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**TITLE 170 INDIANA UTILITY REGULATORY COMMISSION**

**Final Rule**  
LSA Document #10-184(F)

**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 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) "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.

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

*(Indiana Utility Regulatory Commission; [170 IAC 5-5-1](#); filed May 25, 2011, 12:57 p.m.: [20110622-IR-170100184FRA](#))*

**[170 IAC 5-5-2](#) Notification of violations of [IC 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](#); filed May 25, 2011, 12:57 p.m.: [20110622-IR-170100184FRA](#))*

**[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 its 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](#); filed May 25, 2011, 12:57 p.m.: [20110622-IR-170100184FRA](#))*

#### **[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](#); filed May 25, 2011, 12:57 p.m.: [20110622-IR-170100184FRA](#))*

Notice of Intent: [20100331-IR-170100184NIA](#)

Proposed Rule: [20100616-IR-170100184PRA](#)

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Small Business Regulatory Coordinator: David E. Veleta, Assistant General Counsel, Indiana Utility Regulatory Commission, 101 West Washington Street, Suite 1500 East, Indianapolis, IN 46204, (317) 232-0158, [dveleta@urc.in.gov](mailto:dveleta@urc.in.gov)

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