

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

Proposed Rulemaking

LSA #24-____
IURC RM #24-04

Commissioner	Yes	No	Not Participating
Huston	√		
Bennett	√		
Freeman	√		
Veleta	√		
Ziegner	√		

The Indiana Utility Regulatory Commission (“Commission”), pursuant to IC 8-1-1-3(g) and IC 4-22-2-19.6, hereby proposes to amend 170 IAC 5-3-0.6 to incorporate federal regulations and to add 170 IAC 5-3-6 to set forth the factors in assessing penalties under IC 8-1-22.5. The Commission shall hear public comments on the attached proposed rule at a date and time to be determined, in Suite 220, of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana.

The Secretary of the Commission is hereby directed to maintain a copy of the proposed rule in the Commission offices and on the Commission website for public inspection. Commission staff is authorized to commence the required comment period(s).

IT IS SO ORDERED.

HUSTON, BENNETT, FREEMAN, VELETA, AND ZIEGNER CONCUR:

APPROVED: SEP 18 2024

I hereby certify that the above is a true and correct copy of the Rule as approved.

Dana Kosco
Secretary of the Commission

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Proposed Rule LSA Document #24-____

DIGEST

Amends 170 IAC 5-3-0.6 to incorporate new federal regulations through July 1, 2024. Adds 170 IAC 5-3-6 to set forth the factors in assessing penalties under IC 8-1-22.5. Effective 30 days after filing with the publisher.

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

170 IAC 5-3-0.6; 170 IAC 5-3-6

SECTION 1. 170 IAC 5-3-0.6 IS AMENDED TO READ AS FOLLOWS:

170 IAC 5-3-0.6 Incorporation of United States Department of Transportation pipeline safety regulations

Authority: IC 8-1-1-3; IC 8-1-22.5-4

Affected: IC 8-1-2; IC 8-1-22.5

Sec. 0.6. The commission hereby incorporates in this rule the pipeline safety regulations of the United States Department of Transportation contained in 49 CFR Parts 40, 191, 192, 193, 194, 195, 198, and 199, as of ~~November 1, 2022~~ **July 1, 2024**, as revised by section 2 of this rule. (*Indiana Utility Regulatory Commission; 170 IAC 5-3-0.6; filed May 27, 2016, 11:39 a.m.: 20160622-IR-170150424FRA; filed Sep 20, 2018, 3:04 p.m.: 20181017-IR-170170448FRA; filed Mar 17, 2022, 12:34 p.m.: 20220413-IR-170210213FRA; filed May 24, 2023, 3:24p.m.:20230621-IR-17022032FRA*)

SECTION 2. 170 IAC 5-3-6 IS ADDED TO READ AS FOLLOWS:

170 IAC 5-3-6 Penalty Considerations

Authority: IC 8-1-22.5-4

Affected: IC 8-1-22.5

Sec. 6. (a) **When imposing a civil penalty under IC 8-1-22.5-7, the commission shall consider the escalating and mitigating factors listed in this section.**

(b) **The commission may impose a civil penalty up to the maximum amount specified in IC 8-1-22.5-7.**

(c) **The commission shall consider the following factors in escalating a civil penalty:**

(1) **Gravity of the violation, including whether and the degree to which the violation resulted in property damage, injury, hospitalization, or fatality.**

(2) **Seriousness of the violation, including whether and the degree to which the violation posed an imminent hazard to public health and safety.**

(3) Culpability of the operator including whether the violation was negligent, reckless, or intentional.

(4) Violation history, such as whether the type of violation has been repeated by the operator one or more times.

(5) Economic advantage for not complying, including to the extent the operator gained an economic benefit by not complying.

(d) The commission shall consider the following factors in mitigating all or part of a civil penalty:

(1) Cooperation, including whether the operator self-reported the violation and took immediate action to rectify the violation.

(2) Operator size and ability to pay, including whether the penalty would cause the operator to be unable to continue to serve customers.

(e) The commission may also consider other factors as justice may require.

(Indiana Utility Regulatory Commission; 170 IAC 5-3-6)

SECTION 3. SECTIONS 1 through 2 of this document take effect 30 days after filing with the publisher.