

OHIO UNDERGROUND DAMAGE PREVENTION COALITION

Exemptions Subcommittee Meeting

April 29, 2021

Call Meeting to Order:

Introductions and Attendance (16):

Bryon Bedel (Cincinnati Waterworks), Jack Bennett (OHIO811), Paul Briggs (Dominion Energy), Pete Chase (PUCO), George Gillespie (OHIO811), Joe Igel (OUDPC Chair), Joel Johnson (City of Columbus), Jeff Kursman (OHIO811), Mike Lawson (Cincinnati Waterworks), Kyle McLeod (Columbia Gas), Darren Owens (City of Lebanon), Mark Niehe (Cincinnati Waterworks), Kevin Schimming (OHIO811), Les Schell (Tennessee Gas Pipeline), Scott Tustin (NiSource), Lori Wade (Columbia Gas).

Recap:

Kevin Schimming provided an overview of the Exemption discussion at the OUDPC meeting. The results of the recently concluded survey were shared, conveying overwhelming support for continuing to address issues with potential updates to Ohio Revised Code and the OUDPC as the proper mechanism for leading this process.

The subcommittees are tasked with continuing to work toward those changes. Typically, an in-person coalition meeting would have allowed for deeper discussions. This meeting is focused on providing/collecting input on the proposals as they have been developed to this point.

Exemptions

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

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:

"While some governmentals may wish to keep the current exemptions and many utilities and others in the industry may prefer to eliminate them entirely, the committee has produced a list of eight proposed activities for exemption as a 'meetings in the middle.'"

"I think we've come a long way and made immense progress."

"Over the years, as a result of erosion, multiple cleanings and other factors, gets too deep. We've also experienced a lot of damage from temporary signage. Milling exemptions is fine with me."

"I personally believe we shouldn't have any exemptions, and from a corporate direction, we'd like to see us get to no exemptions. We are committed to public and worker safety in Ohio. But the committee's work represents common ground, and is a big step in the right direction."

"I appreciate all the hard work and this list is a step in the right direction, but it needs a lot of changes as facilities become more shallow and are often within 12 inches of the surface. Some are even embedded in curbs and concrete."

"As a member of the committee, I feel like we worked toward common ground and don't have anything to add to the conversation at this point."

"I and our company don't believe in any exemptions. Any excavation activities conducted without locating could lead to injury or damage. Cited issues with ditching, milling as potential impact to assets in the right-of-way. "The Better option would be 'no exemptions.'"

"From PUCO's standpoint, we applaud the efforts to move from entity-based to activity-based exemptions."

Next Steps:

While the participants on the call largely agreed that the committee's efforts represent progress, there was significant agreement that many of the identified activity-based exemptions would still pose a danger to workers, the public and underground facilities.

The call participants agreed that the committee should reengage and work should continue to proceed beyond the impasse. Successful efforts will require participation by those who represent currently exempted organizations. Recommendation to schedule meetings or another call with the County Engineers Association of Ohio, the Ohio Township Association, the Ohio Municipal League and ODOT.

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