

From: [David Dietrich](#)
To: [Comeau, Jeremy](#)
Subject: Re: Comments Requested - 170 IAC 5-5, RM 22-03, 811 law Strawman Draft Proposed Rule
Date: Thursday, April 28, 2022 2:10:56 PM

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Jeremy,

What about a penalty for a "phantom" locate, no actual utility in the locate identified crossing, or loss compensation for work stoppage after hitting a mismarked utility? The way it is now, the contractor is stuck for the costs on everything.

David

On Thu, Apr 28, 2022 at 10:31 AM Comeau, Jeremy <JComeau@urc.in.gov> wrote:

Interested Stakeholders,

The Indiana Utility Regulatory Commission (IURC) staff is seeking comments on possible future revisions to 170 IAC 5-5, which governs the process for reporting and investigating damages to underground facilities due to excavation. The current rule was first promulgated in 2011, near the beginning of the excavation damage enforcement process and the operation of the Underground Plant Protection Advisory Committee (UPPAC).

Attached is a strawman draft proposed rule for your comment. This strawman is intended to spark discussion and dialogue, and the final form of the rule will be based on that discussion and dialogue. Staff is available to meet and/or discuss the strawman draft with interested stakeholders, and we encourage those meetings. The strawman draft is attached in Microsoft Word format so comments can be made in the document. We encourage the use of Microsoft's legal redline for proposed modifications. The strawman draft will also be posted here: <https://www.in.gov/iurc/rulemakings/rulemakings-pending-and-effective/>

Written comments can be emailed to URCCComments@urc.IN.gov. We request written comments by **Friday, June 17, 2022**. If you would like to comment but need additional time, please let me know.

Below is a summary of the major proposals in the attached strawman draft rule:

1. Adds a definition for re-mark, job extension, and second notice tickets.

2. Adds a new section requiring operators to mark their underground facilities by 7:00 am after the elapse of two full working day periods from 7:00 a.m. to 6:00 p.m.
3. Adds a new section to require a description of underground facilities, typically by painting on the ground a designation of the size of the pipeline or facility, and the type of material.
4. Adds a new section to clearly state the expiration of an 811 ticket is at midnight after 20 calendar days; provides expiration dates for job extension tickets and re-mark tickets; and specifies under what conditions an excavator may continue to work uninterrupted with a job extension ticket.
5. Amends the timelines for a pipeline operator to submit notice of a damage (30 days from the date of damage) and to respond to a request for additional information (30 days from the request).
6. Adds a new section to define compliant methods for notifying excavators of a reschedule under IC 8-1-26-18(k), requiring an oral communication or an signed agreement for the reschedule.
7. Adds a new section to define the clearance zone for facilities as 2 feet on all sides, including above and below the facility.
8. Requires operators to provide affirmative, positive response to Indiana 811 in the manner directed by Indiana 811 after facilities are located.
9. Clarifies the notices that will be provided to excavators and operators of the Pipeline Safety Division's determination and the UPPAC recommendation, and clarifies the type of additional information the UPPAC will review (written only).
10. Requires the UPPAC to use a publicly available penalty schedule to recommend penalties.
11. Provides that a person may request a grant from the UPPA account.

In addition to comments on the strawman draft proposed rule, we invite your comments on any or all of the following issues which are not presently included in the strawman draft rule:

- a. Should the rule address spacing of paint lines and flags?
- b. Should the rule address the frequency of ongoing maintenance of the markings by the operator?
- c. Do stakeholders see a need to require marking standardization, perhaps by incorporating CGA best practices?
- d. Should there be an maximum limit for reschedules, so that, for instance, an 811 ticket cannot be rescheduled for a date after the 811 ticket would be expired?
- e. Is there a benefit to defining a separate locate process for "project" locate tickets? Is

- there a standardized definition of “project” tickets?
- f. 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?
 - g. Should there be a penalty or other enforcement mechanism if an operator fails to provide positive response?

Thank you,

Jeremy Comeau

Assistant General Counsel

INDIANA UTILITY REGULATORY COMMISSION

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