



# 2024 Midwest Damage Prevention Conference

## New 811 Legislation



# Overview



- Damage Prevention Stakeholder Group
- 2024 811 Legislation (HEA 1122-2024)
  - How it came to be
- Indiana 811 Law – Legal Framework
- 2024 811 IURC Rulemaking (170 IAC 5-5)
- 2024 811 Legislation (HEA 1122-2024)



# Intro to the Stakeholder Group



## Damage Prevention Stakeholder Group Overview

# 2024 811 Legislation – How it came about



Review of work with General  
Assembly to bring about HEA 1122





# 811 Law Framework





# Indiana 811 law

Sources of Law:

## Indiana Code chapter 8-1-26

- Passed by Indiana General Assembly
- Signed by the Governor
- Specifies maximum penalty amounts (up to \$10,000)
- Specifies roles of Indiana 811, IURC
- Called a Statute or Indiana Code

## 170 Indiana Administrative Code 5-5

- Adopted by the IURC
- Approved by OMB, State Budget Agency, Attorney General, and Governor's Office
- Sets the procedure for excavation damage cases
- Provides specific details for excavation damage cases left unclear in IC 8-1-26
- Called a Rule or Regulation

# 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
  
- Recent amendments passed in 2024, to be effective **Jan. 1, 2025**
  
- With limited exceptions, IC ch. 8-1-26 enforcement only covers natural gas and hazardous liquids (currently petroleum) pipelines.

# Indiana 811 Laws - Statute



## Indiana Code chapter 8-1-26:

25 sections, governing the role of Indiana 811, the IURC, the Gas Utility,/Operator 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





# Indiana 811 Laws - Rules

## 170 Indiana Administrative Code 5-5

- First promulgated in 2011
- Updated effective **January 5, 2024**
  
- *170 IAC 5-5-1 – Definitions (Various Amendments)*
- ***170 IAC 5-5-1.1 – Deadline to supply marking information***
- *170 IAC 5-5-1.2 – Description of Underground facilities*
- *170 IAC 5-5-1.3 – Expiration of 811 tickets*
- *170 IAC 5-5-2 – Notification to IURC of violations*
- ***170 IAC 5-3-2.1 – Rescheduling requirements***
- *170 IAC 5-3-2.2 – Tolerance zone defined*
- ***170 IAC 5-3-2.3 – Positive Response to excavators***
- *170 IAC 5-3-3 – Pre-existing – Investigating Violations*
- *170 IAC 5-3-4 – Pre-existing – UPPA*







# Recent Changes to Indiana 811 Rules



# 2024 811 Rulemaking



## 170 IAC 5-5 – Effective January 5, 2024

1. Revision to “two full working days.” Operators must mark underground facilities by the start of essentially the third working day from the 811 call.
2. Operators are required to describe the pipeline being marked (size and material type)
3. Operators must provide a positive response to excavators, which is an affirmative statement that the underground pipelines have been marked.
4. Reschedules must include the person rescheduling and a new deadline for marking.







# Recent 811 Legislation



# 2024 811 Legislation



## House Enrolled Act 1122-2023, Public Law 53-2024

- Amending IC 8-1-26
- Adds Section 11.3, 11.4
- Amends Sections 11.5, 12, 16, 16.5, 17, 18, 19
- Mostly aligns IC 8-1-26 with the recent changes in 170 IAC 5-5
- Minimal new provisions

- **Effective Jan 1, 2025**

# 2024 811 Legislation



1. All times are as observed in Indianapolis, Indiana
2. Tolerance zone extends in a full radius surrounding cylindrical pipe
3. White lining through electronic means allowed
4. 2 full working days extends to 7 am of the next working day
5. **Delayed start date at option of excavator up to 10 days**
6. Expiration date of ticket at 11:59 pm of the 20<sup>th</sup> day
7. Positive response by operator.
8. **Positive Response by excavator**





# Indiana Code 8-1-26-11.3



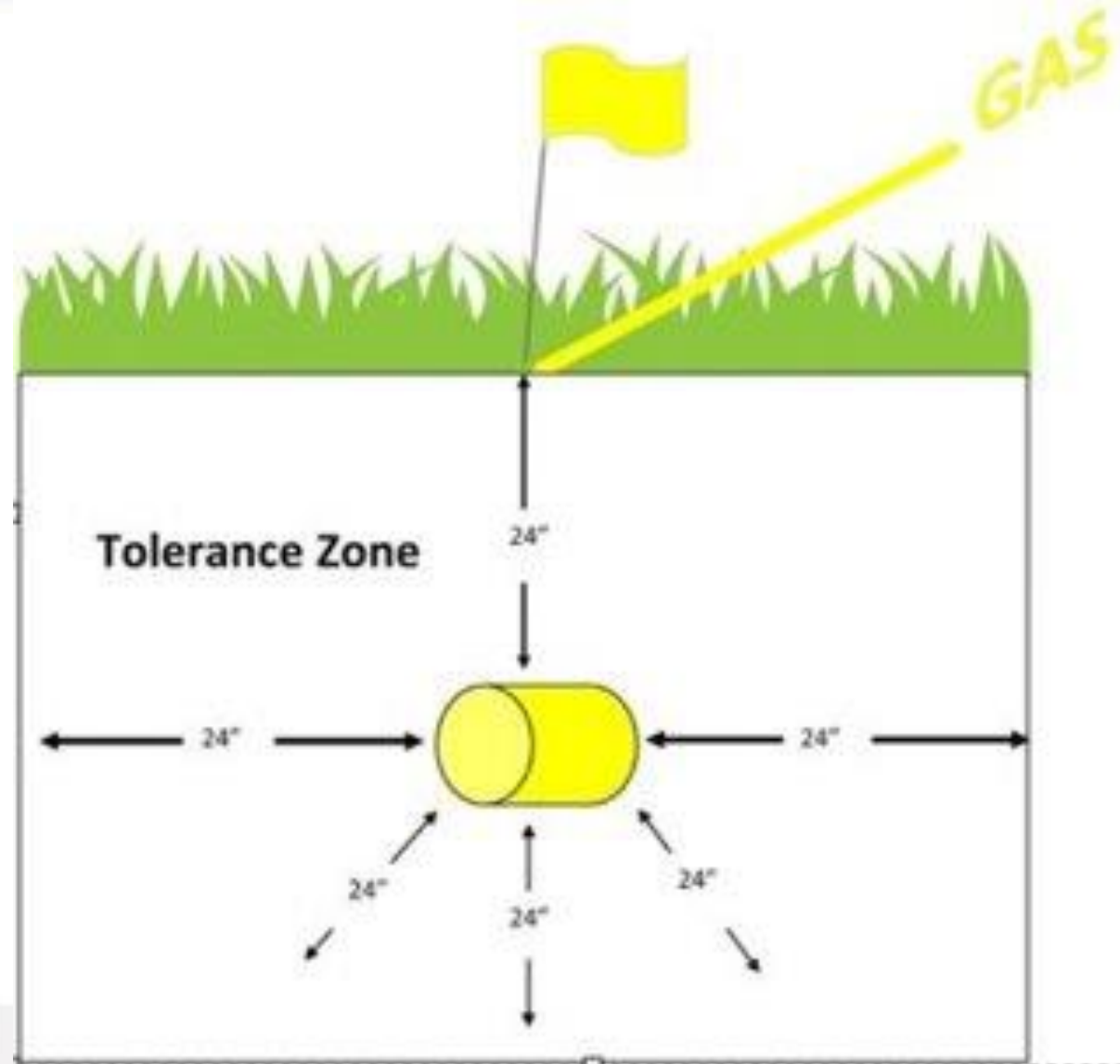
1. All times are as observed in Indianapolis, Indiana
- Same as in rule
- Times include:
- Time ticket should be located (7:00 am)
  - Expiration of ticket (11:59pm)

# Indiana Code 8-1-26-11.4



2. Tolerance zone extends in a full radius surrounding cylindrical pipe

- Same as rule
- “pot-holing” includes below and around the pipeline







# Indiana Code 8-1-26-11.5



3. White lining through electronic means allowed
- In addition to rule



# Indiana Code 8-1-26-12

4. “2 full working days” extends to 7 am of the next working day

- Same as rule

“7:00 a.m. prevailing time on the next working day that follows the elapse of two full working days”







# Indiana Code 8-1-26-12(e)

## 5. Delayed start date at option of excavator up to 10 days

- In addition to rule
- 811 Notice must contain starting date and time, if known, up to 10 days after the 811 notice
- Delayed start date means locates are not due until start date
- Delayed start is a benefit to the utility. Is there a benefit to the excavator?



# 2024 Upcoming Rulemaking



## 6. Expiration date of ticket at 11:59 pm of the 20<sup>th</sup> day

- Same as previous IURC Rule
- 811 Tickets have always expired after 20 days
- 811 Tickets expire at **11:59 p.m.** on the 20<sup>th</sup> 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



# Indiana Code 8-1-26-18(g)



## 7. Positive response by operator.

- Same as IURC 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
- Enforceable as a violation at the option of the IURC





# Indiana Code 8-1-26-18(n)

## 8. Positive Response by excavator

- In addition to the IURC Rule
- Excavators required to provide positive response to 811 that the excavator received the operator's positive response.
- Not enforceable in any way.







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