

# OHIO UNDERGROUND DAMAGE PREVENTION COALITION

## Utility Coordination Subcommittee Meetings

October 19, 2022

**Call Meeting to Order:**

**Introductions**

### **Recap: Exemptions Subcommittee**

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

3781.25(I) "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.**

The group has continued to discuss the challenges associated with an exemption for the cleaning of roadside drainage ditches. The primary concern is that electric and fiber cables and particularly gas pipelines are often located in close proximity to these ditches. Due to natural erosion, compaction and expansion as well as prior soil removal, maintenance and "cleaning", these facilities may be less than 12 inches deep. The activity may also inadvertently penetrate more than 12 inches based upon soil conditions and equipment used.

- The concern with ditches is that prior ditching and erosion brings utilities closer to the surface.
- Many rural municipalities are no longer using the exemptions. Most are making locate requests.
- Multiple attendees commented that ditch line cleanings are often planned excavations, thus there should be enough time to call in a locate request.
- City of Columbus weighed in that they are fine with having to call, but there still is a need for emergency tickets that allows them to address a public safety issue promptly.
- An issue that affects rural counties more often, there can be miles of ditch between cross streets, making locating (and marking) difficult. Part of the initial reason for the entity-based

exemption was because after heavy snow seasons, requiring the cleaning of debris from miles of ditches would need to be cleaned.

- As more utilities expand into rural areas with the use of federal infrastructure dollars, there will be more underground utilities.
- Roger Lipscomb suggested that there are merits on both sides of the debate, however we must find a solution because this is an issue of public safety. The voice of rural municipalities was not represented at the subcommittee meeting.
- Scott Lucas of ODOT does not see an issue with removing the exemption for planned digs, as long as municipalities retain the ability to quickly respond to emergency situations (to get roads open, drainage cleared, etc.).
  - It was pointed out that emergency language already exists, but does not exempt the excavating from calling in the locate request.
  - Question asked whether the use of an emergency ticket as a solution would absolve any (civil) liability?
- In the past, OTA have stated that ditching can run miles at a time and locators have stated that is too big of an area to mark in 48-hours.
- Gas and pipeline companies concerned about cleaning of debris from open roadside drainage systems that does not alter the existing invert of that drainage system.
  - Proposal to designate ditching as a “large/complex project,” engaging utility coordination to schedule sections and give locators more time to work ahead of the ongoing project.
- CCAO representative attending session wanted to bring topic basic to membership for evaluation. Concerned that this will be a bigger issue for the more rural counties (and county engineers).
- "It's hard to argue about safety"
- Franklin County Engineer considers cleaning a ditch is regular maintenance; sometimes planned, sometimes not. Explained how they are currently clearing a ditch that filled with three feet of soil that built up from a recent single storm.
- Marathon pointed out that the pipeline companies are continually seeing regular damage from ditching (municipalities and farmers). The erosion issue is real.
- This issue will only grow larger as more fiber lines are being placed in rural areas...and those municipalities will have difficulty paying for those repairs.
- Agreed that the ditching issue will be discussed/decided with the full coalition on Nov. 1.

**2. Milling and grinding of asphalt road surfaces no greater than 4 inches, excluding pulverizing activities and activities at signalized intersections and where signal and/or environmental sensors may be present.**

- It was noted that milling often causes damage to utilities, especially traffic signal wires.
- Due to directional drilling, some utilities are actually running through the asphalt. The solution might be to just limit the depth to keep the exception. This is especially true in resurfacing a street. The subcommittee agreed to add a 4 inch maximum depth to the milling exemption.



**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.**

- The subcommittee agreed to keep the language proposed at the last meeting concerning underground utility locating.

**4. Utility wood pole inspection utilizing hand tools to excavate and working on the clear side of poles, greater than 90 degrees from any risers.**

- The subcommittee wished to address process of inspecting both sides of the poll with clarified language.
- Agreement on proposed revision from "180 degrees" to "greater than 90 degrees from the riser."

**5. Repair or replacement of utility pedestals or enclosures in the same location.**

- The subcommittee agreed to keep the language proposed at the last meeting.

**6. Tilling for sowing of grass and wildflower coverings for erosion control or beautification purposes.**

- The subcommittee agreed to keep the language proposed at the last meeting.

**7. Placement of temporary signage.**

- The subcommittee agreed to keep the language proposed at the last meeting.

**8. Addition or removal of roadside berm material.**

- The subcommittee agreed to keep the language proposed at the last meeting.
- ODOT – "We would be the first to raise concerns, but we are okay with this language."

**Next Step:**

- Subcommittee agreed that the ditching issue will be discussed/decided with the full coalition on Nov. 1.
- Final subcommittee approval to forward to the full coalition for consideration.

## Recap: UTILITY COORDINATION Subcommittee

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

*Excavation(s) that exhibit one or more of the components requiring Utility Coordination (UC) may be designated as such by a commercial excavator when a ticket is created. A utility, as defined in ORC 3781.25(C), whom designates an excavation as requiring Utility Coordination 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 requiring Utility Coordination, 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 Utility Coordination 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 Utility Coordination Best Practices every 2 years.*

### Discussion

- There continues to be broad-based support for Utility Coordination (UC) as defined to replace the “Large Project.”
- This Utility Coordination designation should be made during the design phase, however language still needs to be developed for projects that don’t require a design phase or process.
- How do we communicate information and hold parties accountable? Strong language about enforcement and penalties needs to be adopted.
- HB430 has strengthened the notification process for excavators operating in close proximity to a pipeline.
  - Rather than seeking a new section of law, HB430 encourages behavior and bolsters what’d in the design phase.
- Circulated PA Law and COORDINATE PA Information:
  - Summary of Pennsylvania law, understanding their process and portal. (*see below*)
    - Every crew leader of multiple crews can access the utility coordination agreement document during all phases if the project
    - Everyone has accountability and responsibility
    - Makes sure everyone working on a project get the message
  - PA had more than 20,000 projects that match this. COORDINATE PA is an online tool PA built to track and engage all parties in complex projects. This can begin to take place even before planning...even a year or two ahead of time. This allows utilities to see

future road construction so that utilities can do work BEFORE a new road surface is placed.

- This system also keeps everyone updated on progress while the project continues.
- In PA, there is a minimum lead time of 10 days for a COORDINATE PA project.
- Who decides when a project is a complex project? A large geographical area does not necessarily qualify as a complex project. In PA, it can be either the contractor or utility can deem a project DISC (complex).
- CSRs in PA are trained to suggest to excavators that certain projects should be entered as DISC, so that utilities have the opportunity to call the meeting (10 day window).
- PA does not directly address abuse of the system

*“Cooperation, Documentation, Communication and a Mechanism for Accountability – this process hits on all four points.”*

*There is continued concern with the continuing mislabeling and potential abuse of this process by third-party locators. “It needs to be enforceable to protect against abuse.” “I think we all understand the potential for abuse, and minimizing that potential was a part of nearly every discussion.”*

*Can / should Ohio move toward allowing subcontractors to be added to a ticket like in Australia? This has the potential to alleviate excessive ticket volume. Example discussed relating to Energy Co-operatives where multiple contractors may be working on or competing for a given project.*

- *Abusers of the system must be held accountable*

## **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.*

### **Discussion:**

- Ticket language needs to be as specific as possible. Emphasize details of proposed excavation areas, not vague descriptions.
- Current ORC 3781.29(F)(1-4) currently reads:
  - *An excavator is not required to pre mark the approximate location of an excavation as provided in division (D) of this section in any of the following situations*
    - (1) *The utility can determine the precise location, direction, size and length of the proposed excavation site by referring to the notification provided by the protection service pursuant to sections 3781.27 and 3781.28 of the Revised Code.*
    - (2) *The excavator and the affected utility have had an on-site preconstruction meeting for the purpose of pre marking the excavation site.*
    - (3) *The excavation involves replacing a pole that is within five feet of the location of an existing pole.*

(4) *Pre marking by the excavator would clearly interfere with pedestrian or vehicular traffic control.*

- The consensus is that if the whitelining doesn't match the description in the ticket, the locator should call the excavator.
- Suggestion previously made to change language to explain that white lining is not the first step, it's to enhance the ticket.
  - Maybe the answer is simply reverse or clarify language of the ORC; changing to: "White lining shall be required, only when..."
  - Vast majority of tickets don't have to be white lined. White lining is a next step, not a first step in requesting utility locates. Locator must use all of the information in the ticket. The purpose of the white line is help explain the ticket. White lining is warranted when the location cannot be easily described in the ticket.
  - "White lining is an extra piece of information or piece of the puzzle, providing additional clarification to the details provided in the ticket language."
  - If the ticket is clear, white lining is not necessary. White lining is not necessary for the vast majority of tickets.
  - PUCO has currently set precedent that language in tickets trumps white lines
  - Cases taken to court have resulted in similar decisions
- Some committee members expressed belief that white lining should take precedence or it loses perceived value.
  - "If the ticket takes precedence, it could cause a lot of unneeded marking." (4 miles for 4 stop signs).
  - Locators believe that whitelining saves a lot of time.
  - Whitelining is intent. "This is where I WANT to do my excavation, but if there are utilities conflicting, I might decide to excavate elsewhere (nearby).
  - Describe white lines and the number of items you are planning to dig for.
  - Digital whitelining would be best scenario.
- The definition is still good as propose. "When in doubt, mark it out."
- Should Ohio consider digital whitelining? KY has digital whiteline (Texas, Michigan and Louisiana might also be using it).

## **SCOPE OF TICKET- GEOGRAPHIC LIMITATIONS TO SIZE OF A TICKET**

*A locate request submitted to the protection service shall not **exceed (vs "be")** more than ¼ mile (1320 feet) in linear footage within the easement or public right-of-way.*

### **Discussion:**

- This limitation would not apply to design tickets.
- Noted the potential for increasing the number of locate requests.
- Proposed adding "in the easement, or public right of way."
- OHIO811 is seeking language that would allow for restricting size vs. recommending smaller locate requests. OHIO811 currently has no authority to say "Sorry, we can't submit a ticket of this size."

- Ticket language needs to be limited

### **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).*

#### **Discussion:**

- Establishing a 30-day life helps clarify and is consistent for excavators.
- Subcommittee participants agreed and will send on to the entire coalition

### **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.*

- Subcommittee participants agreed and will send on to the entire coalition

### **NEXT STEPS**

Any changes will require extensive public education and outreach to stakeholders.

Although the Subcommittee identified items that may still need to be addressed/clarified, they agreed that proposed changes are a significant step forward in providing a safer working environment through enhanced communication and stakeholder involvement. “These changes are likely to solve many more challenges than they create.”

The Subcommittee reaffirmed their commitment to and support of these revisions.