

Exemptions Subcommittee Meeting

5/12/2025

1:00PM

Attendees: Kevin Campbell, Alex McCann, Dominick Belser, Josh Bowman, Brian Hickman, Jana Bruen, Mick Burroughs, Casey Fritz, Collin Crigger, Jim Collins, Dave Coniglio, David Koren, Deborah Harris, Elizabeth Pyles, James Finucan, Frank Riegler, Jim Mander, Joel Johnson, Jon Dorsey, Michael Lambdin, Melvin Henson, Scott Mergler, Jason Broyles, Rod Troxell, Chris Russ, Leslie Schell, Gregory Vergamini, Lori Wade

Jim Collins opened the meeting at 1:00pm

Gave level one safety message to start the meeting. Emergency action plan.

Jim review guidelines of engagement

Previous meeting minutes review for approval.

Minutes from the previous meeting were approved unanimously

Josh Bowman (Deputy Director of Construction Management) from ODOT gave a presentation.

HB 227 exemptions proposal

Change the 4" milling exemption to 6"

Provide additional exemption to pavement repairs.

Up to 12" localized, targeted pavement repair

Outside of municipal corporation limits

About the WHY

Average 250 pavement repair jobs per year

Two types

Partial depth 0-6 inches

Full Depth- 6-12 inches

300% higher quantity of full depth repairs as opposed to partial depth repairs.

Benefits

Not dedicating locators resources to low-risk projects.

Dedicated to areas that are higher risk

Safety benefits by not having locators mark in live traffic where the risk is so low

Reduce potential delays to projects that are low risk

Increase public benefit

We as an industry have collaboratively through history not had an issue with this type of work and utilities being encountered.

Still maintaining locate requirement above 6” within the corporation limit.

Lori Wade- Second slide, adding “localized/targeted” to the draft language. Would like to see these two words in there if this does get passed.

Josh would prefer just localized if it gets added into language. Lori was ok with that.

Jana Bruen- Clarification, not to involve subbase in the 12” depth repair.

Josh does not include subbase, just asphalt. If it got to that point they would stop and have it located.

Jana Bruen- Could we add in the language to not include subbase.

Josh, could consider that

Rod Troxell- could be not to exceed existing asphalt depth

Dave Coniglio- Assuming this would include other entities, not just for ODOT.

Josh- Yes, would include ODOT, plus other industry folks who would fall into this exemption with their type of work.

Dave Coniglio- What is the average depth of pavement to get into the subbase?

Josh- Interstate, minimum of about 14th inches.

Dave Coniglio- Wants those on the call to know that information.

Josh Bowman – On pavement repairs they don't have subgrade issues at all, just need the pavement taken a little deeper to get the failed material out. Wants to dig as shallow as possible.

Shawn Hudgel- Did some thinking after the last full meeting. Are we doing anything in the wording to narrow it down so it's not just for one specific industry. What about county roads, township roads. Wants it worded so it covers everybody, not just one specific industry.

Jason Broyles- That is the intent in this subcommittee, blanket exemptions, homeowner, county engineers, townships. Be able to do these practices without having to call in for locates.

Shawn Hudgel- Need to be careful with wording. Concerns over milling and grinding, should we be saying "removal of asphalt"

Jana Bruen- Agrees with Shawn.

Jim Collins- Note that it does say road surfaces

Mike Burroughs- If you're looking at the aspect of using equipment other than a grinder or miller, such as an excavator, then you are running the risk with an excavator of going too deep with the teeth of the excavator. Fine line between milling and paving versus excavating to remove those types of surfaces. Seen several times where a particular facility drilling across roadways hits a rock, and the drill is going right underneath the asphalt.

Shawn Hudgel – Anytime you use mechanized equipment you run the risk of damaging a facility. Need to be careful with wording so the intent is clear.

Mike Burroughs- can rent a skid steer with a grinder from a tool rental place. If you don't have the option to use that type of equipment, then let's get locates called in for that job.

Jason Broyles- This is not industry specific, these excavation activities are exempt in the public right of way.

Shawn Hudgel- Thank you for the clarification.

Dave Coniglio- Confusing milling and paving, with specifically ODOT and the highway industry. ODOT may use it the most but doesn't exclude the homeowner or someone else from performing the same tasks under the exempted language.

Jason Broyles- Need to get a consensus, focus on the 4" to 6" change, let's figure out how the group feels.

Shawn Hudgel – 6" would be good, no more than that.

Dave Coniglio- Agrees with it as well.

Alex McCann- is also in agreement.

Jason Broyles- anyone not in agreement?

Jim Mandera- Hearing the conversation, not against it, likes the idea, the intent is to allow the operators to mill and grind without breaking the surface of the earth.

Jason Broyles-Reference Road depths, 14-16 inches before you get to subbase, still leave 6-8 inches of the bottom of the excavation till you get to the subbase.

Jim Mandera- Does every road have a subbase? What about a road that the pavement is not as thick?

Mike Burroughs- Is on the fence with it, is afraid something would be misconstrued, thinking of what could clear it up, is there a set requirement for every type of roadway, side streets, roads through town, specific asphalt depth?

Jason Broyles- Concern would be putting too much in there that would leave room for interpretation and the intent of the exemption would be lost.

Mike Burroughs- If you hit the subbase, then you need to stop and call in for a locate.

Rod Troxell- Milling and grinding, without penetrating the earth, could it be boldened to point it out. Could just say its 6", but when you get to the side roads you may not have as much asphalt. Wants to have that it doesn't penetrate the earth, (not exceed asphalt depth)

Mike Burroughs- Agrees with that

Josh Bowman- Work together to tweak language to be clear that you can't go deeper than the thickness of the asphalt.

Group agrees with that language

Shawn Hudgel- could achieve that by rewording of current language.

Jim Mandera- milling and grinding of road surfaces, up to 6" without penetrating the earth.

Jason Broyles- The way the industry interprets this as of now, even half an inch is penetrating the earth. Remove earth and put road surface.

Dave Coniglio- 4-6 inches, not to include the subbase of the road.

Josh Bowman- Kicked around some options, but all headed in the same direction. Wants to take this information and chew on it for a bit and get something back out to the group.

Something simple like not to include the subbase. That should be very clear to most, and people would know you can't go deeper than the asphalt.

Lori Wade- Agreement with Jim Mander, milling and grinding of road surfaces, move that in front of penetrating the earth. Not going into the subbase. Chances of utility being in that 6" are slim. Also, it would be difficult to spot the utility that would be in that area due to it being in a hard surface. Rare that something would be hit at that shallow of a depth in the asphalt. Thinks we are on the right track.

Jason Broyles- Now focusing on # 5, thoughts from the group on this proposed language. (Pavement repairs on all areas outside municipal corporations without penetrating the earth to a depth greater than twelve inches.

Lori Wade- and adding "targeted/ localized"

Josh Bowman- could definitely be done

Lori Wade- that's language everyone in our industry I feel like could get behind

Les Schell- Would this just apply to ODOT or everyone?

Jason Broyles- TO everyone that would fall into this language

Jana Bruen- Could be confusing to homeowners,

Jason Broyles- asphalt pavement repair wording help clear it up?

Jana Bruen- thinks that would help it

Alex McCann- Similar wording where we defined roadway, multilane, divided highway etc. Would that help clear it up. (In claytons subcommittee)

Josh Bowan- Could get behind just putting roadway in front of it, could help clear it up.

Jim Collins- Agrees that putting roadway could help. Driveways, parking lots, etc. would not be included in that. It would be outside the right of way.

Lori Wade- Agrees, parking lots could have lighting and other things in there.

Jason Broyles- Any other questions or concerns with this?

Josh Bowman- In the interest of time, if reformatted in the next couple days, could it be sent back out to the group for review?

Jason Broyles- Yes absolutely, when you get the wording done, send it over and Jason could get it sent out to the group for feedback.

Josh Bowman- Will get something together quickly and sent over to Jason for review.

Jim Collins- Moving to other items we discussed before. Excavating around existing utilities. Geared to communication lines. Depth of no more of 12" using hand tools with repair or tie ins. Highlighted area, when excavating 12" vertically, 12" horizontally of an existing utility structure utilizing hand tools and or soft excavation methods.

Jana Bruen- How does this tie in with the tolerance zone that the state has? Secondly, is if other companies require different things. Hesitant to give that tight of a clearance. That's the clearance we give for digging our own facilities. Wants to align with stated tolerance zone.

Jim Collins- In the locate industry, you may have to dig to uncover a tracer wire, or a curb valve, water valve. Technically you need a ticket to do that. This would give someone the ability to hand dig to locate that facility without a ticket.

Jana Bruen- Air knife tool, which is considered a hand tool, could be easy to go deeper than that quickly. When excavating to expose for locating access, something along that line.

Jim Mandera- That's what he means by existing utility structure.

Dave Coniglio- Couple things, expanded into a lot of different activities. Hand digging is one thing, but when talking about hydro vac, that's something completely different. Talking about using equipment now. That gives him some concern at this point.

Jim Collins- How about getting rid of the soft dig methods language so its just hand tools.

Shawn Hudgel- If we are telling the asphalt guys they can't do more than 6" in asphalt, we shouldn't allow 12" in the dirt. They should be at 6" as well.

Jim Mandera- Question for Jason, all of these exemptions are in the road right of way. If we are looking for curb boxes, tracer wire, etc.... this would not be in the right of way.

Jason Broyles- Good questions, needs to do some research

Lori Wade- Locating practices do take place in people's properties, not in the road right of way. Excavating for locating purposes at the beginning of the language. On the first paragraph, for communication lines, I thought we were not giving exemptions for specific utilities/entity/municipality.

Chris Russ- If it doesn't cover locating practices, then locators technically must call in before they can locate the area and then won't be able to locate their own ticket.

Dominick Belser- Wants clarification with the communications exemption, wants it to not be specific to one entity. I.E. power pull boxes, verify it includes everyone, not just communication companies.

Rod Troxell- Trying not to add specifics, it would have to be a utility to do a connection or disconnection of lines. Make it say utility instead of communication lines.

Lori Wade- adding “by the utility or a contractor of the utility”

Jim Collins- Purpose of the new one is to combine the language. When excavating for locating purposes or connecting/disconnecting utility lines within 12” vertically and 12” horizontally of an existing utility structure utilizing hand tools.

Shawn Hudgel- Fixing it so it’s not specific to one entity or utility. Changing it to utility and not communications is good, is concerned about the 12” depth portion.

Dave Coniglio- Echo that, concern over 12” depth. More concern with the excavation in the ground as opposed to pavement. Needs some fine tuning. Not wanting exemptions for an industry but keep coming back to it.

Jim Collins, wrap up, we are at 2:02pm. Meeting on the calendar for next month, June 9th. Josh with ODOT will get updated language out in the next couple of days and get comments from the group on that.

Jason Broyles needs to get more familiar with adding an amendment to HB 227.

Jana Bruen- Wants to discuss the agricultural part of the definition of an excavation in our next meeting.

Meeting adjourned at 2:04pm