



## THE ILLINOIS UNDERGROUND UTILITY FACILITIES DAMAGE PREVENTION ACT

### *Fact Sheet for Proposed Amendatory Changes (Spring 2019)*

*Below is a partial listing of the amendatory changes that have been submitted to the legislature. For more information and updates, visit [www.illinois1call.com](http://www.illinois1call.com).*

#### **Section 2 Definitions:**

**Section 2.1.1 “Excavator” (new)** - Changes the definition within the Act from “person” to “excavator” and means the entity (person or a public or private company) that is actually engaged in the excavation or demolition work.

**REASON:** Clarifies the separate parties to the Act.

**Section 2.1.2 “Pre-mark” (new)** - Inserts a definition of what a proposed excavation pre-mark is and how it can be accomplished.

**REASON:** Clarifies the methods to pre-mark a site.

**Section 2.1.3 “No show request”** – Clarifies the excavator’s responsibility to individually list facility owners or operators that have not marked their facilities prior to the dig start date and time.

**REASON:** Avoids over notification to facility owners that properly responded to the initial request.

**Section 2.1.5 “Re-mark request”** – Clarifies the excavator’s responsibility to provide the specific area of the original locate request extent that needs to be re-marked.

**REASON:** Clarifies the responsibility for the excavator to minimize the area to be re-marked, reducing the facility owner’s onsite time requirements.

**Section 2.1.8 “One-Call Notice System” new** – Clarifies the reference to “One-Call Notice System” throughout the Act means JULIE for the state (outside of Chicago) or the Chicago Utility Alert Network / 811 Chicago within the city of Chicago.

**REASON:** Allows the removal of numerous sentences throughout the Act differentiating Chicago (Chicago Utility Alert Network / 811 Chicago) from JULIE.

**Section 2.3 “Excavation”** – Adds to the list of exempted activities (no notification required): the use of a ground or round-tipped probe rod when used as part of underground facility locating, bar holing, a long-used technique by gas and pipeline utilities to find leaking underground facilities and in emergencies grounding of utility equipment when no other ground source available.

**REASON:** Provides a safer working environment for Land Surveyors and facility owners during survey operations and codifies the long standing practices of the facility locate industry and utility operators.

**Section 2.7 “Tolerance Zone”** – Replaces an existing definition. Defines the tolerance zone for 1) facilities whose locate markings identify the diameter of that underground facility; 2) facilities whose locate markings do not identify the diameter of the underground facility; and 3) for the first time, subaqueous facilities. Also, states that utility markings

may not exceed the actual width of the facility. Further, recognizes that the tolerance zone applies to visible utility structures.

REASON: Adds protection for above ground to underground transition of facilities and subaqueous facilities.

**Section 2.8 “Approximate location”** – Defines as the actual location of the marked underground facility that lies entirely within the tolerance zone.

REASON: Matches the intent of Section 2.7 above.

**Section 2.11 “Roadway surface milling”** – Adds saw cutting to the definition along with clarifying depth contained within limits of hard surface pavement.

REASON: Clarifies the previous definition and allows for saw cutting within those parameters without a separate one-call notice.

#### **Section 4 Required activities:**

**Subsection (b)** – Clarifies that precautions to avoid utilities include hand or vacuum excavation to the depth of the proposed excavation/demolition.

REASON: Codifies the methods required by best practices and long term training standards.

**Subsection (c)** – Refers to the new definition of pre-mark.

REASON: Codifies the requirements to pre-mark in accordance with Section 2.1.2.

**Subsection (g)** – Prohibits excavators from extending a notification without any excavation taking place.

REASON: Prevents excavators from using finite locator resources when excavation is not imminent.

**Subsection (h)** – Clarifies timeline requirements.

REASON: Removes confusion on the requirements to wait for marks on 2<sup>nd</sup> request notices.

**Subsection (i)** – Requires pre-marking prior to requesting a remark.

REASON: Cleanup and requirement to pre-mark prior to requesting a remark. This will help avoid requesting remarks of entire original extent and compliance in requesting a remark for only where excavation is still to occur.

**Subsection (j)** – Establishes within the Act some utilities’ longstanding practice of “watch and protect.” It requires excavators to honor the request of a utility for a “watch and protect,” but also requires utilities to honor the excavation schedule of the excavator.

REASON: Provides for better communication when work is to take place near critical facility owner infrastructure (examples include pipelines, fiber optics, etc.).

#### **Section 6 Emergency excavation or demolition:**

**Subsection (e)** – Recognizes extreme widespread weather events and the ability for utilities that are trying to restore widespread outage areas to process locate requests on behalf of their subcontractors. However, liability remains with utility owner/operator.

REASON: Allows for facility owner and contractor partnerships to efficiently manage widespread outages within the confines of the Act.

**Subsection (f)** – Provides for a 14 calendar day expiration of an emergency request.

REASON: Establishes an expiration for an emergency request.

**Section 7.5 Exposed facility (new)** - Requires excavators to report unmarked “exposed” but otherwise undamaged facilities via a notification through the One-Call System.

REASON: Codifies the notice requirements when a facility was exposed but not damaged that was not previously marked.

**Section 10 Record of notice; marking of facilities:** This section has been broken up into easier-to-read subsections below.

**Subsection (e)** – Captures a long standing practice between excavators and facility owners or operators.

WHAT DOES THIS SOLVE: Places a requirement for all stakeholders to work cooperatively when situations arise outside of the normal parameters of the Act.

**Subsection (g)** – Removes the ability of an excavator to waive the requirement for a facility owner or operator to notify them for an all clear.

WHAT DOES THIS SOLVE: Reflects best practices that require a positive response to all notices received by a facility owner.

**Section 11 Penalties; liability; fund:**

Removes the word “wilfully” from the entire Section.

REASON: Removes the confusion surrounding the civil definition of “wilfull.”

**Subsection (d)** – Addresses penalties for emergency locate requests that are not actually emergency requests. New language adds “no-show” and “incomplete” requests to those notification types that are subject to the excavator penalties for misrepresentation.

REASON: Provides excavators with a penalty for using finite locator resources when not warranted.

**Subsection (e)** – States a facility owner/operator will not be subject to a penalty when they have responded within the timeframes of the request and have taken reasonable precautions when locating their underground facilities.

REASON: Clarifies that facility owners may not be found in violation when conditions beyond their reasonable control are the cause of a facility not being properly marked, if all other requirements in the Act are followed.

**Subsection (j)** – An addition of a reference to where the Illinois Commerce Commission (ICC) rules are located and removes from the criteria that the ICC One-Call enforcement will use in determining the magnitude of the penalty: “ability to pay and ability to continue business.”

REASON: Holds all stake holders to the same standard.

**Subsection (l)** – Removes JULIE representative from the Advisory Committee and adds a second general public member having a professional background in the legal community.

REASON: Removes entity that receives penalty funds from role that could determine penalties and adds a general public seat with professional legal background.

***The proposed effective date is January 1, 2020. In addition, references to CATS (Community Antenna Television System Service) facilities currently in the Act be removed. These types of underground utility facilities are captured in Section 2.2.***

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