

Regulatory Analysis
LSA Document #24-382**I. Description of Rule**

This rulemaking incorporates new federal pipeline safety regulations through July 1, 2024, and implements [IC 4-22-2-19.6](#) by including the factors to be used in assessing penalties under Indiana Code chapter 8-1-22.5 applicable to violation of minimum pipeline safety standards by pipeline operators in Indiana.

a. History and Background of the Rule – This proposed rule updates the Indiana Utility Regulatory Commission's ("IURC's") rules concerning minimum pipeline safety standards that apply to intrastate operators of natural gas pipeline systems (typically known as gas utilities) and hazardous liquids (usually oil or gasoline pipelines).

The Pipeline Safety Division ("Division") of the IURC conducts inspections of pipeline operators and when violations are found, can seek the imposition of penalties by the IURC. The IURC may, after notice and opportunity for public hearing, impose a civil penalty not to exceed \$25,000 for each violation for each day that the violation persists, with a maximum penalty of \$1,000,000 for any related series of violations. [IC 8-1-22.5-7](#).

All penalties must be approved by the IURC. The violations are inherently related to matters of public safety. The IURC has heretofore approved penalties on a case-by-case basis based on the variety of factors listed in the proposed rule, including the severity of the risk to public safety and the culpability of the utility. The rule adds these factors to the rule, as required under [IC 4-22-2-19.6](#).

The Division is a certified state program by the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration ("PHMSA") and receives federal grant money to fund a majority of its expenses. The terms of the certification agreement require that Indiana incorporate new federal standards within two years of the adoption of those federal standards. The Commission previously incorporated federal standards through November 1, 2022, in a rulemaking effective June 23, 2023. In this rulemaking, the Commission seeks to incorporate new federal standards enacted since that time to comply with its ongoing certification agreement.

b. Scope of the Rule – The rule makes two types of changes. First, the rule incorporates new federal pipelines safety standards through July 1, 2024. Second, the rule sets forth the factors the IURC shall use in assessing penalties under IC ch. 8-1-22.5. These considerations include the gravity and seriousness of the violation, the violations history, and the culpability of the operator.

c. Statement of Need – This rulemaking is mandatory under IC4-22-2-19.6, requiring that for each fee, fine, or civil penalty imposed by an agency that is not set as a specific amount in a state law, a rule must describe the circumstances for which the agency will assess a fee, fine, or civil penalty and set forth the amount of the fee, fine, or civil penalty. This rulemaking is intended to comply with that requirement by providing the factors that will be used in setting the penalty under IC ch. 8-1-22.5.

The rulemaking is also required to maintain the Division's certification by incorporating federal standards into Indiana regulations at least every two years.

d. Statutory Authority for the Proposed Rule – [IC 8-1-1-3](#); [IC 8-1-22.5-4](#).

e. Fees, Fines, and Civil Penalties – This rulemaking does not add or increase any fee, fine or penalty. It is intended only to include the factors used to set the already existing penalty in a rulemaking to comply with [IC 4-22-2-19.6](#).

II. Fiscal Impact Analysis**a. Anticipated Effective Date of the Rule**

The Commission anticipates receiving approval from the Office of Management and Budget and State Budget Agency within forty-five (45) days.

- Assume fourteen (14) days for the Commission to approve the proposed rule.

- Assume twenty-one (21) days for the Legislative Services Agency (LSA) to publish the Notice of First Public Comment Period and Notice of Public Hearing in the Indiana Register.
- Assume thirty (30) days for the first public comment period and public hearing.
- Assume fourteen (14) days for staff to review the comments from the first public comment period.
- If needed, assume twenty-one (21) days for the Legislative Services Agency (LSA) to publish the Notice of Second Public Comment Period and Notice of Public Hearing in the Indiana Register.
- If needed, assume thirty (30) days for the second public comment period and second public hearing.
- If needed, assume fourteen (14) days for staff to review the comments from the second public comment period.
- Assume fourteen (14) days for staff to assemble the rule packet.
- Assume fourteen (14) days for the Commission to approve the final rule.
- The Attorney General has forty-five (45) days to review the packet.
- The Governor's office has up to thirty (30) days to review the packet.
- The rule is effective thirty (30) days from the date the Legislative Services Agency accepts the rule for filing.

Therefore, with added time for uncertainty, based on the facts and timeline above, the Commission anticipates the rule would be fully promulgated within 325 days, which would be effective before July 1st, 2025.

b. Estimated Fiscal Impact on State and Local Government – This rulemaking will have no impact the IURC, any state agency or local government. The penalties in IC chapter 8-1-22.5 currently exist and this rulemaking does not change those penalties in any way. The rulemaking is intended only to include the factors to setting the existing penalties in a rulemaking to comply with [IC 4-22-2-19.6](#). The incorporation of new federal standards also does not impact the IURC or any other state or local governmental entity.

c. Sources of Expenditures or Revenues Affected by the Rule – This rulemaking will not impact expenditures or revenues of State agencies or local governments.

III. Impacted Parties

This rule will directly impact the seventy-two (72) gas utilities and three (3) hazardous liquids pipeline operators in Indiana that will be subject to the rule. This rule has the potential to indirectly affect the approximately 1.98 million citizens of Indiana that are customers served by a regulated gas utility. However, this rule does not change any penalties that may be imposed on those regulated utilities; it merely embeds the factors for setting the penalty penalties into a rule to comply with [IC 4-22-2-19.6](#).

IV. Changes in Proposed Rule

The rule makes two types of changes. First, the rule incorporates new federal pipelines safety standards through July 1, 2024. Second, the rule sets forth the factors the IURC shall use in assessing penalties under IC ch. 8-1-22.5. These considerations include the gravity and seriousness of the violation, the violations history and the culpability of the operator.

V. Benefit Analysis

This rulemaking is required to maintain the Pipeline Safety Division's certification and to comply with [IC 4-22-2-19.5](#). There benefits to the proposed rule are below.

a. Estimate of Primary and Direct Benefits of the Rule –

The primary and direct benefit of incorporating new federal regulations is that that the Division will maintain the federal funding it receives under 49 U.S.C. § 198, et seq. The agency relies on the federal grant money to sustain the Pipeline Safety Division's essential team of pipeline engineers and inspectors.

The primary and direct benefit of including the factors used in assessing a penalty under IC ch. 8-1-22.5 is compliance with [IC 4-22-2-19.6](#).

b. Estimate of Secondary or Indirect Benefits of the Rule - A secondary benefit to the rule is that regulated entities can now review a rule that matches federal language rather than having federal and state rules that differ from each other.

c. Estimate of Any Cost Savings to Regulated Industries – There are minimal cost savings to regulated

utilities by having an updated rule that matched current federal standards.

VI. Cost Analysis

There are no costs, tangible or intangible, being imposed as a result of the changes made in the proposed rule. The possibility of penalties as they currently exist are unchanged by this rulemaking and the regulated entities would be bound by newly incorporated federal standards if the Division lost its certification and the federal government enforced the federal standards against Indiana regulated pipeline operators.

a. Estimate of Compliance Costs for Regulated Entities

Proposed 170 IAC 5-3-0.6 – incorporation of new federal standards.	No additional costs as pipeline operators in Indiana would be subject to federal minimum pipeline safety standards either through the Division's certification agreement or directly through federal regulation if no certification agreement was in place.
Proposed 170 IAC 5-3-6 – factors used in setting penalties under IC ch. 8-1-22.5.	No additional costs based on the factors for use in assessing penalties as the penalty amounts remain the same. The factors allow the regulated entity to know how the IURC will set penalties if a violation occurs.

b. Estimate of Administrative Expenses Imposed by the Rules – This rule will not require any additional administrative expense not already present.

c. The fees, fines, and civil penalties analysis required by [IC 4-22-2-19.6](#) – This rule does not add or increase a fee, fine, or civil penalty.

d. If the implementation costs of the proposed rule are expected to exceed the threshold set in [IC 4-22-2-22.7\(c\)\(6\)](#) – This rule will not have implementation costs not already present.

VII. Sources of Information

The Commission staff relied on its own analysis in determining the information presented here.

a. Independent Verifications or Studies - None

b. Sources Relied Upon in Determining and Calculating Costs and Benefits – The Commission staff relied on its own analysis, based on its knowledge and experience, for costs and benefits.

VIII. Regulatory Analysis

As previously stated, this rulemaking will not impose additional costs on any regulated entity as the relevant penalties are already in existence and regulated entities would have to comply with federal standards if the Division did not continue its certification agreement. There may be benefits to regulated entities and the public by aligning the state regulations with the federal regulations and by having explicit factors the IURC will use to set a penalty if violations. For these reasons, the Commission staff believes the benefits to this proposed rule outweigh its costs.

IX. Contact Information of Staff to Answer Substantive Questions

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Notice of First Public Comment Period with Proposed Rule: [20241009-IR-170240382FNA](#)
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