

ORIGINAL

INDIANA UTILITY REGULATORY COMMISSION

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

Final Rulemaking

LSA #24-382(F)
IURC RM #24-04

This Final Rulemaking amends 170 IAC 5-3-0.6 to incorporate new federal regulations through July 1, 2024, and adds 170 IAC 5-3-6 to set forth the factors in assessing penalties under IC 8-1-22.5.

The final rule is effective 30 days after filing with the publisher.

Upon prior publication of notice, a public hearing was held on November 12, 2024, at 11:00 a.m., local time in Judicial Courtroom 222 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 previously adopted the proposed rule on September 18, 2024, at 10:00 a.m. local time in Judicial Courtroom 222, PNC Center, Indianapolis, Indiana at which time a majority of members of said Commission were present.

The Secretary is hereby directed to submit the aforesaid final 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.

IT IS SO ORDERED.

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

APPROVED: NOV 27 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

FINAL RULE

LSA Document #24-382

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 8-1-22.5-7

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 at least one (1) time.

(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)

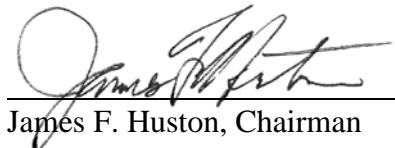
Rule Signature Page

Rule #: LSA #24-382(F)
Agency: Indiana Utility Regulatory Commission
Subject: Amends 170 IAC 5-3 regarding pipeline safety incorporation of federal standards and penalties.

ADOPTED:

By the Indiana Utility Regulatory Commission

Date: November 27, 2024



James F. Huston, Chairman



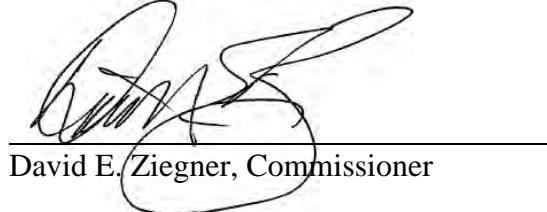
Wesley R. Bennett, Commissioner



Sarah E. Freeman, Commissioner



David E. Veleta, Commissioner



David E. Ziegner, Commissioner

APPROVED AS TO FORM AND LEGALITY:

By: _____

Date: _____

Todd Rokita
Attorney General, State of Indiana

APPROVED:

By: _____

Date: _____

Eric J. Holcomb
Governor, State of Indiana

ACCEPTED FOR FILING:

By: _____

Date: _____

Indiana Register
Legislative Services Agency