Oregon Administrative Rules Committee Minutes
Wednesday, November 9, 2022, 1 p.m. | Zoom Meeting (meeting recorded)

Members: Micah Brown, Melanie Lewis, Alba Vogland, Nate Rivera, Andy Crocker, Jaimie Lemke, Mitch Burghelea, Kevin Hennessy, Lee Tuminello, *Josh Thomas, and *Kitty O'Keefe.
Guests: Kristie Nixon, PGE, Scott Gallegos and Frank Planton, One Call Concepts.

1. Announcements and Introductions

    a. Micah called the meeting to order at 10:00 a.m. and introductions were made.
    b. A motion was made by Jaimie to approve the minutes from 5.26.22 and 8.25.22 and 2nd by Melanie. Kitty to post on website.
    c. Micah thanked guests and members for attending.

2. OAR Current Committee Item
    a. Design Information Request/Design Locate Request Revision
        i. Micah briefed members on Design Information Requests (DIR) and Design Locate Request (DLR).
        ii. Micah reminded members we can ask OCC to provide this.
        iii. Excessive markings can be reduced and a 2-tiered process is in place.
        iv. Josh shared the WA811 pdf file (what is in place for them).
        v. Pursuant to ORS 757.552(2)(c), OUNC OARs must be consistent with OUCC's 1995 standards manual. Discussed possibility of removing or amending reference to 1995 manual.
        vi. Kevin commented, exchange of information is not required to put in rule. OUNC could institute a system for DIRs and implement it under the contract with One Call Concepts without a rule change.
        vii. Frank shared how WA811 goes through this process. He also shared that it started in Iowa where engineering companies paid $250 a year for the service.
        viii. Micah would like to get this going. Let's roll it out like WA did.
        ix. Kyle feels it's a great solution; how we sell this to utility companies will help reduce workload. Need to underscore that it is for planning/design purposes only and not digging.
        x. Jaimie commented, communication with operators is key to be aware of the switch.
        xi. Scott reported Washington had 1538 DIRs and 400+ DLRs.last year.
        xii. Micah will brief the board in December.
3. OAR Language or Definition to Clarify/Expand on "Underground Facility"
    a. Discuss alternative approach to rule change
        i. Micah asked members, do we change definitions in rule to address ambiguity? How do we best protect facilities while acknowledging there are unlocatable facilities? Referenced 952-001-0010(26) and 757.542(6).
        ii. Kevin suggested reviewing some of Common Ground Alliance's Best Practices for marking standards.
        iii. Kevin asked, what is unlocatable in the field? He is seeing 'UL' marks in the field.
        iv. Micah has not seen the UL markings in the field and feels there could be a liability of using those marks.
        v. Kevin commented on structural support and standardized clarity. Put in context what's locatable and what is not locatable.
        vi. Mitch feels we have a process in place for unlocatable and we document that. He feels anchors and manholes is a separate issue.
        vii. Josh commented under section 6 on pg. 9 of manual, both definitions are in statue in addition to rule.

viii. Mitch commented that locatable was never part of the Standards Manual. What defines locatable he asked?

b. Discuss changes to OAR 952-001-0070(11)
   i. Kevin mentioned Alba had previously suggested adding a section on anchors and poles to this section. He shared his screen to show what he'd prepared.
   ii. Get a copy of this from Kevin.
   iii. We have a rule that addresses what is locatable and what is not. It does not solve what Kevin brings to the table.
   iv. You can't remove from rule, but we could ask DOJ to for guidance.

4. Active OAR Tabled Item Updates
   a. Length of a Ticket (Ticket Length)
      i. No discussion. Tabled
   b. Mandatory White Paint
      i. Micah asked members, who would support this? 6 hands went up.
      ii. Frank mentioned Washington has mandatory white paint but there are loopholes and it is not enforceable.
      iii. Micah asked if we should separate this? Include homeowners? Just excavators?
      iv. Is this a burden on the system to call excavators?
      v. The power lies with the excavator. Operators must pay for facilities that are marked.
      vi. Do we provide a 'warning letter' from the Call Center/OUNC? Take language from OAR/ ORS and apply it to the scenario; help better communicate.

5. New Business
   a. Legal Transfer Ticket was removed from agenda after discussion
      i. Mitch supported concept – sometimes three contractors working on job where they have to do recalls for the same locates.
      ii. Frank said that contractors can call with the ticket number to assume with no changes, but assumes risk.
      iii. Scott said CGA best practices state that each excavator should have their own number, ticket and marks.
      iv. Kevin referenced the duplicate option on ITICnxt.
   b. Legislative placeholder for exemption was removed from agenda after discussion.
      i. Josh mentioned conversation with Robin Freeman from Oregon PUC and advice to avoid rushing into removal of exemptions without ample outreach and communications to all affected parties.
      ii. Suggested starting with something simple in 2023 like the issue with ORS 757.552(2)(c) and taking exemptions to the 2014 short session if there is full agreement or 2015 session.
      iii. Could impact relationships with small operators and legislators and better to do it right than do it fast.
      iv. Can start process now and do accompanying research/analysis of impacts. Committee expressed support.
      v. Micah asked Josh to send out an impact letter/brief.
      vi. Josh will take this one and report back. Also planning a Legislative Day in April 2023.

6. Old Business –
   a. Discuss financial responsibility of Excavator during Large Scale Projects (excessive and redundant locate requests.)
      i. was removed from agenda after discussion
   b. Review Required Locate Process for OCC (what is the definition of excavation?)
      ii. Kitty pulled up previous minutes from 5.26.22 and members reviewed discussion.

iii. Are companies complying? Members say no.

7. For the Good of the Order
    i. Josh shared feedback from folks he's trained that would like to see mandatory positive response in place.
        a. Kevin suggested proactive communications and incentives to encourage participation, and he is integrating it into enforcement as well.
8. Next Meeting:
    i. December 14, 2022, at 1pm (following the OUNC Board meeting)

Meeting adjourned at 3:22 pm.
Minutes submitted by Kitty O'Keefe 11.15.22