012

- § 6103. Minimum standards for State One-Call Notification Programs

In order to qualify for a grant under section 6106, a State one-call

notification program may not **exempt municipalities, State agencies, or their contractors** from the one-call notification system requirements of the program. [this amendment takes effect 1/3/2014]



Impact of Exemptions on States

- **States may be impacted states in**

4

ways

Impact of Exemptions on States

- States may be no longer eligible for One Call Grants (\$1 million annually in aggregate)
- States may be no longer eligible for SDPP Grants (\$1.5 million annually in aggregate)
- In some states grants are used to partially offset personnel costs used in the enforcement process – this could lead to less enforcement not more
- In some states grants are used to promote educational awareness of call before you dig and the CGA 811 campaign – this could lead to less public awareness of this safety message

Impact of 2006 Pipes Act

- Section 2A allows for PHMSA to conduct civil enforcement for pipelines only when there is no civil penalty authority within a state
- Section 2A allows for PHMSA to conduct civil enforcement for any state program deemed “inadequate”
- PHMSA is soon ready to issue rule making regarding procedures and criteria for determining inadequate.

What does this have to do with exemptions?

- one of the criteria for determining if a state program adequacy may be reviewing provisions for exemptions in the state
- If PHMSA does find the enforcement inadequate then could end up with dual system for utilities within the state – state system and federal system depending on damage event.

Exemption Determination can negatively impact states

- One potential outcome of determining if a state has inadequate enforcement could be states could lose up to 10% of the Pipeline Safety Base Grant and result in millions of dollars less available for states

FINI!!!

Thank You