

Question 1. What industry do you represent?

Answer Options	Response Percent
Pipeline Utility Operator	43.8%
Communications Utility Operator	12.5%
Sewer and/or Water Utility Operator	6.3%
Electric Utility Operator	31.3%
Contractor	6.3%
Excavator	12.5%
Underground Utility Locator	12.5%
Private organization	6.3%
City, County and/or State Representative	6.3%
Individually represented	6.3%

Stakeholder Survey Comments:

None

MNOPS Comments:

The meeting was attended by a diverse group of participants with utility operators well represented.

Question 2. Did you think this meeting was beneficial and effective?

Answer Options	Response Percent
Yes	88.2%
Somewhat	11.8%
No	0.0%

Stakeholder Survey Comments:

Comment: I noticed that some items were pushed by members of the group and thorough discussion was needed. Such as form pins are not hand tools and the emergency exemption for Operators has a serious flaw and fails its intent.

MNOPS Comments:

All responses indicate the meeting was at least somewhat beneficial.

Question 3. Was the length of the MS216D meeting appropriate?	
Answer Options	Response Percent
Yes	100.0%
No	0.0%

Stakeholder Survey Comments:

None

MNOPS Comments:

All responses indicate the meeting length was appropriate.

Question 4. Was the location of the meeting and room appropriate?	
Answer Options	Response Percent
Yes	100.0%
No	0.0%

Stakeholder Survey Comments:

Comment: It was unfortunate that the phone system was not working for the webinar. It was very difficult to follow without hearing the audience questions.

Comment: Great

MNOPS Comments:

All responses indicate the meeting location was appropriate. Phone-in system was not working and a work-around had to be improvised during the meeting.

Question 5. ISSUES NOT CONSIDERED FOR STATUTORY CHANGE AT THIS TIME

Answer Options	Agree - Should Drop Issue
Mandatory Damage Reporting	94.1%
Utility Quality Level	100%
Operator Duties in a no Conflict Situation	88.2%
White Markings	82.3%
Information Required on a Ticket	82.3%
Meets	88.2%
Private Facilities	88.2%
Mandatory DIRT Reporting	100%

Stakeholder Survey Comments:

None

MNOPS Comments:

Strong agreement to drop issues as proposed. However due to the introduction of HF1564 concerning Farm Taps and Private facilities in the 2013 legislative session, MNOPS intends to consider the issue in the near future, rather than at some later date as was proposed. As such MNOPS encourages comment and will discuss during the next MS216D meeting.

Question 6.

DEFINITION OF EXCAVATION PROPOSED LANGUAGE:

Subdivision 5 - Excavation. "Excavation" means an activity that moves, removes, or otherwise disturbs the soil. Excavation does not include: (1-6); (7) The use of non-mechanized hand tools or equipment unless it disturbs the soil to a depth of 18 inches or more; (8) An underground facility operator using non-mechanized hand tools or equipment to locate the operator's underground facilities, provided all reasonable precaution has been taken to protect the underground facilities; (9) An excavator using non-mechanized hand tools or equipment within two feet on either side of a marked location of an underground facility, provided that a valid ticket meeting the requirement of section 216D.04, subdivision 1 has been generated and provided all reasonable precaution has been taken to protect the underground facilities; or (10) Vacuum excavation provided all reasonable precaution has been taken to protect the underground facilities. Indicate the choice that best represents the organization you represent.

Answer Options	Response Percent
Support the proposed language without any modification required	37.5%
Partially support but feel the comments need to be considered further prior to the next step	18.8%
Partially support the proposed language but feel a sub-committee would be most beneficial	31.3%
Mainly do not support proposed language but feel further consideration is warranted	6.3%
Do not support the proposed language	12.5%

Stakeholder Survey Comments:

Comment: We do not have an opinion on the language suggestion. Are concerns are on three issues. First, compliance may be difficult as the message for 25 years has been that all hand digging is exempt. Moving over from that position will take years before the public is educated to a new requirement of this magnitude. Secondly, this is not a simple law change due to the wording and we feel it will take effort by the entire industry, not just us, to get this new message out. It will be a major industry undertaking. Lastly, we cannot estimate the volume of tickets that will be generated by this new requirement, nor the quality of information we may receive from a group of users that may have not historically used the one call center. It will result in a material increase in location requests.

Comment: I feel this does not address your true concern, which you have presented as installing sign posts, grade stakes and fence posts. None of those concerns will be addressed with this language change. I think this must be looked at further to address your true concerns.

Comment: Need NEC low voltage reviewed as I once read Low voltage includes Telephony/CATV service wires (Non Phase to phase or Primary) exemptions depth @12" or greater. For consistency 12" throughout all changes requested

Comment: We believe that the depth should be no more than 12 inches. Many facilities are found within 18 inches due to soil erosion, landscaping, shallow installation, etc. 18" is too deep.

Comment: Line 7 fails to address the issue of form pins while including activities that are not a risk.

Comment: Should be 12", because of the low voltage standard in the National Electric Code.

Comment: We should be able to dig to 18 inches. This will become a problem if faults and damaged electric cable are not considered emergency work. Need to allow the facility operator to dig for repairs with non-mechanized equipment.

Comment: hand shovels should be allowed

MNOPS Comments:

About 88% expressed at least partial support for the proposed language. Responses suggest support for standardizing at a single depth. A specific depth to be chosen could potentially benefit from additional discussion. MNOPS proposes to combine this issue with the first meeting of the "Exemptions" issue to standardize depth across the statute.

Question 7. EMERGENCY EXCAVATION NOTICE PROPOSED LANGUAGE: If an emergency is such that providing notice for operators of underground facilities would result in the escape of flammable, toxic, or corrosive gas or liquid in quantities sufficient to create an immediate hazard or an undue risk to life, health or significant loss of property, the operator of the damaged facility may excavate without providing prior notice or waiting for operators of other underground facilities to mark an underground facility. In this situation, the operator of the damaged facility shall provide notice as soon as practicable and take all reasonable precautions to avoid or minimize damage to other underground facilities. Excavation prior to notice under this subpart does not relieve an operator from any responsibility for damage to an underground facility pursuant to Minnesota Statutes, section 216D.06. Indicate the choice that best represents the organization you represent.	
Answer Options	Response Percent
Support the proposed language without any modification required	56.3%
Partially support but feel the comments need to be considered further prior to the next step	25.0%

Partially support the proposed language but feel a sub-committee would be most beneficial	6.3%
Mainly do not support proposed language but feel further consideration is warranted	0.0%
Do not support the proposed language	12.5%

Stakeholder Survey Comments:

Comment: Should be operator or designated representative (someone hired by operator to perform the excavation)

Comment: Disagree with "without providing prior notice" - not making any attempt at notice may lead to unintended consequences (i.e. barholing into an electric line while trying to fix a gas leak - boom)

Comment: Leave it alone. All operators are excavators, use the excavation exemption for emergencies.

Comment: Currently, the definition of emergency allows us to be able to hand dig and allow for faster restoration of service. The new definition excludes electric operators. This would extend outage time and drive up costs to the individual service because the repairs would require a second trip. The language needs to allow the facility operator to dig for repairs with non-mechanized equipment.

Comment: We may want to allow the operator of the damaged facilities to authorize the on-site excavator to continue excavation to address the immediate hazard. This could reduce the response time if the operator is not already on-site.

MNOPS Comments:

About 88% expressed at least partial support for the proposed language. MNOPS is planning to modify the proposed language to incorporate “operator or designated representative” as suggested in the comments.

Question 8.
REVIEW OF CURRENT EXEMPTIONS PROPOSED LANGUAGE / SUB-COMMITTEE RECOMMENDED FOR ITEM (3): (1) the extraction of minerals; (2) the opening of a grave in a cemetery; (3) normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch; (4) plowing, cultivating, planting, harvesting, and similar operations in connection with growing crops, trees, and shrubs, unless any of these activities disturbs the soil to a depth of 18 inches or more; (5) gardening unless it disturbs the soil to a depth of 12 inches or more. Indicate the choice that best represents the organization you represent.

Answer Options	Response Percent
Support the proposed language without any modification required	31.3%
Partially support but feel the comments need to be considered further prior to the next step	31.3%
Partially support the proposed language but feel a sub-committee would be most beneficial	50.0%
Mainly do not support proposed language but feel further consideration is warranted	0.0%
Do not support the proposed language	0.0%

Stakeholder Survey Comments:

Comment: We have no opinion on this issue, other than to point out that measurements are always somewhat exceeded in real world situations. The industry challenge is to put their resources into education of their stakeholders as to the limitations of these exemptions and that these are maximum depths, not averages.

Comment: Item (4) should read 12" again for consistency

Comment: Make the 18" consistent with all exempted activity

Comment: I would be interested in the subcommittee. Also tree spades used in nurseries should be discussed. I believe they do not call and has never been a risk. It is worth discussing areas defined as routine excavation practices such a cemeteries, mineral extraction, gravel pits, nurseries and excavation display areas should be registered with us and be exempted from providing notice..

Comment: We will participate on the subcommittee. We still support pot-holing as an exempt activity.

MNOPS Comments:

All respondents expressed at least partial support for the proposed language. MNOPS is proposing to proceed with the planned subcommittee on this issue. PHMSA held a public meeting at the 2013 CGA meeting and made it clear that if a state has one-call exemptions, each exemption must have adequate data to justify that exemption.

Question 9.

DEFINITION OF OPERATOR PROPOSED LANGUAGE: "Operator" means a person who owns or operates an underground facility or at one time owned or operated the subject facility and did not transfer title to or operation of the facility to another person. A person is not considered an operator solely because the person is an owner or tenant of real property where underground facilities are located if the underground facilities are used exclusively to furnish services or commodities on that property, unless the person is the state, a state agency, or a local governmental unit. Indicate the choice that best represents the organization you represent.

Answer Options	Response Percent
Support the proposed language without any modification required	82.4%
Partially support but feel the comments need to be considered further prior to the next step	5.9%
Partially support the proposed language but feel a sub-committee would be most beneficial	11.8%
Mainly do not support proposed language but feel further consideration is warranted	0.0%
Do not support the proposed language	0.0%

Stakeholder Survey Comments:

Comment: Requiring continued operation of abandoned facilities is kind of tricky, especially if you try to go back prior to acceptance of the language change. Not sure how enforcement will work if nobody knows who owned it in the past and/or the company no longer exists.

Comment: The proposed language does not address the situation where a person who operated facilities in the past, did not transfer ownership and no longer exists or cannot be located.

MNOPS Comments:

All respondents expressed at least partial support for the proposed language. MNOPS is proposing to proceed with the language substantially as proposed.

Question 10. ABANDONED AND OUT-OF-SERVICE FACILITIES PROPOSED LANGUAGE:An operator fulfills an obligation to provide information on these facilities by doing one or more of the following: A. locating and marking the approximate location of the facility according to the current color code standard used by the American Public Works Association, as required in Minnesota Statutes, section 216D.04, subdivision 3, with an abandoned or out-of-service facility identified by an uppercase A surrounded by a circle; B. providing informational flags at the area of proposed excavation; C. communicating information verbally; D. providing copies of maps, diagrams, or records; or E. directing the excavator to where readily available electronic versions of maps, diagrams or records are available. Indicate the choice that best represents the organization you represent.

Answer Options	Response Percent
Support the proposed language without any modification required	64.7%
Partially support but feel the comments need to be considered further prior to the next step	17.6%
Partially support the proposed language but feel a sub-committee would be most beneficial	5.9%
Mainly do not support proposed language but feel further consideration is warranted	0.0%
Do not support the proposed language	11.8%

Stakeholder Survey Comments:

Comment: I believe the color code is now governed by the CGA, not the APWA

Comment: Major telephony Home land security (E) E911/Military, Airports etc prevent this item 100% of the time

Comment: For C D and E All activities must be in writing.

MNOPS Comments:

About 88% of respondents expressed at least partial support for the proposed language. MNOPS is proposing to proceed with the language substantially as proposed. Additionally, based on the comments, MNOPS is proposing to change the APWA reference to CGA.

Question 11.

FACILITY OWNER MARKING REQUIREMENTS PROPOSED FOR SUB-COMMITTEE CONSIDERATION Unless otherwise agreed to between the excavator and operator, an operator shall locate an underground facility using stakes, flags, paint, or other suitable materials in varying combinations dependent upon the surface. The locate must be in sufficient detail to clearly identify the approximate route of the underground facility. The locate must also include: A. Name, abbreviation, or logo of the operator ; B. Description of the facility material (STL, PLA, etc); C. Width of the underground facility; and D. Number of underground facilities if greater than one. Indicate the choice that best represents the organization you represent.

Answer Options	Response Percent
Support the proposed language without any modification required	31.3%
Partially support but feel the comments need to be considered further prior to the next step	18.8%
Partially support the proposed language but feel a sub-committee would be most beneficial	43.8%
Mainly do not support proposed language but feel further consideration is warranted	6.3%
Do not support the proposed language	6.3%

Stakeholder Survey Comments:

Comment: Size and material requirements need to be standardized to make it easier for excavators to understand. Also the size should be limited to anything larger than say 2" - 3", and whether it is required for a conduit housing fiber or telephone wires.

Comment: Graffiti is everywhere. Facility owner logo name OK. . Width if less the 12" not required especially in Telephone sector

Comment: item c needs more discussion.

Comment: As an electric facility operator, I do not support the proposed changes. They would create a large amount of work with no impact on safety.

Comment: We will participate on the sub-committee. We still think the width needs to be marked only if the facilities are 2" or wider.

MNOPS Comments:

About 87% of respondents expressed at least partial support for the proposed language. MNOPS is proposing to proceed with the planned subcommittee on this issue.

Question 12.

CIVIL PENALTIES (regarding excavators and operators except natural gas and hazardous liquids) - PROPOSED LANGUAGE:A person who is engaged in excavation for remuneration or an operator other than an operator subject to section 299F.59, subdivision 1, who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed by the commissioner not to exceed \$1,000 for the first violation and up to \$10,000 for each subsequent violation per day within a 12 month period. Indicate the choice that best represents the organization you represent.

Answer Options	Response Percent
Support the proposed language without any modification required	43.8%
Partially support but feel the comments need to be considered further prior to the next step	12.5%
Partially support the proposed language but feel a sub-committee would be most beneficial	18.8%
Mainly do not support proposed language but feel further consideration is warranted	6.3%
Do not support the proposed language	18.8%

Stakeholder Survey Comments:

Comment: Who sets the upper limit, will there be guidance for setting fines between \$1000 and \$10,000 for subsequent offenses. Will there be appeals to the amount, or only to the actual offense.

Comment: This does not bring more compliance/constancy. Perhaps more one on one mandatory class room required of known offenders, or revocation of certificate to work in MN from MNOPS

Comment: There is currently no data that supports the theory that higher penalties equates to fewer damages.

Comment: It misses the issue and that is to increase the penalty for premeditated gross negligence and intent. This penalizes large excavators unfairly

Comment: What is the difference between excavators who are paid from those who are not paid?

MNOPS Comments:

About 75% expressed at least partial support for the proposed language. This issue warrants further consideration however due to comments during the MS216D meeting; this issue will not be considered for immediate consideration for the 2014 legislative session.

Currently MNOPS does not have statutory authority to issue warning letters on excavation violations, MNOPS proposes to add language to have the statutory ability to issue warning letters. Comments are requested and encouraged.

**Question 13.
Comments and/or Suggestions for Issues to Consider
for Future Meetings**

Answer Options

Stakeholder Survey Comments:

Comment: Please confirm that the “Duty to install locating wire” and the “Notification to emergency response agencies” issues discussed in 2012 will not be pursued at this time.

MNOPS Comments:

With respect to the submitted comment, MNOPS confirms that it has no intention to amend the current language regarding the Duty to install locating wire at this time.