



## Maryland Underground Facilities Damage Prevention Authority

**To:** Title XII Re-write Steering Committee Members et.al.

**From:** Jim Barron, MUFDPA

**CC:**

**Date:** March 12, 2018

**Re:** March 1, 2018 Meeting Notes

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At the fifteenth meeting of the Title XII re-write, the following items were discussed:

### Pending:

- §12-120 (a) (2)(i) – new language proposed by Washington Gas: **the excavator shall exercise reasonable care to protect the private facilities including; but not limited to, any unmarked sewer and water laterals.** This would shift the burden on damage prevention on the private homeowner to mark their own assets i.e. dog fence, irrigation systems etc.
- What is reasonable? **reasonable** adj., adv. in law, just, rational, appropriate, ordinary or usual...  
**reasonable care** n. the degree of caution and concern for the safety of himself/he...
- The Authority will review new fining guidelines at their March 14, 2018 meeting.
- §12-101 (0)(3) – **MML & MACo have asked for information from PHMSA regarding exemptions with regard to storm drains.** Directional drilling has created the potential for health and safety issues for municipal and county utility maintenance workers as well as the general public. Both Washington Gas and BGE are willing to assist in any technical questions that might arise.
- 5-foot buffer - the group has decided to have further discussions on the 5ft. buffer issue - marking ...” within 5 feet of the horizontal plane” and the

18” or 24” tolerance zone. There was discussion but no resolution to the issue and will likely remain at 18 inches.

- “Call before you Clear”- The “emergency obstruction definition was amended to include service laterals and language was removed that included service in the public right-of-way. This issue was tabled after much discussion until after the March CGA meeting. This issue is expected to be debated at the best practices committee meeting.
- §12-125 – Repeat notification -- the new heading for this section is proposed to be “Re-notification” – added new § (b) if a person discovers the marker is obliterated, destroyed or removed they shall notify the call center to request, all or part of the current scope of work, of a valid ticket be re-marked.
- Damage Ticket – should there be a ticket or new code for reporting damages for data collection purposes with no fines attached?

### Progress:

- A definition for “Mark” has been added to the definition section §12-101 of the statute.
- Primary Contractor, formally “Responsible Contractor” - Language has been approved (see 3/1/18 working copy of the Title XII statute)
- Trenchless Technology definition has been approved (§12-101 (x))
- §12-127(c)(3)(i) under duties of excavator, trenchless technology guidance has been added to the statute
- §12-126 Emergency Tickets -- in reference to emergency tickets and delayed response utilizing a code 5 scenario, the term “documented” has been added to the subsection as a means of proof that a conversation or dialogue occurred. There is still no agreement regarding a repository for these agreements, but language was approved on the agreement.
  - (i) work with the person that intends to perform the excavation or demolition to develop a mutually [agreeable] documented agreement [schedule] for marking the underground facility
- §12-127- Excavation after notice that facilities marked or not in vicinity.
  - (i) If the marker is obliterated, destroyed, or removed, the person shall [repeat the notification required] request the area be re-marked as required under §12-[124]125 (b) of this subtitle; and
    - (ii) the person shall not, under any circumstance, replace or repair marks.

**Reminders:**

**Potential Changes:** No changes will be added to the working copy of the statute unless discussed by the committee and placed in **RED** to indicate under consideration. Once agree upon the text will convert to **GREEN**. Any language to be removed from the statute will be bracketed in **RED** and struck through, then turned to **GREEN** once agreed upon. Notations will be shown in **PURPLE**

- Please be prepared to discuss the section changes in “red “(under consideration) at the March 1, 2018 meeting.
- The Agenda for the March 1, 2018 meeting will be sent by blast email prior to the meeting and will also be posted on the Authority website.
- Prepare for introduction of legislation for the 2019 Legislative Session. The bill will be cross-filed as before.

**All meeting notes**, lists and amendments will be put on the Authority website [www.mddpa.org](http://www.mddpa.org) /click on Capitol Dome to go to the Title XII re-write page.

**Next Meeting(s):** All meetings are held from 9:00 a.m. to 12:00 p.m.

Thursday, March 15, 2018

Thursday, March 29, 2018

Thursday, April 19, 2018

**Attachments:** Please go to [www.mddpa.org](http://www.mddpa.org) and click on the Annapolis Capitol Dome for the following: (Note: Please allow at least a week for posting!)

March 1, 2018, 2017 -- Title XII Statute mark-up, Sign-in Sheet & Meeting Notes