



Midwest

DAMAGE PREVENTION TRAINING CONFERENCE

2023 • FRENCH LICK, IN



Review of New 811 Regulations Taking Effect in 2024

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Indiana Utility Regulatory Commission



Overview

- About the IURC
- Legal Framework – Indiana 811 Laws
- New 811 Rulemaking Effective in 2024



Intro to the IURC

- Administrative agency that hears evidence in cases and makes decisions based on the evidence.
- Required to be impartial and make decisions in the public interest to **ensure regulated utilities provide safe and reliable service at just and reasonable rates.**
- Made of up a dedicated and well-educated professional staff, with diverse skill sets, including accounting, finance, economics, engineering and law.



IURC continued...

- Bipartisan Commission led by five Governor appointed Commissioners with staggered four-year terms:



- The IURC also includes a Pipeline Safety Division, which oversees compliance with state and federal pipeline safety regulations.
- The IURC is here to help you with pipeline safety.



IURC and Pipeline Safety

IURC pipeline safety authority is in two areas:

Pipeline Safety Compliance <ul style="list-style-type: none">• 49 CFR 192• Ind. Code 8-1-22.5• 170 IAC 5-3	Excavation Damages <ul style="list-style-type: none">• Ind. Code 8-1-26• 170 IAC 5-5
Inspecting gas utility standards, operating pressures, safe operating procedures, materials	Investigating damages to gas pipelines, assessing penalties when damage to pipeline occurs



IURC Pipeline Safety Division

- 14 pipeline professionals with over 200 years of combined experience
- Pipeline safety engineers enforce federal and state pipeline safety standards
- In addition, the Pipeline Safety Division is responsible for investigating possible violations of the Indiana 811 law.
 - In 2022, the Division investigated **1,902** excavation damage cases.



Indiana 811 Law Framework



Know what's below. 811 before you dig.



Indiana 811 Laws - Statute

- Indiana Code chapter 8-1-26
 - Original Version passed by Indiana General Assembly in 1990
 - Major Amendment with **enforcement process** passed in 2009
 - Minor amendments passed in 2014 and 2017
 - With limited exceptions, IC ch. 8-1-26 enforcement only covers
 - **damages to natural gas pipelines** (and petroleum liquids) and
 - **failure to mark gas pipelines** by gas utilities



Indiana 811 Laws - Statute

Indiana Code 8-1-26: 25 sections, governing the role of Indiana 811, the IURC, the Gas Utility, and Excavator, including:

IC 8-1-26-6 – Definition of “**Excavate**”

IC 8-1-26-12 – Definition of “**Working day**”

IC 8-1-26-16 – Notice to Excavate = 811 Ticket

IC 8-1-26-17 – Role of Indiana 811 (forward the notices to the utilities)

IC 8-1-26-18 – Gas operators must locate their facilities or else \$1,000 penalty

IC 8-1-26-20 – Excavators must avoid damaging underground facilities –
or else up to \$10,000 penalty

IC 8-1-26-23 – UPPAC (Underground Plant Protection Advisory Committee)

IC 8-1-26-26 – IURC shall adopt rules implementing its responsibilities



Pop-Quiz

True or False:

When someone calls 811 before digging, Indiana 811 has two full working days to locate all of the underground utilities in the area?

False: Indiana 811 forwards the notice to all of the utilities in the area. Each utility has two working days to mark its own underground facilities. Indiana 811 does not mark anything.



Indiana 811 Laws – IURC Rules

- 170 Indiana Administrative Code 5-5
- Governs the penalty process
- First promulgated in 2011
- New rules updated to be effective **January 5, 2024**



Indiana 811 Laws – IURC Rules

170 IAC 5-5: To be effective January 5, 2024:

- 170 IAC 5-5-1 – Pre-existing – Definitions (Various Amendments)
- **170 IAC 5-5-1.1 – NEW – Deadline to supply marking information**
- 170 IAC 5-5-1.2 – NEW – Description of Underground facilities
- 170 IAC 5-5-1.3 – NEW – Expiration of 811 tickets
- 170 IAC 5-5-2, Pre-existing – Notification to IURC of violations
- **170 IAC 5-3-2.1 - NEW – Rescheduling requirements**
- 170 IAC 5-3-2.2 – NEW – Tolerance zone defined
- **170 IAC 5-3-2.3 – NEW – Positive Response to excavators**
- 170 IAC 5-3-3 – Pre-existing – Investigating Violations
- 170 IAC 5-3-4 – Pre-existing – UPPA



Rule Development Process*

Rule
Develop-
ment

Approval of
Rulemaking
Moratorium
Exception

Notice of
Intent to
Adopt a
Rule

Approval of
Fiscal and
Financial
Impact

Public
Hearing and
Public
Comment
6/20/23

Final Rule
7/26/23

State /
Governor
Review
9/20/23

Effective
Rule –
Effective
Date of
Jan. 5,
2024

*Rulemaking process changed as of July 1, 2023



Review of New Changes to

RULES



Review of Rule Changes

1. 170 IAC 5-5-1 - Pre-existing - Definitions

- Adds definitions that are already found in the statute.
- “Other materials” is now defined as shrubs, trees, timber, brush, posts, fencing, poles, and stakes.
- “Training” is now defined as training provided by the Commission, the pipeline safety division or a person approved by the Commission.



Review of Rule Changes

2.170 IAC 5-5-1.1 – NEW - Deadline to supply marking information

“An operator shall [mark its underground facilities] not later than 7:00 a.m. at the prevailing time observed in Indianapolis, Indiana on the working day after the elapse of two full working day periods from 7:00 a.m. to 6:00 p.m.”

- The utility must mark its facilities in “two full working days”
- How to calculate the two full working days changed:
 - Before: marked by the same time of day on the 2nd working day (often 48 hours later)
 - **New:** located at 7:00am on the next working day after the 2nd full working days (often 7:00am three days later)



2 Full Working Days – Example 1

- Excavator notifies 811 online: Wednesday, January 24, 2024 at 1:50 pm.
- Before – Must be located by Friday, January 26, 2024, at 1:50 pm.
- New – When must the gas lines be located?

“not later than 7:00 a.m. at the prevailing time observed in Indianapolis, Indiana on the working day after the elapse of two full working day periods from 7:00 a.m. to 6:00 p.m. “

**Answer: 7:00 am on
Monday, January 29, 2024**



2 Full Working Days – Example 2

- Excavator notifies 811 on Friday, January 12, 2024, at 11:00 am.
- *MLK day is Monday January 15, 2024
- Before – Must be located by 11:00 am on Wednesday, January 17, 2024.
- New – When must the gas lines be located?

“not later than 7:00 a.m. at the prevailing time observed in Indianapolis, Indiana on the working day after the elapse of two full working day periods from 7:00 a.m. to 6:00 p.m. “

**Answer: 7:00 am (Indianapolis) on
Thursday, January 18, 2024.**



2 Full Working Days – Example 3

- Excavator notifies 811 online on Monday February 5, 2024, at 8:00 am.
- Before – Must be located by Wednesday February 7, 2024, at 8:00 am.
- New – When must the gas lines be located?
“not later than 7:00 a.m. at the prevailing time observed in Indianapolis, Indiana on the working day after the elapse of two full working day periods from 7:00 a.m. to 6:00 p.m.”

Answer: 7:00 am on Thursday, February 8, 2024



Review of Rule Changes

3. 170 IAC 5-5-1.2 – NEW – Description of Gas Pipelines



- Requires gas utilities to mark the following information:
 - Service lines if it is a service line
 - For pipelines larger than 2 inches the size and type of the pipeline. For instance, 6" steel main.



Review of Rule Changes

4. 170 IAC 5-5-1.3 – NEW – expiration of 811 tickets

- 811 Tickets have always expired after 20 days
- 811 Tickets will now expire at **11:59 p.m.** on the 20th day, regardless of what time the ticket was requested.
- The 20 days counts from the day the ticket is requested, **not** the day the facilities are located



Review of Rule Changes

5. 170 IAC 5-5-2, Pre-existing – Notification to IURC of damage

- This rule change adds deadlines for the gas utility to tell the IURC when there is a damage to its gas line – within 30 days.



Review of Rule Changes

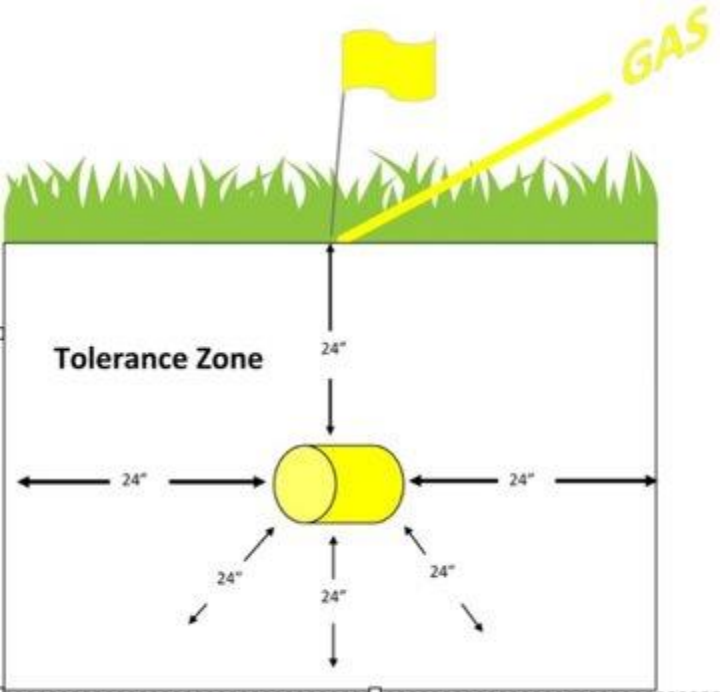
6. 170 IAC 5-3-2.1 - NEW – Rescheduling Requirements

- Rescheduling is allowed by statute and does not require the excavator to agree (IC 8-1-26-18(k))
- This new law puts these requirements on the gas utility when it reschedules:
 1. Reschedule within the two full working days
 2. Log the date, time, and person responsible for the notification to reschedule
 3. Give a new date when the underground facilities will be located



Review of Rule Changes

7. 170 IAC 5-3-2.2 – NEW – Tolerance zone defined



- Tolerance zone is not just on either side of the pipeline, but above and below and all sides of the pipeline.
- A round pipeline has infinite “sides”
- Clear 2 feet all around the pipeline to use mechanized equipment in that tolerance zone.



Review of Rule Changes

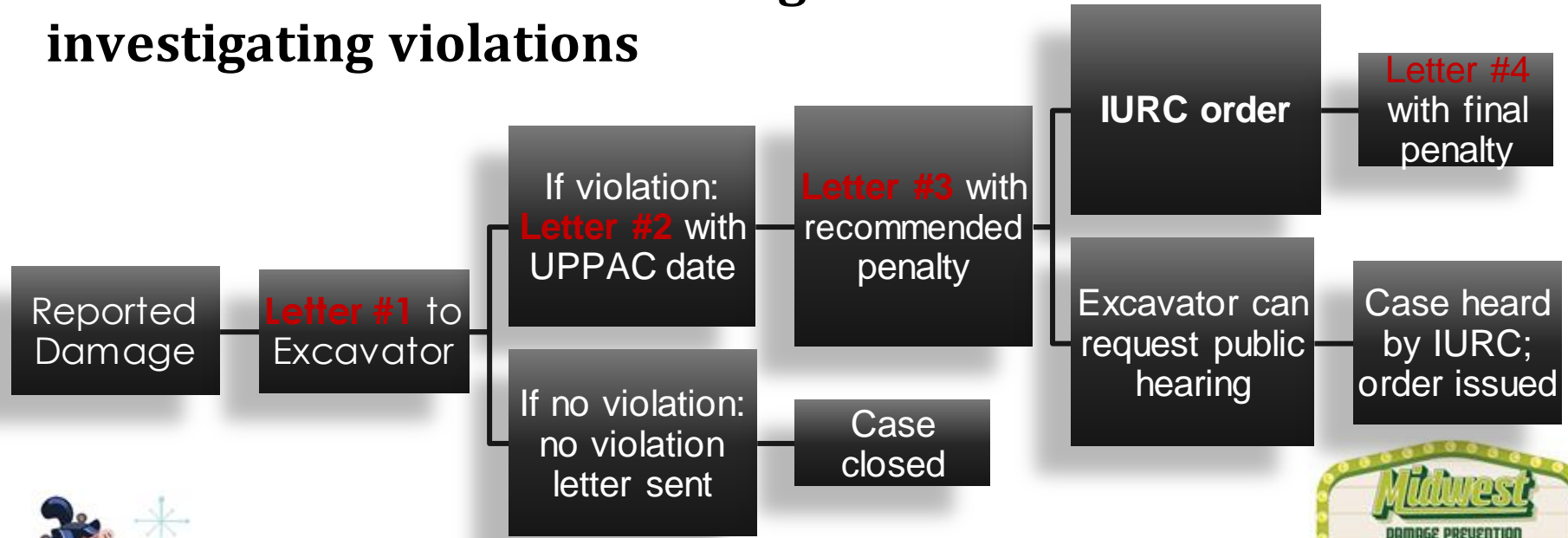
8. 170 IAC 5-3-2.3 – NEW – Positive Response to excavators

- For the first time, this rule requires gas utilities to provide “positive response” to Indiana 811
- Positive response is provided electronically by the gas utility when the gas pipelines are marked



Review of Rule Changes

9. 170 IAC 5-3-3 – Pre-existing – Process for investigating violations



Review of Rule Changes

10. 170 IAC 5-3-4 – Pre-existing – Underground Plant protection account

- Penalty money funds account for public education and training
- Account information is on IURC website



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Questions ??





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