

OHIO UNDERGROUND DAMAGE PREVENTION COALITION

Full Coalition Meeting

February 25, 2021

Meeting Access: <https://global.gotomeeting.com/join/416983325>

Phone: tel:+18722403212,,416983325#

Call Meeting to Order:

Attendance (45):

Ed Albright, Jim Baker, David Berens, Paul Briggs, Mike Beirne, Pete Chace, Mitchell Croy, Greg First, Heidi Fought, George Gillespie, Debbie Harris, Brian Hickman, Clayton Heitz, Joe Igel, Andrew Jacobs, Joel Johnson, John Keaton, Jim Kelly, John Kelly, Dave Koren, Rob Krzys, Jeff Kursman, Beth Lear, Roger Lipscomb, Mary Logan-So, Scott Lucas, Connie Luck, Jim Mander, Mike Moreland, Josh Motzer, Seamus Mulligan, Mark Niehe, Regan Noble, Darren Owens, Mark Potnick, Liz Pyles, Jennifer Reams, Lee Richards, Steve Schafer, Les Schell, Kevin Schimming, Al Tonetti, Neil Tunison, Frank Ward, Jim Wooten

OUDDPC Recap:

Joe Igel provided an overview and expressed appreciation for all of the collaborative work conducted by the OUDDPC subcommittees and discussion groups. On September 13, 2018, the Coalition met, establishing three subcommittees and four discussion groups:

Subcommittees

- Size and Scope, *and* Large Projects
- Exemptions
- Accountability for Third Party Locators

Discussion Groups

- Abandoned Lines
- Life of a Ticket
- 48 Hour Waiting Period
- Training

While the full coalition was unable to meet in 2020 due to the Covid-19 pandemic, the subcommittees and discussion groups each met several times throughout 2019 and early 2020. After thorough reviews and discussions, the Accountability for Third Party Locators subcommittee and 48 Hour Waiting Period discussion group made the decision not to proceed. With overlapping work, the Life of a Ticket discussion group was merged with the Size and Scope and Large Projects subcommittee to form the Utility Coordinating Project subcommittee.

Subcommittee Reports & Draft Language:

EXEMPTIONS SUBCOMMITTEE Report Out – Darren Owens

Darren reviewed the purpose of the Exemptions Subcommittee. The current governmental exemptions included within Ohio Revised Code's Underground Utility Damage Prevention legislation are problematic for two reasons:

- 1) From a perspective of Public and Excavator Safety, the municipal exemptions create inequities between the safety and protection of public versus private sector workers. Contracted excavators are required to submit notifications a minimum of 48-hours prior to the commencement of their digging activities so that potential underground utilities can be safely located and marked, while municipal workers engaged in similar projects would not benefit from the safety afforded by such markings.
- 2) Under PHMSA guidelines, Ohio's current "entity"-based exemptions prohibit eligibility to apply for annual One Call Grants and State Damage Prevention Grants. Transitioning to exempted "activities" could potentially allow access to grant applications.

The subcommittee initially identified 18 excavation activities commonly conducted by municipalities within right-of-ways. During review, it was determined several of these activities almost universally exceeded twelve inches in depth and should be eliminated from consideration. The current list of 8 activities represents a "meeting in the middle."

It was noted that these proposed exemptions would only be applicable in right-of-ways and that any proposed excavation activities exceeding twelve inches would not comply with the proposed exemptions and would require a locate notification.

Exemptions Subcommittee Proposed Language:

3781.25(l) "Excavation" means the use of hand tools, powered equipment, or explosives to move earth, rock, or other materials in order to penetrate or bore or drill into the earth, or to demolish any structure whether or not it is intended that the demolition will disturb the earth. "Excavation" includes such agricultural operations as the installation of drain tile, but excludes agricultural operations such as tilling that do not penetrate the earth to a depth of more than twelve inches. ~~"Excavation" excludes any activity by a governmental entity which does not penetrate the earth to a depth of more than twelve inches.~~ "Excavation" excludes activities listed below when performed in the public right of way and providing that the activity does not penetrate the earth to a depth of more than twelve inches. "Excavation" excludes coal mining and reclamation operations regulated under Chapter 1513 of the Revised Code and rules adopted under it.

1. The cleaning of debris from open roadside drainage systems that does not alter the existing invert of that drainage system.
2. Milling of asphalt road surface except at signalized intersections and where signal and/or environmental sensors may be present.

3. Underground utility locating and surveying activities limited to uncovering valve enclosures, manhole covers, or similar utility components, placement of temporary marking flags or wooden lathe and grounding of locating equipment.
4. Utility wood pole inspection.
5. Repair or replacement of utility pedestals or enclosures in the same location
6. Tilling for sowing of grass and wildflower coverings for erosion control or beautification purposes.
7. Placement of temporary signage.
8. Addition or removal of roadside berm material.

Discussion:

Joe Igel expressed his pleasure that the proposed language represented movement from entity based exemptions to those based on activities.

Liability questions were raised by several of the utility operators. “If an excavator is performing exempted activity and damages a utility, who is financially responsible?” It was noted that liability is not addressed in the current or proposed legislation.

Seamus Mulligan, Paul Briggs and Les Schell expressed general concerns with the exemptions and would like to review further and provide comments.

Dave Berens believes that the new wording addressing milling activities would be “more stringent” and promote greater safety by requiring utility locates in signalized intersections. Mark Potnick asked how the geographic limits of signalized intersections would be defined and was directed by Roger Lipscomb to the Ohio Marking Standards as referenced in the ORC.

Jim Mander expressed concerns with trying to define the existing drainage lines in open roadside drainage systems due to the erosion that may have occurred over years and decades.

Roger Lipscomb reminded the OUDPC that each of the proposed activity exemptions are already exempted for governmental entities.

Jennifer Reams asked how federal obligations would be monitored. “While governmental entities have right-of-way agreements, private contractors may not.”

Neil Tunison asked if a Bill Sponsor has been identified. While the Coalition previously enjoyed the sponsorships of Senator Coley and Representative Sprague, this is a future step after the OUDPC has agreed to proceed with proposing legislation.

Joe and Roger reiterated that the purpose of the Coalition meeting was to provide an update and overview of the work of the subcommittees with the goal of generating further input and subcommittee participation by stakeholders.

UTILITY COORDINATION PROJECT

Subcommittee Report Out – Kevin Schimming

Kevin Schimming reviewed the goals and process followed by the Utility Coordination Project subcommittee and they evolved over a dozen in person and virtual meetings. While OHIO811 processed 1.4 million locate requests in 2020, only a handful were designated as “Large/Complex Projects.” The committee set out to evaluate the existing process to determine why it is not being utilized, to review related current industry practices and draw upon the diverse background of subcommittee members.

The goals as outlined, are to increase safety, enhance communications amongst stakeholders and to develop a reasonable process to address the challenges inherent to complex projects.

KEY CONVERSATIONS

Is it a “Large Project” problem?

- No, geographical size is generally irrelevant to this process
- We’re looking at it the wrong way...
- What are the unique identifiers for a Utility Coordination Project

Components of a Utility Coordination Project:

- Complexity of locating efforts and/or quantity of utility conflicts
- Complexity, duration and/or geographical scope of excavation work
- Work progresses from one area to another
- 3781.27 (design ticket) utilized in preparation for project

Who has the knowledge to designate an excavation as a Utility Coordination Project?

- Options- Excavator, Utility or Protection Service

What is the goal of the designating a project as a Utility Coordination Project?

- For the excavator and affected utilities to communicate and exchange information
- Develop a mutually agreed upon marking schedule if needed

What is the timeline for such a designation?

- Within the 48 hour wait time
- What’s fair and reasonable?

Do all utilities have to agree that it is Utility Coordination Project?

- Is it an all or nothing scenario

How could the designation be made?

- Means/methods are critical given the timeline

What information is critical to the process?

PROJECT RELATED INFORMATION

- Contact information for the excavator and utility whom has the knowledge and authority to coordinate marking activities at this site.
- Actual start date and location(s) of excavation(s) within boundaries identified on ticket(s)
- Current and available Construction documents, including plans and project schedule(s), that illustrates the progression of work from one area to the next
- Work Type, Means of Excavation, Anticipated Daily Production and Intended Depth of Excavation(s)
- Agreed upon means, methods and frequency of communication for this project
- Other information that could assist in coordinating utility markings with actual excavation activities

What about Murphy's Law- "if it can go wrong, it will"

- Modification process

How do we plan for the future changes in excavation practices/installation techniques and advancements in technology?

- Review process similar to the Ohio Universal Marking Standards
- Develop Best Practices to be shared with the industry

Proposed Draft language added to an enforceable section of the law:

Excavation(s) that exhibit one or more of the components of a Utility Coordination Project (UCP) may be designated as such by a commercial excavator when a ticket is created or by a utility within one full working day of receiving a ticket(s) from a commercial excavator or utility. A utility, as defined in ORC 3781.25(C), whom designates an excavation as a UCP shall make this designation utilizing the positive response system and the protection service shall notify the commercial excavator that the designation has been made.

Upon designation as a UCP, the excavator and utility shall communicate to each other Project Related Information and agree to a marking schedule that coordinates utility markings with actual excavation activities and/or follow the UCP Best Practices on file with the Protection Service. The marking schedule shall be agreed to and documented by each party prior to the commencement of any excavation activity. The protection service may serve as repository for this information.

The excavator or utility, as defined in ORC 3781.25(C), may request a modification to the agreed upon marking schedule. Any modification to the marking schedule shall be agreed upon and documented by each party prior to it becoming effective.

Representatives of commercial excavators and utilities, serving on Ohio Damage Prevention Councils, and at least one representative from the protection service shall review, and modify if needed, the UCP Best Practices every 2 years.

Benefits

Increase in communication between stakeholders

This process, or variations of this process, are used every day in the industry

- Won't affect the large numbers of folks who are already doing this... just the ones unwilling to participate

Creates a clear definition/listing of components likely present in Complex Projects

- Educational guidance for Stakeholders... we have some concrete things to teach on now...
 - What could trigger a UCP?
 - What info will the Utility be asking for?
- With this knowledge, more excavators will enter into the process voluntarily and upfront
 - Reduce the likelihood of delaying a project

Based on take-a-ways from real world application (Igel/AT&T pilot projects)

Allows for changes in technology, excavation means and methods and damage prevention practices

Challenges

Requires stakeholders to become active participant

Could require additional planning

This is a change, but a change we dearly need

Discussion

Mark Potnick stated that 48 hours is not adequate for the identification, scheduling, planning and conducting of coordination meetings and that Utility Coordination Projects should be identified in pre-construction meetings with ODOT, etc.

Mary Logan So and Kevin conveyed that the goal was to avoid allowing utilities to wait until the 47th hour to "throw a flag" and stall/halt a project, but that not every project had advanced notice and pre-construction meetings. The goal was to establish a baseline and best practices to encourage more effective usage of the UCP designation.

Jennifer Reams suggested that parties are already obligated to have coordination under 3781.27 (D)(2) and that these meetings should be moved to the design phase.

Kevin reiterated that in ideal situations, UCPs would be identified during a planning process, but in situations where excavators "don't know," utilities raising the flag would in practical application, probably make it difficult to commence in 48 hours.

For the sake of time, Kevin walked the OUDPC through the remaining summaries of work conducted by the subcommittee.

Roger Lipscomb provided clarity that OHIO811 will coordinate meetings, providing support and resources to the Coalition, but it is the role of the Coalition to determine next steps, including whether to pursue legislation, direction and timing.

Steve Schafer shared that PA struggled for years with the whole concept of complex projects, but as a result of adding parameters to help with identification, there is increasing use of complex project tickets, more cooperation and greater safety. Encourages considering other states' legislative language.

Changing topics, Kevin shared that the pre-marking requirements in House Bill 458 never married up pre-marking with the information provided on a ticket to identify which takes precedence when determining the area to be located.

SCOPE OF TICKET- CLARIFICATION AROUND WHITELINING

Likely added to 3781.25 (J) "Excavation site means the area within which excavation will be performed...

If an excavator indicates the excavation site has been pre-marked, they shall also be asked to indicate the number of pre-marked excavation locations and to specify any additional footages needed from each pre-marked location. When this information is provided, and included on the notice of proposed excavation that utilities receive, the excavation site/scope shall be the pre-marked area, along with any additional footage specified. If pre-marking is not indicated by the excavator, the excavation site/scope shall be as described on the notice of proposed excavation.

Benefits

- No change to the existing premarking requirements
- Clarifies gray area created with pre-marking requirement & Marking Standards in HB 458.
- Maximizes and focuses locating resources
- Significant buy in by excavators throughout the state- they are seeing the benefits of narrowing the scope of the ticket to improve locating response and accuracy

Challenges

- Education & Awareness effort required to educate stakeholders
 - Not all types of excavations would benefit from this
 - What happens when my excavation expands beyond the pre-marked area?
- Potential reduction in pre-marking activities when not specifically required by law

SCOPE OF TICKET- GEOGRAPHIC LIMITATIONS TO SIZE OF A TICKET

A locate request submitted to the protection service shall not be more than ¼ mile (1320 feet) in length.

Benefits

- A step towards standardizing tickets
 - Statistical Comparisons
- Provide legal backing for Protection Service to enforce such practices
- Provide relief for rural/cross-country type locating efforts

Challenges

- Does not address sequencing of tickets... what's better 1 2 mile ticket or 8 ¼ mile tickets
- Likely positive change for rural settings but may not translate well to urban settings.
- Likely result in increased ticket volume

TICKET LIFE- 30 DAY TICKET EXPIRATION

A ticket will be valid for 30-calendar days from the date of notification to the Protection Service, provided markings are visible and continue to clearly identify the approximate location and direction of underground utility facilities. If the markings are not visible and/or clear, the ticket is no longer valid, even if it has been less than 30 days since notifying the Protection Service. If excavation activity is required to extend past 30 calendar days, the excavator shall notify the protection service as required in 3781.28(A).

Benefits

- Clarifies existing law by clearly defining how long a ticket is valid.
 - Black & White expiration dates make it easy to track
 - Eliminates necessity of computing weekends and legal holidays (not everyone recognizes the same holidays)
- Reduce frequency of 8, 10, 14 day calls that result from confusion
- Allow Utility Owners to more efficiently manage locating resources by decreasing inadvertent misuse of system
- Simplifies education and outreach to stakeholders

Challenges

- May increase ticket volume- Work a single ticket for several months
- Requires excavators to track/monitor the age of their tickets
- Life of Markings
 - Paint Life
 - Ohio weather

TICKET LIFE- 16 DAY COMMENCEMENT OF EXCAVATION REQUIREMENT

3781.28(A) Excavator notifying protection service or pipeline (A) except as otherwise provided in divisions (C), (D), (E) and (F) of this section, at least forty-eight hours, not including weekends and holidays, but not more than 16 calendar days before commencing excavation, the excavator shall notify a protection service of the location of the excavation site and the date on which excavation is planned to commence. If the excavation is not started within 16 calendar days, the ticket will be considered no longer valid.

Benefits

- Clarifies potential confusion around existing law (with adoption of 30 calendar day ticket life)
 - Black & White commencement dates make it easy to track- recall every 14 days if excavation not started
- Provides additional time in order to start the work in hopes of reducing unneeded tickets

- Eliminates necessity of computing weekends and legal holidays (not everyone recognizes the same holidays)
- Simplifies education and outreach to stakeholders

Challenges

- Requires excavators to track/monitor the status of their work
- Extends by 2 days the opportunity for utilities to be installed prior to the start of a project

Discussion & Next Steps

It was agreed that this gathering of the OUDPC, due in part to the challenges of meeting virtually, would not be as conducive environment to solving the lingering issues. Being respectful of the numerous perspectives and variables, feedback to and participation in the subcommittees is encouraged as the work of the subcommittees and discussion groups continues.

Roger Lipscomb stated that there is still much work to be done if the Industry wants to continue its efforts. OHIO811 will continue to support the efforts of the Coalition, organizing, arranging and facilitating meetings, keeping records and sharing issues with the field, DPCs, etc.

OHIO811 will distribute a survey of 8-10 questions to OUDPC members from across the industry, soliciting feedback regarding potential next steps, direction and timing.

With the new General Assembly focused on Covid-19 and that Budget, Spring or Autumn 2022 would probably be the appropriate target timeframe if the OUDPC comes to a consensus.

The minutes of the OUDPC and subcommittee meetings will be distributed by email with links and posted to the OHIO811 website.

Meeting adjourned.