

Economic Impact Statement

LSA Document #22-359

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**I. Estimate of Number of Small Businesses That Will Be Subject to this Rule**

IC 8-1-26-26 requires the Indiana Utility Regulatory Commission (commission) to adopt rules to carry out its responsibilities under IC 8-1-26. IC 8-1-26 applies to anyone that is involved in excavation or that owns underground facilities. IC 8-1-26-6 defines excavation as an operation for the movement, placement, or removal of earth, rock, or other materials in or on the ground by use of tools or mechanized equipment or by discharge of explosives, including augering, backfilling, boring, digging, ditching, drilling, driving, grading, jacking, plowing in, pulling in, ripping, scraping, trenching, and tunneling. The definition of excavation is so broad that it could apply to all small businesses in Indiana if they engage in the defined activities. The commission cannot determine the number of small businesses affected by the rule because it cannot estimate how many small businesses would engage in excavation or how many small businesses currently exist in Indiana.

The economic impact of the rule on a small business should be minimal. The rule changes will not significantly change the manner in which small businesses that engage in excavation activities must comply, as the broader requirement in IC 8-1-26 already apply to these small businesses. The small businesses will continue to be required to provide advance notice of excavations and demolitions as required by statute. The rule clarifies timelines and the types of notice that must be provided, but small businesses must already follow existing laws regarding 811.

II. Justification Statement

As required by IC 4-22-2.1-5(a)(4) and IC 4-22-2-28(i)(2), the following statement justifies any requirement or cost that is imposed on small businesses by the rule; and not expressly required by the statute authorizing the agency to adopt the rule; or any other state or federal law:

Safety is of the utmost concern. When a gas pipeline is damaged, it can result in fires and explosions with catastrophic results and costs for surrounding homes and businesses. In addition to any economic loss from an explosion, it can injure or kill those in the area.

The proposed rule revisions update the current rule to further address the safety of all underground facilities, and specifically natural gas pipeline systems in Indiana. The largest safety risk to underground natural gas lines is the risk of a strike to the line by an excavator. Indiana experiences approximately 2,000 damages to gas lines each year. The damages are shown on this interactive map:

<https://www.in.gov/iurc/pipeline-safety-division/damage-to-underground-facilities/indiana-pipeline-damages-map/>. Each damage is a possible safety hazard if ignition of gas were to occur. The proposed rule seeks to minimize damages to natural gas lines and the attendant safety risks. The rule provides additional guidance to excavators of how long they must allow for operators to mark their lines, and the types of notice the excavator must provide to Indiana 811. These regulations, as well as the requirement for a positive response, should help to minimize the chance that a damage to a natural gas pipeline occurs.

The commission and its pipeline safety division used their own expertise and did not need to rely upon data, studies, or analyses to determine whether there is an imposition of new requirements or costs on small businesses.

III. Regulatory Flexibility Analysis

As required by IC 4-22-2.1-5(a)(5) and IC 4-22-2-28(i)(4), this regulatory flexibility analysis considers whether there are alternative methods of achieving the purpose of the rule that are less costly or intrusive or would otherwise minimize the economic impact of the rule on small businesses. The analysis under this subdivision considers the following methods of minimizing the economic impact of the proposed rule on small businesses.

There are no alternatives to the rulemaking that would equally minimize the change of damaging a natural gas pipeline. In addition, other alternatives are insufficient to achieve the necessary degree of pipeline safety for the reasons listed below.

(A) The establishment of less stringent compliance or reporting requirements for small businesses.

Less stringent compliance or reporting would result in less safety for both the employees of the regulated entities and the general public. All excavators and operators should follow the same standards regardless of the business' size.

(B) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

Less stringent schedules or deadlines for compliance or reporting would result in less safety for both the employees of the regulated entities and the general public. All regulated entities should follow the same regulations and timelines regardless of the business' size.

(C) The consolidation or simplification of compliance or reporting requirements for small businesses.

The compliance and reporting requirements are as simple as they can be without compromising safety.

(D) The establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

Performance standards would not be sufficient. Excavators and operators need clear regulations on how to comply with Indiana's 811 law.

(E) The exemption of small businesses from part or all of the requirements or costs imposed by the rule.

There are no significant costs associated with this rule as small business engaging in excavation activities must already comply with Indiana's 811 law in [IC 8-1-26](#).

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