The Road You Traveling

Why every State DOT will be required to locate their underground facilities
Mark F. Palma
Hinshaw & Culbertson, LLP
The Progression of Events

- Prior to 1998
- Series of state initiatives to create “call before you dig laws”
- Very few government agencies were included
- Patchwork quilt of laws across America
Common Ground Study

- 1998-1999 Federal DOT Initiative
- First national look at state one call laws
- 140+ stakeholder participants, including Federal Government
- Resulted in a series of recommendations, known as the best practices
Common Ground Alliance

• Formed in 2000
• Charged with continuing the work of the Common Ground Study
• Funded in part by PHMSA
• Became forum between Federal Government and the Stakeholders
A Series of Compelling Events

- 9/11 brought attention to the role of the infrastructure to America’s society
- Several high profile national accidents involving the infrastructure came to Washington’s attention
- DIRT report focused on causes of underground facility damage
PIPES ACT of 2006

- 811 Number Assigned to One Call
- PHMSA began to “judge” the adequacy of state one call initiatives
- “9” elements became focus
- No exemptions to one call became a central theme
- State DOT’s came into focus
API and AOPL Initiative

- Pipeline Industry under scrutiny for high profile accidents, including those caused by third party damage
- Open letter to all states and the Secretary of Transportation for significant reforms to one call laws
- Demands no exemptions
State DOT’s Have Underground Facilities

- Significant underground plant
- Both energized and passive plant (drainage)
- Meets the statutory definition of an underground facility in most states
State DOT’s Have Underground Facilities

- Not deemed protected by permit or other administrative processes
- No “political excuse”
- Each industry deemed interdependent
- Washington agrees with no exemption rule
- Now state funding of regulators being tied to elimination of all exemptions
Where do Go From Here?

- Losing Fight?
- Develop systems to address your responsibilities as both an excavator and as an underground facility operator
- Significant investment in time and training
- Will require “cultural shift”
Where do Go From Here?

• Become an excavator
• Make one call part of work management systems
• Use integrated approach to submitting tickets
• Use electronic ticket entry
• Use a ticket management system
Where do Go From Here?

- Become a facility operator
- Work with your one call center to develop efficient on-line system to transmit and manage your maps
- Identify what underground facilities you have under your state law
Where do Go From Here?

- Create a culture of change
- DOT’s will be considered “utilities” and “excavators” in the evolving nature of the law
- Demonstrate the advantages to protection of your underground facilities
- Educate your State as to the Changing Role of DOT’s