

ORIGINAL

INDIANA UTILITY REGULATORY COMMISSION

Final Rulemaking

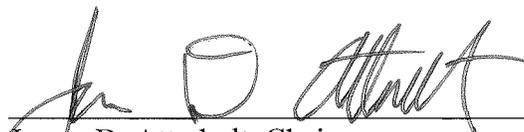
IURC RM #09-03

LSA #10-184(F)

Adds 170 IAC 5-5 to establish procedures for resolving violations of underground plant protection laws.

Upon prior publication of notice and a public hearing held on July 15, 2010, at 10:00 a.m. local time in Judicial Courtroom 224 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana, as required by the provisions of I.C. 4-22-2-1, *et seq.*, the Indiana Utility Regulatory Commission, on May 11, 2011, at 2:00 p.m. local time in Judicial Courtroom 222, PNC Center, Indianapolis, Indiana at which time a majority of members of said Commission were present, adopted the foregoing rule.

The Secretary is hereby directed to submit the aforesaid rule to the Attorney General and Governor of Indiana, for their approval of same, and thereafter to submit the aforesaid rule to the publisher, Indiana Register.


James D. Atterholt, Chairman


Kari A. E. Bennett, Commissioner

ABSENT

Larry S. Landis, Commissioner


Carolene Mays, Commissioner


David E. Ziegner, Commissioner

ATTEST:


Brenda A. Howe, Secretary to the Commission

Date: **MAY 11 2011**

Rule Signature Page

Rule #: LSA #10-184(F)
Agency: Indiana Utility Regulatory Commission
Subject: Adds 170 IAC 5-5 to establish procedures for resolving violations of underground plant protection laws.

ADOPTED:

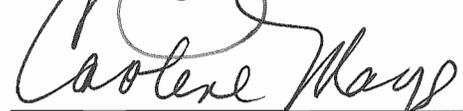
By the Indiana Utility Regulatory Commission

Date: MAY 11 2011


James D. Atterholt, Chairman


David E. Ziegner, Commissioner

ABSENT
Larry S. Landis, Commissioner


Carolene Mays, Commissioner


Kari A. E. Bennett, Commissioner

APPROVED AS TO FORM AND LEGALITY:

By: _____ Date: _____
Gregory F. Zoeller
Attorney General, State of Indiana

APPROVED:

By: _____ Date: _____
Mitchell E. Daniels, Jr.
Governor, State of Indiana

ACCEPTED FOR FILING:

By: _____ Date: _____
Indiana Register
Legislative Services Agency

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Final Rule LSA Document #10-184

DIGEST

Adds 170 IAC 5-5 to establish procedures for resolving violations of underground plant protection laws. Effective 30 days after filing with the Publisher.

170 IAC 5-5

SECTION 1. 170 IAC IAC 5-5 IS ADDED TO READ AS FOLLOWS:

170 IAC 5-5-1 Definitions

Authority: IC 8-1-26-26

Affected: IC 8-1-26

Sec. 1. (a) The definitions in IC 8-1-26, where applicable, and this section apply throughout this rule.

(b) “Commission” means the Indiana utility regulatory commission.

(c) “Pipeline safety division” means the pipeline safety division of the commission or the pipeline safety division’s publicly noticed consultant. (*Indiana Utility Regulatory Commission; 170 IAC 5-5-1*)

(d) “Advisory committee” means the underground plant protection advisory committee.

170 IAC 5-5-2 Notification of Violations of 8-1-26

Authority: IC 8-1-26-26

Affected: IC 8-1-26-21

Sec. 2. (a) Any person or entity may report a violation of IC 8-1-26 by providing the pipeline safety division with written or electronic notice of the violation.

(b) All violations shall be reported to the commission within thirty (30) days of a person becoming aware of the circumstances constituting the violation.

(c) The pipeline safety division shall maintain, or cause to be maintained, a database of all reports provided to the pipeline safety division. (*Indiana Utility Regulatory Commission; 170 IAC 5-5-2*)

170 IAC 5-5-3 Process for determining violations of the underground plant protection laws

Authority: IC 8-1-26-26

Affected: IC 8-1-26

Sec. 3. (a) The pipeline safety division shall investigate alleged violations of IC 8-1-26 by requesting a written response from all known persons or entities reportedly involved in an incident, whose addresses are reported or available on the internet, within sixty (60) days; the pipeline safety division shall investigate all incidents pursuant to applicable Federal requirements and may investigate incidents further at their discretion.

(b) The pipeline safety division shall forward its findings of violations of requirements provided in IC 8-1-26 to the advisory committee.

(c) The advisory committee will provide the person or entity accused of violating IC 8-1-26 with a copy of the pipeline safety division's summary damage report.

(d) The advisory committee will provide the person or entity accused of violating IC 8-1-26 with notice and an opportunity to appear before the advisory committee prior to the advisory committee making a recommendation on the summary damage report.

(e) A person or entity accused of violating IC 8-1-26 may send correspondence regarding the pipeline safety division's finding of a violation to the advisory committee in lieu of appearing at the public meeting in person. All correspondence must be addressed to the Underground Plant Protection Advisory Committee, Indiana Utility Regulatory Commission, 101 West Washington Street, Suite 1500 E, Indianapolis, Indiana 46204.

(f) Upon receiving a recommendation from the advisory committee, the commission shall provide the person or entity accused of violating IC 8-1-26 with notice of the advisory committee's recommendation and provide the person or entity thirty (30) days to request a public hearing on the advisory committee's recommendation.

(g) A request for a public hearing before the commission must be in writing and shall be considered filed upon receipt by the commission.

(h) If a person or entity accused of violating IC 8-1-26 does not request a public hearing, the commission will act upon the advisory committee's recommendation.

(i) All hearings before the commission regarding violations of IC 8-1-26 are subject to the commission's rules of practice and procedure.

(j) A person or entity found in violation of IC 8-1-26 may be required to pay a civil penalty. All civil penalties must be paid to the commission within ninety (90) days of being assessed. (*Indiana Utility Regulatory Commission; 170 IAC 5-5-3*)

170 IAC 5-5-4 Underground plant protection account

Authority: IC 8-1-26-26

Affected: IC 8-1-26-18; IC 8-1-26-25

Sec. 4. (a) The commission shall administer the account.

(b) The account consists of civil penalties issued pursuant to IC 8-1-26. (*Indiana Utility Regulatory Commission; 170 IAC 5-5-4*)