

IURC RM 22-03, STRAWMAN DRAFT PROPOSED RULE – Version 4/28/22
TITLE 170 INDIANA UTILITY REGULATORY COMMISSION
170 IAC 5-5

Strawman Draft Proposed Rule

LSA Document #22-____
IURC RM #22-03

IN811 Damage Prevention Committee Response

SECTION 1. 170 IAC 5-5-1: Definitions

Supportive, with conditions.

(n) “Job Extension ticket” means an 811 ticket that is requested to extend the expiration date of a current, unexpired dig ticket, and does not include a re-mark ticket or **an additional notice second notice ticket. Requires contact with excavator and mark as needed.**

(o) “Re-mark ticket” means an 811 ticket that is requested because **some of the markings from the most recent dig ticket may have become illegible. Requires contact with excavator and mark as needed.**

(p) “**Additional Second notice ticket**” means an 811 ticket that is requested because the markings from the most recent dig ticket:

(1) were not provided, or

(2) there is evidence of an unmarked pipeline **or any other utility facility** in the area of the excavation or demolition.

IN811 DP committee had requested clarification in writing, the difference between ticket types. In the event of a damage the IURC has viewed “Re-mark tickets” as an admission that marks are gone, and new ones are needed so it stops all work on the job site until remarked. However, this committee does not agree that the “re-mark ticket” requires a complete work stoppage, and acknowledge that there may still be usable paint elsewhere within the scope of the ticket to allow work to continue.

This topic has been complicated by the fact that when a “Remark ticket” is called in a new ticket number is generated, and this has led to confusion as to whether it is ok to continue digging on the original ticket until the new one is marked. Operators/Excavators need an option to continue working when marks are good in the specific dig area. This will not change the liability to an excavator who continues to dig in an area without marks.

Some locators also believe that “Job Extension ticket” is only a keep alive function to keep the excavator legal and doesn’t require marks, but as with all locate tickets these still require contact and mark as needed.

SECTION 2. 170 IAC 5-5-1.1: Deadline to Supply Marking Information

Supportive

Currently tickets are on a 48-hour clock, rather than two full working days as written in IC8-1-26.

To clarify; any ticket submitted after 7:00 am, the clock would not start until 7am the following business day and will be due at 7am 2 full business days later. This will give the operators/locators two actual full days to mark.

This is intended to help reduce late tickets, and also provide consistent start times on all tickets.

SECTION 3. 170 IAC 5-5-1.2: Location and description of underground facilities

Oppose the requirements for service lines, and oppose requirements for electric facilities.

Supportive for gas lines, recommend adding for discussion direct bury communications lines and water, sewer, and storm over 8”.

Sec. 1.2. An operator required to supply to location and description of the underground facilities under IC 8-1-26-18 shall, as part of the description, include the following:

(1) A written description on the ground near the underground facility or in another manner that ensures the party performing the excavation or demolition receives the description.

~~(2) For service lines,~~

~~(A) an indication the underground facility is a service line; and~~

~~(B) the material type of the service line.~~

(3) For pipeline facilities two (2) inches in diameter and larger,

(A) the diameter, and

(B) material type

of the facility being located.

~~(4) For electric underground facilities, the voltage level of the facility being located.~~

(1) This is only relevant for communications lines not in conduit, and gas pipeline. If a line is in conduit, it will be identified that way by its locate symbol on the ground, therefore size and material would be irrelevant. If direct buried it would be good to identify the size and TYPE (not material, all direct bury is plastic coated) of communication line in the ground. (copper or fiber, 24/124pr etc.) so an excavator knows what to look for.

Recommend adding accommodation for water, sewer, and storm drains over 8” by either the type of marks on the ground or the pipe size indicated on the ground, per CGA best practices. This is necessary to identify the tolerance zone for the excavator.

(2) This is not relevant information for an excavator.

(A) If correctly marked by the locator, the symbology will identify it as a service line.

(B) Only relevant for the gas line industry as all other buried utilities are plastic coated.

(3) As defined by 8-1-26, pipeline only refers to gas and chemical transport, not water or sewer.

(4) This is irrelevant and not something a locator can determine. It's like asking for gas pipeline pressure. If anything, wire size would be a better indicator, but there are 100's of wire sizes and descriptions that most don't understand (350, 500, 4/0, 1000pri, 1000mcm etc.). The symbology on the locate will define the type of line in the ground whether it is a main line or a service line. Size is irrelevant since you can have as little as 120v on even the largest wire. We want the same care taken regardless of the wire size; it all presents the same danger.

SECTION 4. 170 IAC 5-5-1.3: Expiration of 811 Tickets

Supportive with conditions. Oppose (d) as written, modify to allow work to continue.

Sec. 1.3. (a) An 811 ticket expires at midnight, Eastern Time local time at the site of the excavation or demolition, twenty (20) calendar days after the date the notice is submitted to the association under IC 8-1-26-16.

(b) A person responsible for the excavation or demolition may commence work or continue work after obtaining a job extension ticket only if the following circumstances apply:

- (1) The markings from the current, unexpired 811 ticket have not become illegible;**
- (2) There is no evidence of an unmarked pipeline or any other utility facility in the area of the excavation or demolition.**

(c) A job extension ticket expires at midnight, Eastern Time local time at the site of the excavation or demolition, twenty (20) calendar days after the date on which the job extension ticket is submitted.

(d) A person responsible for the excavation or demolition may commence work or continue work after obtaining a remark ticket only if the following circumstances apply:

- (1) The markings from the current, unexpired 811 ticket have not become illegible;**
- (2) There is no evidence of an unmarked pipeline or any other utility in the area of the excavation or demolition.**

~~A person responsible for the excavation or demolition may not commence or continue work after calling in a re-mark ticket until the operators supply the information required by IC 8-1-26-18.~~

Expiration dates need to be clearly defined and consistent, so there is no misunderstanding how long the ticket is good for. Currently tickets expire at 20 days at the time called in, changing to midnight adds consistency for all tickets. It is common the excavators don't know the expiration date of tickets, and during damage investigations it is commonly found that excavators didn't know they were digging on expired tickets. Internally, IN811 will be working on adding the expiration date to every ticket in the future.

SECTION 5. 170 IAC 5-5-2: Notification of violations of IC 8-1-26

Oppose this entire section and ask to strike it from the proposed changes.

This section should be left as it was. You can have a violation without a damage.

SECTION 6. 170 IAC 5-5-2.1: Notice of inability to provide locate information

Oppose this entire section and ask the committee to strike it from the proposed changes.

This is an attempt to correct a problem that needs to be addressed but this doesn't directly impact it as written. The option to reschedule should only ever be used for untonable utilities, or where safety is a concern (traffic, access etc.).

(1) Oral notification is currently used and is really the only feasible option, but this is routinely recorded fraudulently, where an actual communication never took place. Adding the requirement for the operator to keep a written record other than the ticket itself creates an excessive record keeping burden that still doesn't solve the problem of fraudulent contact calls.

(2) A signed written agreement is not a realistic option and will limit the potential for future technology advances by defining it as "written and signed agreement".

Indiana 811 hopes to have the ability to facilitate this type of transaction through Exactix in the future. The term “Oral notification” will hinder the use of technology as a means to communicate electronically when it is available.

What happens when the excavator doesn't agree to the terms? It doesn't change the fact that it can't be located. Who and how will it be enforced?

SECTION 7. 170 IAC 5-5-2.2: Clearance Zone

Oppose this section as written.

This section should reference 8-1-26 and use terminology to allow excavation with mechanical equipment within the tolerance zone once the utility is exposed visually, secured, and protected.

SECTION 8. 170 IAC 5-5-2.3: Positive response to excavators of supplied location information

Supportive

It is important for excavators to know when all utilities have been located. If a utility doesn't have a positive response system in place, then the excavator has no way of knowing if the jobsite is clear of utilities, or just not marked.

Positive response for the smaller utilities currently still getting emails and faxes can use the Exactix system that allows them to respond to tickets without requiring a third party ticket management system.

SECTION 9. 170 IAC 5-5-3: Process for determining violations of the ~~underground plant protection laws~~ and penalties

Oppose changes.

This section should be left as it was.

SECTION 10. 170 IAC 5-5-4: Underground plant protection account

Supportive.

No comments.

Requested Additional Points for Comment.

1. Should the rule address spacing of paint lines and flags?

Not necessary. Every locate determines what is needed, so it would be difficult to cover every scenario. Education on CGA best practices might be more useful.

2. Should the rule address the frequency of ongoing maintenance of the markings by the operator?

Not clear on what this means. If it means the operator must monitor every job to ensure marks are good, then absolutely not. This would completely remove the burden of maintaining marks by the excavator. If

this is a discussion about the frequency that locates are renewed by the excavator, the maximum time or condition of locates is already addressed in previous sections, but the over calling and auto renewal would be a good topic.

3. Do stakeholders see a need to require marking standardization, perhaps by incorporating CGA best practices?

CGA does define some marking standards but isn't all inclusive. Consistency throughout the state could be beneficial.

4. Should there be a maximum limit for reschedules, so that, for instance, an 811 ticket cannot be rescheduled for a date after the 811 ticket would be expired?

Yes. Limit to one. But there shouldn't be any reschedules except for large project tickets and untonable utilities. Only real exception that comes to mind would be access issues, or potentially traffic control or where safety is a concern.

5. Is there a benefit to defining a separate locate process for "project" locate tickets? Is there a standardized definition of "project" tickets?

Yes, there should be. However, defining what constitutes a project has been the issue. Projects should have a size and time component in the definition.

6. Should the clearance zone requirement spell out the calculation of the size of the tolerance zone, i.e. half the diameter of the facility plus 24 inches on all sides?

Since the identification of pipe size is only required to be written then yes.

But where pipe size is identified with the marking (approximate outside edges of the utility) then 2' from marks is acceptable.

7. Should there be a penalty or other enforcement mechanism if an operator fails to provide positive response?

Yes, if you are going to make it law and mandate it.

There should also be penalties for all violations of 8-1-26, not just for the gas/pipeline industry.

I would like to add a few points for future discussion not covered.

I believe that for large ongoing projects, the cost burden should be shared by the excavator/developer. Large projects can have a seriously negative impact for a small utility, and that cost burden is sometimes passed on to the utility customer rather than the developer causing the expense. There is precedence for this with a small municipal water on the I69 project.

Discuss limiting the number of times a ticket can be called in for the same job without work being started. This frequently puts excess burden on the operator for unnecessary tickets. Causes backlog of needed locates, and cost to the operator.

Discuss penalty for excess footage requests by excavator when not required. This adds burden to an already strained system and is a frequent problem.

Need clarification from IURC on the proper procedures for the excavator when multiple additional notices don't result in getting facilities marked. Some Telecom utilities are known for screening out tickets from their locators to cut costs, resulting in job delays trying to get a facility marked. These delays can have a significant impact with unrecoverable costs for excavators. At what point is it acceptable for an excavator who has done his due diligence to get a utility marked, relieved of responsibility and clear to dig?

Need to discuss prohibiting pre-screening of "low impact" tickets where facilities exist.

Discuss excavator registration with the state for all out of state excavators, requiring dig safe and ticket calling procedure best practices before being able to work in Indiana. There are hundreds of incidents where out of state contractors not familiar with Indiana code frequently violate them or hit utilities and leave the state making it extremely difficult to track down. Ideally all professional excavators except utilities and homeowners calling in a single address ticket for their property should have to register as well.

Require all utilities to have a publicly available LOCAL contact point that is provided on every locate request. Either a monitored email, or phone number. It is a common problem for an excavator trying to contact a utility that isn't marked, marked incorrectly, or damaged. A perfect model example is the NIPSCO trouble ticket email that will get an immediate response for problems. This should be the expectation of every utility interested in good damage prevention practices.