

**TITLE 170 INDIANA UTILITY REGULATORY COMMISSION**

**ECONOMIC IMPACT STATEMENT**

**LSA Document #15-XXX**

**IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**

**I. Estimate of Number of Small Businesses That Will Be Subject to this Rule.**

As required by Ind. Code § 4-22-2.1-5(a)(1), the estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule:

Seventy-two (72) small businesses are currently subject to the current rule.

As required by Ind. Code § 4-22-2.1-5(a)(2), the estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule:

**THERE IS NO COST TO COMPLY WITH THE PROPOSED RULE.** The rule revision will not change the manner in which small businesses currently comply. This rule updates the references to federal code citations relating to minimum pipeline safety standards for gas pipelines. The United States Department of Transportation’s Pipeline and Hazardous Material’s Safety Administration (PHMSA) can delegate pipeline safety enforcement authority to states through a certification agreement. The State of Indiana enacted Ind. Code chapter 8-1-22.5, Gas Pipeline Safety, to establish the Pipeline Safety Division (“PSD”) of the Indiana Utility Regulatory Commission (“IURC” or “Commission”) and to enable the PSD and the Commission to carry out enforcement of these important safety standards. As a result of this statute, the IURC was able to enter into a certification agreement with PHMSA. The PSD is now charged under state law with administering and requiring compliance with federal and state safety standards as detailed in Ind. Code chapter 8-1-22.5. In order to enforce the federal pipeline standards, the IURC’s administrative rules must specifically adopt these standards. This adoption is required by PHMSA for the PSD to continue to receive federal grant money to enforce pipeline safety standards.

The changes ensure the state’s rules are at least as stringent as the federal rules. The safe and efficient delivery of natural gas is essential to the citizens of the State of Indiana for heat, energy, and hot water. These rules help to safeguard the public from natural gas explosions, which are devastating and deadly.

As required by Ind. Code § 4-22-2.1-5(a)(3) and Ind. Code § 4-22-2-28(i)(3), the estimate of the total annual economic impact that complying with the proposed rule will have on all small businesses subject to the rule:

**THERE IS NO ANNUAL ECONOMIC IMPACT FOR COMPLIANCE.** The rule revision will not change the manner in which small businesses currently comply and will not change the economic impact. Gas utilities, including those considered small businesses, must already follow existing federal and state rules. This rulemaking simply gives the PSD the ability to enforce its authority under state law and clarifies its existing rules.

## **II. Justification Statement.**

As required by Ind. Code § 4-22-2.1-5(4) and Ind. Code § 4-22-2-28(i)(2), the following statement justifies any requirement or cost that is imposed on small businesses by the rule and not expressly required by the statute authorizing the agency to adopt the rule or any other state or federal law:

Safety is of the utmost concern when regulating a natural gas pipeline. When a pipeline ruptures, it can result in fires and explosions of catastrophic costs for surrounding homes and businesses. In addition to any economic loss from a rupture, a gas leak can kill those in the area, either from displacing oxygen needed to breathe or creating a fire or explosion.

The proposed rule revision updates the current rule to establish the minimum safety standards that are not less stringent than federal law, as required by Ind. Code § 8-1-22.5-4(2) and necessary to maintain federal funding. The Pipeline Safety Division is funded through a federal grant, in accordance with 49 U.S.C. 198, *et seq.* To be eligible for the grant, the IURC must adopt certain federal regulations regarding pipeline safety. These adoptions occurred in 2007 and 2010. The proposed rule revision simplifies the language from the 2010 rule adoption to provide clear guidance for regulated entities.

It was not necessary for the IURC to reply upon data, studies, or analyses to determine whether there is an imposition of the requirement or cost of its necessity. As noted above, the small businesses impacted by this rule are already required to follow these safety standards under the mirrored federal law.

## **III. Regulatory Flexibility Analysis.**

As required by Ind. Code § 4-22-2.1-5(5) and Ind. Code § 4-22-28-2(i)(4), this regulatory flexibility analysis considers whether there are alternative methods of achieving the purpose of the rule that are less costly or intrusive or would otherwise minimize the economic impact of the rule on small businesses.

There are no alternatives to the rulemaking that would permit the PSD to keep its federal funding or meet its statutory obligation under Ind. Code § 8-1-22.5-4(2). The PSD has already been notified by the PHMSA that the current administrative rule is insufficient. That was the catalyst for this rulemaking. In addition, other alternatives are insufficient to achieve the necessary degree of pipeline safety for the reasons listed below.

- (A) The establishment of less stringent compliance or reporting requirements for small businesses.

Less stringent compliance or reporting would result in less safety for both the employees of the regulated entities and the general public. All regulated entities should follow the same safety standards regardless of the business' size.

- (B) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

Again, less stringent schedules or deadlines for compliance or reporting would result in less safety for both the employees of the regulated entities and the general public. All regulated entities should follow the same safety standards and timelines regardless of the business' size. In addition, even if the state did not set these requirements, the entities would already have to follow the normal schedules under federal law.

- (C) The consolidation or simplification of compliance or reporting requirements for small businesses.

The PSD believes the compliance and reporting requirements are as simple as they can be without compromising safety. It is the same process followed by federal enforcers.

- (D) The establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

Performance standards would not be sufficient. Regulated entities need clear guidelines on what to survey and what to report to meet the level of safety the Commission and the PSD require.

- (E) The exemption of small businesses from part of or all of the requirements or costs imposed by the rule.

There are no requirements or costs associated with this rule that are not already required by federal law. Exempting small businesses would result in a loss of federal funding, leading to less regulation and safety oversight.