

#### Comments Received on behalf of OCTA-Ohio's Broadband and Cable Association

Please see the below proposed change to the exemption language from OCTA. The minor change we are proposing would be to replace the "and" with "or" in section 2 (noted below).

We feel this broadens the applicability of the provision by allowing work near utility structures that are visible, exposed, or known to exist, without requiring all three conditions. This would also avoid unnecessary restrictions that could block safe, low-risk excavation due to technical wording.

This change would keep safety measures intact, including hand tool use, avoiding subsurface disturbances, and working from the clear side of the asset. It would also improve clarity and flexibility while maintaining the intent to protect underground infrastructure.

"Excavation" excludes all of the following activities when performed in the public right-of-way:

1. any activity conducted solely in response to an active locate request, provided that such activity is performed exclusively by means of hand tools. This exception shall apply irrespective of whether the activity occurs within or outside the boundaries of a road right-of-way.
2. activities conducted entirely within twelve (12) inches in any horizontal direction and twelve (12) inches in any vertical direction from an existing, exposed, ~~and~~ **OR** visible utility structure, provided such activities are performed exclusively with hand tools and do not otherwise disturb the surrounding subsurface area. This excavation must take place working on the clear side of the utility asset, greater than 90 degrees from any other utility asset. This exception shall apply irrespective of whether the activity occurs within or outside the boundaries of a road right-of-way.

The use of "or" aligns the language with real-world utility marking and excavation scenarios, providing clarity and flexibility while preserving the intent to protect underground infrastructure.

#### Comments received from Columbia Gas:

##### **ORC 3781.25(I) One -call utility protection service definitions.**

"Excavation" excludes all of the following activities when performed in the public **or utility** right of way:

- 1) any activity conducted by a facility owner and/or contract locators acting on their behalf solely in response to an active locate request, to locate the operator's utility lines, provided that such activity is performed exclusively by means of hand tools or nondestructive manner. This exemption shall apply irrespective of whether the activity occurs within or outside the boundaries of a road right-of-way.
- 2) activities conducted entirely within twelve (12) inches in any horizontal direction and **not to exceed twelve inches in depth** ~~twelve (12) inches in any vertical direction~~ from an existing, exposed, and visible utility enclosure, provided such activities are performed exclusively with hand tools and do not otherwise disturb the surrounding subsurface area. This exemption shall apply irrespective of whether the activity occurs within or outside the boundaries of the road right-of-way.

**Commented [KA1]:** Does this need to be a definition in 3781.25?

**Commented [KA2]:** We will have additional comments on this section but have not compiled. Team will be on the exemptions subcommittee call Monday to discuss all comments further if comments received are reviewed.