

# OUDDPC Exemptions Subcommittee

8/11/2025

1:00pm

Attendees: Kevin Campbell, Jason Broyles, Shawn Hudgel, Scott Mergler, Frank Riegler, Dave Coniglio, Blake Ross, Justin Freudeman, Jim Collins, Jim Mander, Jana Bruen, Michael Lambdin, Brian Hickman, Chris Russ, Christina Polesvosky, Deron Large, Greg First, Richard Thompson, Collin Crigger, Alex, Jason Kershner, Jaime Gillen, Drew Williams, David Koren, Alex Du De Voire, Casey Fritz, Stephen Thomas, James Funican, Jim Wooten, Mike Burroughs

Jim Collins started the meeting at 1:00pm, gave a quick level one safety message.

Jim Collins asked for a review and approval of the previous meeting minute.

Scott made a motion to approve the minutes; Shawn Hudgel seconded the motion.

Minutes approved unanimously

Jason reviewed what was discussed in the full coalition meeting. Big topic for today will center around the terminology around utility structure.

Jim Collins discussed the comments that he got back from the review period from Kara Arnold. Opened the floor for discussion.

Michael Lambdin- The people from Columbia didn't like the way it was worded and wanted it worded better.

Dave Coniglio- we are narrowing the focus on the exemption to the facility owner of contract locator, this is a change from it being anyone and makes it an entity.

Jason Broyles- This was originally one exemption, broke it into two exemptions to add clarification. This will apply to any utility locators and anyone in general who would be out there locating. The second one covers the rest of the excavation types that are included.

Dave Coniglio- Understands

James Mander- Do we have a definition of "non-destructive" manner, part of the original discussion we had was for locating and not using a vac truck to look for an unlocatable

utility. If it includes a vac truck that is problematic for him. Any digging around a transmission line, he needs to have someone here.

Jason Broyles- Everyone was in agreeance that it was going to be using hand tools to help not muddy the water.

James Mandera- for the Columbia folks on the call, if we take out non-destructive manner, does that cause a lot of issues?

Michael Lambdin- Only one on the call from Columbia, manager had an issue with some of the language. He is unable to be on the call and Michael is just relaying the issues passed on to him.

Jim Wooten- Not sure that there is an actual definition for non-destructive manner

Brian Hickman- It is defined in the definitions section of the ORC

Stephen Thomas- Damage prevention manager for Columbia gas, worked with Kara Arnold on the comment that was made regarding the language. Wants to know if there are any comments on that.

Jim Collins- yes, looking at number 1 now, and looking at the definition of non-destructive manner. In other states, for this type of exemption, it is usually hand tools.

Stephen Thomas- Reason for their comment, in the ORC, there is a definition of non-destructive manner, our viewpoint is first and foremost is to allow an operator or contract locator be able to find a difficult line to locate via potholing. If we don't mention something in addition to hand tools, it will be mostly shovels etc. There are things better than hand tools to avoid damage. Wanted to include non-destructive manner to be able to use a van truck, air knife, etc.

Christina- given the definition in the revised code, should it be exclusively in a non-destructive manner as is defined? May not need to because it is in the revised code. Hand tools are already included in the definition. Hand tools and other technologies. The fact we are asking what it means, shows it's not universally known. Want to be as clear as possible.

Stephen Thomas- Agrees, the reason for leaving hand tools is because not everyone knows the definition. Helps clarify.

Christina- even referencing the section of the ORC so they know where to look for the definition. Want it to be simple for compliance.

James Mandera- Wants to back up and talk about what we are looking to accomplish in the beginning. Number 1 here, we were trying to provide an exemption for the things locators

have to do to locate a line, digging down at the riser for a wire, locate a curb box, etc. When discussing things that we do for an unlocatable, that is broadening from where we started. Has an issue giving an exemption for a vac rig. Doesn't want someone using a vac not calling in, especially around transmission lines.

Stephen Thomas- To clarify, this exemption would only fall to the utility and their contract locators in situations where there is already an active locate request for that area. If there is no active locate request, you wouldn't be able to just go out and vac.

James Mander- The issue he has, there is a different excavator on that ticket. So conversations on what needs to happen are with someone else.

Jason Broyles- Have to keep in mind, backing up a couple of months, we are currently not eligible for PHMSA grant dollars because we exempt entities and not activities. We are trying to open it up to activities so we can be eligible for those grant dollars. Need to be careful with our wording so we don't give an appearance of entity exemptions.

Stephen Thomas- Makes sense, when first reading the language, having not known the intention. Once a locate is called in, it seems that the locator could just go out and dig without repercussions because of the way the law is written. Tried to look at how the Virginia law is written and give input from the background he has. Could be ok with utilities or contractors on their behalf in the language. Wants to make sure that things are written black and white, clear as possible.

Jim Collins- Agrees and likes that suggestion.

Stephen Thomas- Turn backs, and everyday activities. If you are facing a trouble locate and have to hand dig to find it. If I call in another ticket, the other utilities would already be marked, and the one that needs to be found isn't marked because it's hard to find. Why call in another ticket if it changes nothing. Understands that there needs to be a solution to if there is a transmission line in the area and getting the correct contacts for that owner to talk to.

Jason Broyles- With the recommended changes to number one, do we need to continue to discuss or move on to the second portion.

Jim Collins- Updated language with the proposed updates for review by the group.

Stephen Thomas- Question on number one, the last sentence on there. It is listed above as in the right of way, but the last line says whether it is in or outside of the ROW

Jason Broyles- Looking at the definition of excavation, and the other exemptions listed, they must be done inside the ROW. If all six of these go through, 3 must be inside the right of

way, and the other 3 would include outside the ROW. Locators need to access things that are outside the ROW.

Stephen Thomas- Thank you for the clarification, that makes sense.

Jason Broyles- Will send you the other language so you can review it and see as well.

Jim Collins- Any other thoughts on number 1.

James Mander- Still hung up on communication when things are around transmission lines.

Stephen Thomas- Utility owners and their contracts, should be a higher standard. Make sense to include language about if a transmission facility is in the scope, coordination needs to take place prior.

James Mander- Step in the right direction, could make things too complicated. May have other unintended consequences

Stephen Thomas- Absolutely

Jason Broyles- Cannot take this language the route of entity type exemption.

Dace Coniglio- Same concerns from the contractor side as James Mander said, could cause some safety issues, 80% will do the right thing, but what about the other 20%. It feels like we are getting into an entity-based exemption since it wouldn't apply to everyone. Not what the original intent was.

Stephen Thomas- When thinking of the original intent, day to day locator activities. That is a targeted exemption. Understand the concern, but wouldn't it only be the utility operators or their contractors trying to perform a locate?

Dave Coniglio- Hear what you are saying but feels that the proposed language now makes it more complicated and harder to understand. If they are the only ones doing it, then why spell it out and show that it's just for an entity.

Stephen Thomas- Thinks we are on the same page, speaking from experience, thinks that the new language captures the original intent, and doesn't have just anyone out there digging.

Blake Ross- We may be setting a bad example to let people use hydro and air excavation for a job that originally wasn't intended to be that type of excavation. You should have time and the ability to call in a request to have things located. This should just be for finding a curb box/wire/etc.

Jason Broyles- Keep in mind these activities must be in the 12” by 12” area. Anything deeper than that would require a locate anyway.

James Mandera- Does the 12” by 12” apply to number 1?

Jason Broyles- If you read the definition of excavation it does.

James Mandera- Great point, so trying to expand this to a trouble locate, assuming they are deeper than 12”, it wouldn’t cover it anyways.

Stephen Thomas- Doesn’t see in the definition of excavation, where they would be restricted to just 12”.

James Mandera- if not, then we do need to add it so we get some clarity.

Jim Collins- Adding the 12” to number 1 defeats the purpose. Would have to call in another ticket, and would create more noise

Stephen Thomas- If the 12” is added, it would go back to the original intention of normal locate activities. Would not allow for trouble locate activities that have been discussed today.

Jim Collins- On the contractor side, saves 48 hours that you must wait because they must call in a ticket to get the line located. Do like the idea of putting something in for transmission lines being in the scope of the ticket. Facility owners would coordinate with the transmission line owner prior to excavation.

James Mandera- That would alleviate my concern.

Jim Collins- Any other comments on number 1?

Jason Broyles- What was the intent on highlighting in green the active locate request? Maybe putting in solely in response to a valid notification.

Stephen Thomas- Is it considered valid if not all parties have responded?

James Mandera- No that doesn’t come into play, after 48 hours it is valid. Struggling with the wording of valid. Is it saying what we mean?

Jim Broyles- we can put a pin in it for now and come back to it later to get that settled.

Stephen Thomas- Put an attempt at some language in the chat for those that would like to look at it. If a transmission facility is within the scope of the active locate request, coordination between the responding party and the transmission facility owner must take place for this exemption to exist.

James Mander- Should it say natural gas transmission?

Jim Collins- Could be a water transmission lines, petroleum lines, etc...

Jim Collins- Moving to number 2, only change is not to exceed 12" in depth.

Stephen Thomas- If excavating in tolerance zones etc., if the language is removed, it can cause some issues. As written, could hand dig down, expose the utility, now none of the rest of the law would apply to them. An axe could be considered a hand tool.

Jason Broyles- This language is not intended doesn't take anything away from the language on what a contractor needs to do. Due caution, prudent care, etc... Summing up the rest of it, looking for the right verbiage to use. Softly decided to use utility appurtenances to describe the structures. Discussed assets too and was thought to be too broad. Shared some preliminary language on what the definition of "utility appurtenances" would be.

Stephen Thomas- Makes sense, first part still has an issue with. May have an unintended consequence of not having to do certain things because it's not considered an excavation.

Jason Broyles- Good point and want to make sure it doesn't do anything to move us backwards.

Stephen Thomas- Looking at the definition of "utility appurtenances" and going back to the proposed updates, wants to review this a little more since we are at the end of our meeting. Understanding what we are trying to do, we just want to make sure that we get things correct and not negate other areas of the law.

Jim Collins- Got the language corrected, will send to Jason to get things cleaned up.

Jason Broyles- Sounds good, have another meeting in September, will get things reviewed and cleaned up.

Jason Kershner- Does the comment period reset now?

Jason Broyles- No, it does not.

Jim Collins- Adjourned the meeting at 2:02pm.