



Date: June 10, 2021

Location: Remote via Google Meet

Present:

✓	Chris Kampmann	✓	Jim Moody		Patricia McKinney-Clark	✓	Ted Jensen
	Dale Kishbaugh	✓	Lori Warner		Patrick Fitzgerald		
✓*	Dana Bijold		Mark Frasier		Ray Swedfeger		
✓	Jeannette Jones	✓*	Mark Williams	✓	Rob Ellis		

* Indicates arrival after roll call . - indicates technical difficulties during roll call

Note: The meeting was recorded and started at 10:00 am. These minutes represent a summary of this meeting and are not intended to be a verbatim document. Audio recordings of the meetings can be obtained by contacting cdle_safetycommission@state.co.us.

MINUTES APPROVAL

A Motion was made to approve the minutes from the May 13, 2021 meeting: during discussion it was noted that staff should correct a CGA reference. Correction made. A vote was taken to approve the minutes. It was approved unanimously.

A Motion was made to approve the minutes from the May 25, 2021, meeting: There was no discussion; a vote was taken to approve the minutes. It was approved unanimously.

MARKING BEST PRACTICE

- Follow up re: *CO 811 Response Codes*
 Spoke with CO 811 staff (Jose Espino and Carla Sanchez) about response codes. Jose noted that response codes do not 'close' tickets. As an example, the excavator can call CO 811 and generate an excavator renotification if needed. What CO 811 does have is a table of responses and using any one of those will prevent the generation of a positive response renotification.
 - If codes are preventing an automatic positive response renotification, it may create a situation where marks are not getting completed or people think a ticket is 'closed' - when that is not the case.
 - Determining who is responsible to take the next action: (e.g., if "no access" is it then the excavator who is responsible or the locator to ensure the marks eventually get done). CO 811 feels the Statute/law that determines this, not their office.
 - 008 and 023 codes were specifically items that the Commission wants to discuss, and may warrant a Best Practice clarification to determine what is required by both the locate and excavator.
 - Certain response codes do require comments.

- 007 No Premarked areas: if the excavator says these will be provided and the locator does not see these once on site, they might use this code.
 - 023 Ongoing ticket - per locator agreement - comments required: Per Carla: based on the law (paraphrased), tickets have a deadline of 2 days + day of call unless otherwise agreed upon, CO 811 created this response. It requires contact/agreement between both parties, and now that file upload is possible, there should be proof of contact (upload photo etc). Commissioners discussed that reaching out to an excavator to advise that marking will not occur on time - does this constitute an agreement? Also, if an excavator cannot be reached what then? What if communication occurred and the parties did not agree? Want to ensure CO 811 is not in the position to evaluate "agreements" - could be part of a Best Practice to elaborate on how/when to use this code. CO 811 does provide a report to owner/operators if they get feedback about high use of a specific code, as well information about how/when to use codes.
 - 008 Call Facility owner for further info, comments required: Per CO 811 it is intended for extraordinary circumstances, eg no record of facility in that area, or pothole required, etc. Comments are required. Per Commission discussion: the comments should require enough info for the excavator to actually be able to get ahold of someone.
 - There are fees associated with automatic renotifications - does the Commission consider this if response codes don't stop them from occurring.
 - CO 811 noted that their Procedures Committee created response codes after the law went into effect.
 - Per member code, CO 811 can report the # of times a code is used. Those reports are available to each member (code). There was discussion about analyzing data from 2020, however the Commission decided this was unnecessary at this time.
- ❖ The Commission asked if it is possible to have some codes, that when used, do not prevent an automatic renotification from occurring. Perhaps the Commission can ask CO 811 that 008 and 023 do not prevent automatic renotification from occurring.
 - ❖ The Commission said that specifics, like the name, contact info and time of contact, along with evidence (e.g., screenshot) might be something that a Best Practice requires to use this code. Group to determine what requirements are in a Best Practice.
- Follow up re: *Best Practice vs Regulation - enforceability*
 - AG's office (Katie Allison) present to help educate Commissioners in the language in the Statute.
 - Statute uses words like: best practices, standards, policies - and until in Regulations are not a part of law
 - Standards are generally written by a 3rd party (e.g., ASTM), and are a complete manual. Currently the Commission is looking at CGA and APWA standards.
 - Regulations could reference 1 or more standard, which is then enforceable.
 - If there are gaps that the standards do not address, the Commission can write a Best Practice.
 - Because the Statute states "the markings must meet the marking standards as established by the safety commission pursuant to section 9-1.5-104.2(1)(a)(I)" - the AG suggests this is something within Regulations. However, if in a Review Committee hearing the Commission holds someone accountable to a Best Practice, the AG would support this action.
 - In summary: using the rule making process, and using what is already in the industry is ideal. Where no information exists (e.g., there is a hole), the Regulations can include language to cover this if desired.
 - Follow up re: *Marking Standard survey*
 - The survey was created and sent to CO 811 members. It will remain open an additional week and already has 170 responses. CO 811 sent the survey to member codes as well as to their email list, both of which had more than 2,000 contacts. Staff will advise at the next meeting how many repeat companies completed the survey.

- Reviewed the current statistical data with the Commissioners.
- The Commission asked OPS staff to see if there is a way to correlate regionally the counties with preferred marking standard (APWA vs CGA); staff will advise at the next meeting what they were able to compile.
- Follow up re: *Comments in the current draft* - the Commission went through the comments and determined what to put on the next agenda/or what to do with them in finalizing draft content:
 - *Comment from 2/11 Best Practice meeting*
 - Jacquie Wilson (staff) shared what was captured in the recording from that meeting
 - Dana Bijold shared her notes from the same meeting: the Engineering community has concerns about responsibilities/obligations to ensure the Statute is followed. Specifically if owners/operators do not want to pay to ensure a facility is electronically locatable.
 - In discussion, the Commission looked at if this is in their purview to decide on this. Since it is required in the Statute, it should be occurring.
 - The question was asked about how compliance with this law is different from any other legal design requirement (e.g., minimum install depths) - drawings should not be stamped if the laws are not being met. It was shared that when the law was newly in effect, plan sets might not have been followed by builders. Solutions/support for the engineering community: the Engineer can cite the language from the statute in their notes/plan set. Add the type of e-locate devices in plan sets, and file a complaint - either personally or through their trade association - if this is an issue.
 - Commissioners continued working on draft language within the draft document.

OTHER BUSINESS

- Members discussed a meeting summary to provide at the full Safety Commission meeting (June 10, 2021 at 12pm).
- Members discussed potential topics for the next Best Practices meeting.

The next meeting is scheduled for June 22, 2021.

Meeting adjourned at 11:43 am.