

Proposed 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.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[170 IAC 5-5](#)

SECTION 1. [170 IAC 5-5](#) IS ADDED TO READ AS FOLLOWS:

Rule 5. Damage to Underground Facilities

[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) "Advisory committee" means a committee appointed by the governor of the state of Indiana in order to issue findings and recommendations on violations as identified by the pipeline safety division.

(c) "Association" means the Indiana underground plant protection service.

(d) "Commission" means the Indiana utility regulatory commission.

(e) "Pipeline safety division" means the pipeline safety division of the commission or the commission's designee.

(Indiana Utility Regulatory Commission; [170 IAC 5-5-1](#))

[170 IAC 5-5-2](#) Notice of damage to underground facility

Authority: [IC 8-1-26-26](#)

Affected: [IC 8-1-26-21](#)

Sec. 2. Notice of damage to underground facilities will be made available to the pipeline safety division for investigation from the following:

(1) Damage data reported to the association by:

(A) persons responsible for an excavation or demolition as required by [IC 8-1-26-21](#); and

(B) other persons who allege a violation of [IC 8-1-26](#).

(2) Accident reports required by [170 IAC 5-1-24](#).

(3) Incident reports required by 49 CFR 191 and 49 CFR 195.

(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 must investigate alleged violations of [IC 8-1-26](#).

(b) The pipeline safety division or its designee must forward its findings of violations of requirements provided in [IC 8-1-26](#) to the advisory committee.

(c) Upon receiving findings from the pipeline safety division or its designee, the advisory committee must give the affected parties notice of the pipeline safety division's findings and provide the affected parties thirty (30) days to request an opportunity to appear before the advisory committee with regard to the violation.

(d) A request to appear before the advisory committee must be in writing and shall be considered filed upon receipt by the advisory committee.

(e) Subject to subsection (c), the advisory committee may recommend to the commission penalties in accordance with [IC 8-1-26-23](#) to be levied upon parties found to have violated [IC 8-1-26](#).

(f) Upon receiving a recommendation from the advisory committee, the commission must give the affected parties notice of the advisory committee's recommendation and provide the affected parties thirty (30) days to request a public hearing on the advisory committee's recommendation.

(g) A request to appear before the commission must be in writing and shall be considered filed upon receipt by the commission.

(h) The commission's review of the advisory committee's recommendation is limited to the record of the pipeline safety division or its designee and any specific determinations made by the advisory committee. Based on its review the commission may:

- (1)** uphold or reverse the finding of a violation by the pipeline safety division or its designee; and
- (2)** approve or disapprove each recommendation of the advisory committee.

(i) A person found in violation of [IC 8-1-26](#) may be required to pay a civil penalty under [IC 8-1-26-18](#) or [IC 8-1-26-25](#), or both. 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 under [IC 8-1-26-18](#) or [IC 8-1-26-25](#), or both.

(Indiana Utility Regulatory Commission; [170 IAC 5-5-4](#))

[Notice of Public Hearing](#)

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