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PF 06-30-000



# State of Indiana

# Senate

Senator Bob Jackman D.V.M.  
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Committees:  
Natural Resources, Chair  
Appropriations  
Agriculture & Small Business  
Commerce, Public Policy & Interstate Cooperation

ORIGINAL

April 23, 2007

Joseph Kelliher, Chairman  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

REGARDING: Docket #PF 06-30-000 REX EAST Pipeline

Dear Chairman Kelliher:


It is with great enthusiasm I inform you today that Senate Bill 529(enclosed) has now passed the Indiana General Assembly and is on its way to the Governor's Office for signature into law. SB 529 now provides for a state level process through the Indiana Utility Regulatory Commission - Division of Pipeline Safety to develop policy guidelines for pipeline companies constructing a pipeline or any segment of a pipeline in Indiana.

Pursuant to my correspondence to you dated March 16, 2007, it was requested that the Federal Energy Regulatory Commission decline any action on the REX EAST application until the State of Indiana had opportunity to negotiate construction standards. The above mentioned legislation mandates that the guideline process be completed by September 1, 2007. The requirements include statewide publishing of the notice in the Indiana Register whereby all interested parties will have the opportunity to comment. The public notice and affected landowner participation was a major part of the consternation in my earlier correspondence. This was due to the fact REX East chose only to negotiate with a state-wide member association (Indiana Farm Bureau).

My request at this time is for FERC to give the Indiana Utility Regulatory Commission - Division of Pipeline Safety the time it needs to comply with the new statute on pipeline construction standards and not approve the REX EAST application until that time. The elected officials in Indiana have spoken on this matter and would appreciate your support.

Thank you for your time and I look forward to your positive response.

Sincerely,

  
Bob Jackman D.V.M.  
State Senator

OFFICE OF  
EXTERNAL AFFAIRS  
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2007-00088

April 6, 2007

## ENGROSSED SENATE BILL No. 529

DIGEST OF SB 529 (Updated April 4, 2007 3:12 pm - DI 51)

Citations Affected: IC 8-1; IC 32-24; noncode.

**Synopsis:** Requires the pipeline safety division (division) of the utility regulatory commission (IURC) to adopt guidelines governing the construction of interstate pipelines in Indiana. Requires the guidelines to be adopted not later than September 1, 2007. Requires notice of the guidelines to be sent to affected landowners. Requires the director of the division to designate one or more employees as project coordinators for each pipeline project. Requires the division to make certain information available on the IURC's web site. Provides that a public utility or a pipeline company that seeks to acquire land by eminent domain may not enter on the land for survey purposes unless the public utility or pipeline company: (1) sends notice by certified mail to the landowner of the public utility's or pipeline company's intention to enter the land for survey purposes; or (2) receives the landowner's signed consent to enter the land to perform the proposed survey.

Effective: Upon passage.

**Jackman, Lawson C, Bray, Rogers,  
Nugent**

(HOUSE SPONSORS — BISCHOFF, DUNCAN, EBERHART)

January 23, 2007, read first time and referred to Committee on Utilities & Regulatory Affairs.

February 22, 2007, amended, reported favorably — Do Pass.

February 26, 2007, read second time, amended, ordered engrossed.

February 27, 2007, engrossed. Read third time, passed. Yeas 38, nays 10.

#### HOUSE ACTION

March 6, 2007, read first time and referred to Committee on Interstate and International Cooperation.

April 5, 2007, amended, reported — Do Pass.

ES 529—LS 7827/DI 101+



April 6, 2007

First Regular Session 115th General Assembly (2007)

**PRINTING CODE. Amendments:** Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type:

**Additions:** Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in this style type. Also, the word **NEW** will appear in that style type in the introductory clause of each **SECTION** that adds a new provision to the Indiana Code or the Indiana Constitution.

**Conflict reconciliation:** Text in a statute in this style type or this style type reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## **ENGROSSED SENATE BILL No. 529**

**A BILL FOR AN ACT to amend the Indiana Code concerning  
utilities and transportation.**

*Be it enacted by the General Assembly of the State of Indiana:*

1       **SECTION 1. IC 8-1-22.6 IS ADDED TO THE INDIANA CODE**  
2       **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**  
3       **UPON PASSAGE]:**

4       **Chapter 22.6. Pipeline Construction Guidelines**

5       **Sec. 1. (a) This chapter applies to the construction of any**  
6       **segment of an interstate pipeline on privately owned land in**  
7       **Indiana.**

8       **(b) Except as otherwise provided in the guidelines adopted by**  
9       **the division, this chapter does not apply to construction activities**  
10       **that occur entirely on:**

- 11               **(1) a public right-of-way;**  
12               **(2) a railroad right-of-way; or**  
13               **(3) publicly owned land.**

14       **Sec. 2. As used in this chapter, "affected landowner" means an**  
15       **owner of an interest in property that:**

- 16               **(1) is located in Indiana; and**  
17               **(2) meets one (1) or more of the conditions set forth in 18 CFR**

**ES 529—LS 7827/D1 101+**



157.6(d)(2).

Sec. 3. (a) As used in this chapter, "construction" means the physical work involved in the construction, reconstruction, improvement, maintenance, or extension of a pipeline project.

(b) The term includes the following:

- (1) The preparation of the construction site.
- (2) Disassembling and removing a structure.
- (3) Related work.

Sec. 4. As used in this chapter, "division" refers to the pipeline safety division of the Indiana utility regulatory commission established by IC 8-1-22.5-2.

Sec. 5. As used in this chapter, "guidelines" refers to a nonrule policy document adopted by the division that establishes voluntary guidelines to be considered by a pipeline company that proposes to construct a pipeline that will be located, in whole or in part, in Indiana.

Sec. 6. As used in this chapter, "pipeline" means a pipeline (as defined in IC 8-1-22.5-1(c)) that crosses or is located in:

- (1) Indiana; and
- (2) one (1) or more other states.

Sec. 7. (a) As used in this chapter, "pipeline company" means a person (as defined in IC 8-1-22.5-1(e)) that:

- (1) constructs; or
- (2) proposes to construct;

a pipeline.

(b) The term includes any:

- (1) employee;
- (2) agent;
- (3) contractor;
- (4) subcontractor;
- (5) or other person;

that is employed by, or acts on behalf of, a pipeline company.

Sec. 8. (a) The division shall establish voluntary guidelines to be considered by a pipeline company that proposes to construct a pipeline that will be located, in whole or in part, in Indiana.

(b) Guidelines adopted by the division are not binding on any pipeline company or affected landowner but may be used by a pipeline company or an affected landowner to simplify negotiations involved in establishing a price for any:

- (1) easement; or
- (2) other interest in land;

needed by the pipeline company to construct a pipeline.



1       **Sec. 9. (a) For purposes of this section, a pipeline company**  
 2 **proposes to construct a pipeline in Indiana if it does any of the**  
 3 **following:**

4       **(1) Files an application for a certificate of public convenience**  
 5 **and necessity with the Federal Energy Regulatory**  
 6 **Commission.**

7       **(2) Undertakes:**

8           **(A) environmental, engineering, or cultural surveys; or**

9           **(B) other studies or surveys;**

10       **in Indiana in preparation for filing an application described**  
 11 **in subdivision (1).**

12       **(3) Holds public meetings or hearings in Indiana concerning**  
 13 **a proposed pipeline.**

14       **(4) Enters upon land in Indiana for the purpose of**  
 15 **determining the route or location of a proposed pipeline.**

16       **(5) Contacts landowners in Indiana for the purpose of**  
 17 **negotiating the price for:**

18           **(A) easements; or**

19           **(B) other interests in land;**

20       **necessary for the construction of a pipeline.**

21       **(6) Undertakes other actions in preparation for the**  
 22 **construction of a pipeline.**

23       **(b) The division shall send, by certified mail, the following to**  
 24 **each pipeline company that proposes to construct a pipeline in**  
 25 **Indiana:**

26           **(1) A copy of the guidelines adopted by the division.**

27           **(2) A notice that includes the following:**

28               **(A) A statement that the division has adopted the pipeline**  
 29 **construction guidelines included with the notice.**

30               **(B) A statement indicating:**

31                   **(i) that the pipeline construction guidelines have been**  
 32 **mailed to all affected landowners on the list provided by**  
 33 **the pipeline company under section 10 of this chapter;**  
 34 **and**

35                   **(ii) that the division has encouraged the affected**  
 36 **landowners to agree to the guidelines in any negotiations**  
 37 **for easements or other land interests with the pipeline**  
 38 **company.**

39       **(c) The division shall mail the guidelines and notice in**  
 40 **accordance with subsection (b):**

41           **(1) as soon as the division learns of the proposed pipeline as a**  
 42 **result of the pipeline company performing one (1) or more**



actions described in subsection (a); or  
 (2) not later than three (3) business days after the Federal  
 Energy Regulatory Commission provides notice under 18  
 CFR 157.9(a) of the pipeline company's application for a  
 certificate of territorial authority;  
 whichever occurs earlier.

Sec. 10. (a) The pipeline company shall provide the division with  
 a list of landowners that will be affected by the proposed  
 construction of a pipeline or a segment of a pipeline in Indiana.  
 The list must include all affected landowners that the pipeline  
 company must provide notice to under IC 32-24-1-3(g).

(b) The division shall send, by certified mail, the following to  
 each affected landowner:

(1) A copy of, or reference to, the guidelines adopted by the  
 division.

(2) A notice that includes the following:

(A) A statement that the division has adopted the pipeline  
 construction guidelines included with, or referenced in, the  
 notice.

(B) A statement indicating that the pipeline construction  
 guidelines have been mailed to the pipeline company.  
 The statement required by this clause must specify a date  
 after which the affected landowner may contact a toll free  
 telephone number established by the division to provide  
 information on the status of any construction guidelines  
 agreed to by the pipeline company.

(C) A statement indicating that any guidelines agreed to by  
 the pipeline company shall not be binding on the pipeline  
 company or affected landowners but may be used by the  
 pipeline company and an individual landowner to simplify  
 negotiations involved in establishing a price for any:

(i) easement; or

(ii) other interest in land;  
 needed by the pipeline company to construct the pipeline.

(D) A statement encouraging the affected landowner to  
 agree to any construction guidelines that the pipeline  
 company agrees to follow, to the extent that the landowner  
 determines that the guidelines are not contrary to the  
 landowner's best interests.

(E) A statement including:

(i) contact information for the one (1) or more project  
 coordinators designated by the division under section 12



of this chapter;

(ii) contact information for the Federal Energy Regulatory Commission, including a local or toll free telephone number; and

(iii) the commission's web site address.

(c) The division shall mail the information required under subsection (b) not later than twenty (20) days after the division is notified by the pipeline company of the proposed route and is provided with a list of the affected landowners as required by subsection (a).

Sec. 11. The division shall encourage pipeline companies to use the guidelines as a starting point for any negotiations with the various state agencies identified in the guidelines. The division may require a pipeline company proposing to construct a pipeline or a segment of a pipeline to sign a statement indicating whether or not the pipeline company agrees to use the guidelines for the project.

Sec. 12. For each proposed or ongoing pipeline project in Indiana, the director of the division shall designate one (1) or more employees of the division to serve as project coordinators for the division. The director shall ensure that one (1) or more of the coordinators designated under this section are responsible for the following duties concerning the project:

(1) Monitoring all:

(A) filings with; and

(B) proceedings before;

the Federal Energy Regulatory Commission.

(2) Attending all public hearings or meetings concerning the project that are held in Indiana.

(3) Receiving and responding to questions and complaints about the project from Indiana residents.

(4) Updating the information required to be made available on the commission's web site under section 13 of this chapter.

(5) Any other duties assigned by the director of the division.

Sec. 13. (a) The division shall make the following available on the commission's web site:

(1) A link to the guidelines adopted by the division.

(2) For each proposed or ongoing pipeline construction project in Indiana, the following information:

(A) A description of the pipeline company and the pipeline project, including:

(i) the pipeline's location, purpose, and construction schedule; and



(ii) the docket number assigned to the project by the Federal Energy Regulatory Commission.

(B) Contact information for the pipeline company, including a local or toll free telephone number.

(C) Contact information for the Federal Energy Regulatory Commission, including a local or toll free telephone number.

(D) Contact information for the one (1) or more project coordinators designated under section 12 of this chapter to receive and respond to questions and complaints from Indiana residents.

(E) Information on public hearings or meetings that are scheduled in connection with the pipeline project.

(F) Other information concerning the pipeline project that the division considers relevant or of likely concern to Indiana residents.

(b) The division shall update the information required under subsection (a)(1) whenever:

(1) one (1) or more guidelines adopted by the division are revised or superseded by the division; or

(2) one (1) or more new guidelines are adopted by the division.

(c) The division shall update the information required under subsection (a)(2) on a regular basis throughout the course of a pipeline project. The division shall ensure that all information on the division's web site concerning a pipeline project is accurate, current, and accessible. The director of the division shall assign the responsibility of complying with this subsection to one (1) or more project coordinators designated under section 12 of this chapter.

SECTION 2. IC 32-24-1-3, AS AMENDED BY P.L.163-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any person that may exercise the power of eminent domain for any public use under any statute may exercise the power only in the manner provided in this article, except as otherwise provided by law.

(b) Except as provided in subsection (g), before proceeding to condemn, the person:

(1) may enter upon any land to examine and survey the property sought to be acquired; and

(2) must make an effort to purchase for the use intended the land, right-of-way, easement, or other interest, in the property.

(c) The effort to purchase under subsection (b)(2) must include the following:





- (1) Establishing a proposed purchase price for the property.
- (2) Providing the owner of the property with an appraisal or other evidence used to establish the proposed purchase price.
- (3) Conducting good faith negotiations with the owner of the property.

(d) If the land or interest in the land, or property or right is owned by a person who is an incapacitated person (as defined in IC 29-3-1-7.5) or less than eighteen (18) years of age, the person seeking to acquire the property may purchase the property from the guardian of the incapacitated person or person less than eighteen (18) years of age. If the purchase is approved by the court appointing the guardian and the approval is written upon the face of the deed, the conveyance of the property purchased and the deed made and approved by the court are valid and binding upon the incapacitated person or persons less than eighteen (18) years of age.

(e) The deed given, when executed instead of condemnation, conveys only the interest stated in the deed.

(f) If property is taken by proceedings under this article, the entire fee simple title may be taken and acquired.

(g) This subsection applies to a public utility (as defined in IC 32-24-1-5.9(a)) or a pipeline company (as defined in IC 8-1-22.6-7). If a public utility or a pipeline company seeks to acquire land or an interest in land under this article, the public utility or pipeline company may not enter upon the land to examine or survey the property sought to be acquired unless either of the following occur:

(1) The public utility or the pipeline company sends notice by certified mail to the affected landowner (as defined in IC 8-1-22.6-2) of the public utility's or the pipeline company's intention to enter upon the landowner's property for survey purposes. The notice required by this subdivision must be mailed not later than fourteen (14) days before the date of the public utility's or the pipeline company's proposed examination or survey.

(2) The public utility or the pipeline company receives the landowner's signed consent to enter the property to perform the proposed examination or survey.

An affected landowner may bring an action to enforce this subsection in the circuit court of the county in which the landowner's property is located. A prevailing landowner is entitled to the landowner's actual damages as a result of the public utility's or the pipeline company's violation. In addition, the court may



award a prevailing landowner reasonable costs of the action and attorney's fees.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 8-1-22.6, as added by this act, apply throughout this SECTION.

(b) Not later than September 1, 2007, the division shall publish a nonrule policy document in the Indiana Register that establishes voluntary guidelines to be considered by a pipeline company that proposes to construct a pipeline that will be located, in whole or in part, in Indiana. The division shall consider including, but not be limited to including, the following topics in the nonrule policy document:

- (1) Minimum depth for burying pipeline based on topography and use of land.
- (2) Replacing topsoil and subsoil removed during excavation or construction, or both, on agricultural land and other land.
- (3) Removal of construction debris from topsoil and landowner property.
- (4) Prevention of topsoil erosion.
- (5) Alleviation of topsoil compaction.
- (6) Prevention and remediation of damages to underground drainage tile during construction and future maintenance.
- (7) Restoring land to preconstruction condition (elevation and contour).
- (8) Compensating landowners for property damage due to pipeline construction or maintenance.
- (9) Providing advance notice before pipeline companies enter private property for inspection, construction, or maintenance.
- (10) Indemnification of landowners against damages caused by pipeline company construction, maintenance, operation, repair, or use of the pipeline on the landowner's property, except for claims or damages arising from the negligent, intentional, or willful acts or omissions of the landowner.
- (11) Providing a list of the designated state agencies that will be working with the pipeline company on the various aspects of the pipeline company's application to obtain a Certificate of Public Convenience and Necessity from the Federal Energy Regulatory Commission.

(c) The division shall develop the guidelines through a public process. Notice must be published in the Indiana Register and all interested parties must have an opportunity to comment on the proposed guidelines.



1 (d) In adopting the guidelines under this SECTION, the division  
2 may consult with other states, or agencies of other states, that have  
3 adopted similar guidelines for the construction of pipelines. The  
4 division may also consult with any of the following:

5 (1) Other state agencies in Indiana.

6 (2) Any political subdivisions in Indiana in which pipelines are  
7 located or proposed to be located.

8 (3) Public utilities, municipally owned utilities, or  
9 cooperatively owned utilities.

10 (4) Pipeline companies.

11 (5) Organizations representing agricultural interests in  
12 Indiana.

13 (6) Other individuals or organizations that have an interest in,  
14 or are knowledgeable about, pipelines or pipeline  
15 construction.

16 (e) Notwithstanding IC 8-1-22.6, as added by this act, a  
17 provision of IC 8-1-22.6, as added by this act, that imposes a duty  
18 related to the guidelines developed under this SECTION applies to  
19 pipeline companies and the division only after the finally adopted  
20 guidelines are published in the Indiana Register.

21 (f) This SECTION expires September 1, 2007.

22 SECTION 4. An emergency is declared for this act.



## SENATE MOTION

Madam President: I move that Senator Lawson C be added as second author and Senator Bray be added as coauthor of Senate Bill 529.

JACKMAN

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 COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Regulatory Affairs, to which was referred Senate Bill No. 529, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 5 through 17, begin a new paragraph, and insert:

"Sec. 1. (a) This chapter applies to the construction of any segment of an interstate pipeline on privately owned land in Indiana.

(b) Except for the standards set forth in section 11 of this chapter, this chapter does not apply to construction activities that occur entirely on:

- (1) a public right-of-way;
- (2) a railroad right-of-way; or
- (3) publicly owned land.

Sec. 2. As used in this chapter, "affected landowner" means an affected landowner (as defined in 18 CFR 157.6(d)(2)) who owns:

- (1) real property; or
- (2) an interest in real property;

in Indiana.

Sec. 3. As used in this chapter, "agricultural land" means land that is:

- (1) assessed as agricultural land for property taxes purposes;
- (2) zoned or otherwise designated as agricultural land;
- (3) used for growing crops or raising livestock; or
- (4) reserved for conservation under a government program.

Sec. 4. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 5. (a) "Construction" or "construction activity" means the physical work involved in the construction, reconstruction, improvement, maintenance, or extension of a pipeline project.

(b) The term includes the following:

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- (1) The preparation of the construction site.
- (2) Disassembling and removing a structure.
- (3) Related work.

Sec. 6. As used in this chapter, "pipeline" means a pipeline (as defined in IC 8-1-22.5-1(c)) that crosses or is located in:

- (1) Indiana; and
- (2) one (1) or more other states.

Sec. 7. (a) As used in this chapter, "pipeline company " means a person (as defined in IC 8-1-22.5-1(e)) that:

- (1) constructs; or
- (2) proposes to construct;

a pipeline.

(b) The term includes any:

- (1) employee;
- (2) agent;
- (3) contractor;
- (4) subcontractor;
- (5) or other person;

that is employed by, or acts on behalf of, a pipeline company.

Sec. 8. Except as otherwise provided in this chapter, and to the extent not preempted by federal law, a pipeline company shall adhere to the standards set forth in this chapter in constructing a pipeline, or any segment of a pipeline, in Indiana.

Sec. 9. (a) A pipeline company shall bury the pipeline at the following minimum depths:

- (1) Except as provided in subdivision (3), with at least five (5) feet of top cover, in a location in which the pipeline crosses any of the following types of land:

(A) Land that is used for crops.

(B) Land that:

- (i) is used as pasture land; and
- (ii) is comprised of soils that are classified by the United States Department of Agriculture as prime soils.

(C) Land that:

- (i) is used as other agricultural land; and
- (ii) is comprised of soils that are classified by the United States Department of Agriculture as prime soils.

- (2) Except as provided in subdivision (3), with at least three (3) feet of top cover, in a location in which the pipeline crosses any of the following types of land:

(A) Land that:

- (i) is used as pasture land; and



(ii) is not comprised of soils that are classified by the United States Department of Agriculture as prime soils.

(B) Land that:

(i) is used as other agricultural land; and

(ii) is not comprised of soils that are classified by the United States Department of Agriculture as prime soils.

(C) Land that is wooded or brushy land.

(D) All other classifications of land.

(3) With at least thirty (30) inches of top cover, in an area in which:

(A) rock in its natural formation; or

(B) a continuous strata of gravel exceeding two hundred (200) feet in length;

is encountered.

(b) If weights are required to keep a pipeline or segment of pipeline in place, the pipeline company shall bury the pipeline at the depth necessary to maintain the depth of top cover above the weights that is required under subsection (a) for the particular type of land on which the weights are located.

(c) If a pipeline or segment of pipeline crosses agricultural land that is subject to erosion, the pipeline company shall patrol the pipeline right-of-way with reasonable frequency to detect erosion of the top cover. Except as provided in subsection (a)(3), the pipeline company shall not knowingly allow the depth of the top cover to be less than thirty-six (36) inches as a result of natural erosion. In addition, any soil conservation practices used on agricultural land before the construction of the pipeline, including terraces and grassed waterways, shall be restored by the pipeline company to their preconstruction condition.

Sec. 10. (a) In performing any excavation in connection with the construction or burial of a pipeline, a pipeline company shall segregate any topsoil removed during the excavation from any subsoil materials removed during the excavation, as prescribed by this section.

(b) The pipeline company shall strip the actual depth of the topsoil, not to exceed thirty-six (36) inches, from:

(1) the area to be excavated above the pipeline; and

(2) the adjacent subsoil storage area.

The topsoil removed must be stored in a windrow parallel to the pipeline trench in such a manner that it will not become intermixed with subsoil materials.

(c) Any subsoil materials that are removed from the pipeline



trench during the excavation must be placed in a windrow that is:

- (1) parallel to the pipeline trench; and
- (2) separate from the topsoil windrow described in subsection (b).

(d) Subject to subsection (e), in backfilling the pipeline trench, the pipeline company shall place the stockpiled subsoil material described in subsection (c) into the trench before replacing the stockpiled topsoil described in subsection (b).

(e) Before replacing the topsoil, the pipeline company shall remove all rocks greater than three (3) inches in any dimension from:

- (1) the surface of all subsoil; and
- (2) all subsoil that is replaced in the trench.

In replacing the topsoil, the pipeline company shall remove all rocks greater than three (3) inches in any dimension from the topsoil.

(f) This subsection applies whenever a pipeline company:

- (1) performs an excavation in connection with the construction or burial of a pipeline, as described in subsection (a); or
- (2) excavates land for a road, stream, drainage ditch, or other crossing.

After performing the excavation, the pipeline company shall replace the topsoil in such a manner that after settling occurs, the topsoil's original depth and contour will be restored.

**Sec. 11. (a)** A pipeline company shall take all reasonable actions necessary to prevent or remedy damage to underground drainage tiles during the construction of a pipeline, as prescribed by this section.

(b) Before installing any pipeline, the pipeline company shall make a reasonable effort to locate any tile lines within the pipeline's right-of-way. Any tile lines identified under this subsection shall be staked or flagged before construction.

(c) In installing a pipeline, the pipeline company shall maintain a minimum of one (1) foot of separation between the pipeline and any tile line that is crossed by the pipeline, regardless of whether the pipeline passes over or under the tile line. The pipeline company shall ensure that the tile line's original alignment and gradient are maintained.

(d) Any tile line that is damaged, cut, or removed during construction activities shall be staked or flagged so that the stakes or flags:



on the property as a result of the construction.

(h) An affected landowner who discovers:

- (1) uneven settling; or
- (2) surface drainage problems;

on the landowner's property after construction is complete, must give the pipeline company written notice of the conditions or problems discovered if the landowner seeks to have the pipeline company correct the conditions or problems.

(c) Not later than forty-five (45) days after receiving notice from an affected landowner under subsection (b), a pipeline company shall provide land leveling services to correct the conditions or problems described in the notice. However, if soil or weather conditions do not permit the pipeline company to provide the necessary land leveling services within the timeframe set forth in this subsection, the pipeline company shall provide the necessary land leveling services as soon as soil and weather conditions allow.

Sec. 14. If a pipeline company determines that it is necessary to remove one (1) or more trees from an affected landowner's property for the construction of a pipeline, regardless of whether the trees are located in the pipeline company's right of way or on another part of the property, the pipeline company shall notify the landowner of the planned removal. If the trees to be removed are of commercial or other value to the affected landowner:

- (1) the affected landowner retains ownership of the trees; and
- (2) the pipeline company shall negotiate with the affected landowner concerning disposition of the trees before the commencement of any removal activities.

Sec. 15. (a) This section applies to a pipeline that crosses agricultural land.

(b) If, during the construction of a pipeline:

- (1) the pipeline; or
- (2) any temporary work sites or construction areas;

cross an operational spray irrigation system on an affected landowner's property, the pipeline company shall negotiate with the affected landowner to establish an acceptable amount of time that the irrigation system may be out of service.

(c) If, as a result of pipeline construction activities:

- (1) there is an interruption in the affected landowner's irrigation system; and
- (2) the interruption results in damage to crops on the affected landowner's property, regardless of whether the crops are located:





(A) in the pipeline company's right-of-way; or

(B) on another part of the property;

the pipeline company shall compensate the affected landowner for the landowner's reasonable damages.

(d) If it is:

(1) feasible; and

(2) mutually acceptable to the pipeline company and the affected landowner;

temporary measures shall be implemented to allow an irrigation system to continue to operate on the part of the landowner's property on which the pipeline is being constructed.

Sec. 16. (a) Before a pipeline company begins construction of a pipeline on an affected landowner's property, the pipeline company shall negotiate with the affected landowner to reach a mutually acceptable agreement on the route that will be used to access the pipeline company's temporary or permanent easements on the landowner's property if access to the easements is not practical or feasible from:

(1) adjacent segments of the pipeline right-of-way; or

(2) a public highway or railroad right-of-way.

(b) Before a pipeline company begins construction of a pipeline on an affected landowner's property, the pipeline company shall negotiate with the affected landowner to determine the location of any temporary roads that will be used in connection with the construction. A temporary road used by the pipeline company for construction purposes shall:

(1) be designed so that it does not impede surface drainage from the affected landowner's property; and

(2) be built to minimize soil erosion on or near the temporary road.

Upon abandonment, a temporary road may be left intact by mutual agreement of the affected landowner and the pipeline company, unless prohibited by any federal, state, or local law or regulation.

Sec. 17. If a pipeline company has rights to the surface use of a right-of-way, including any:

(1) valve sites;

(2) metering stations;

(3) compression stations; or

(4) other locations in which pipeline facilities or appurtenances are located;

the pipeline company shall provide for weed control in a manner that prevents the spread of weeds onto adjacent agricultural lands.



**Sec. 18. (a)** Except as provided in subsection (b), if it becomes necessary for a pipeline company to pump water from an open trench in connection with the pipeline company's construction activities, the pipeline company shall pump the water in a manner that will not:

- (1) inundate adjacent crops for more than twenty-four (24) hours;
- (2) deposit sediment in ditches or water courses;
- (3) deposit:
  - (A) subsoil sediment; or
  - (B) gravel;
 in fields or pasture land; or
- (4) otherwise damage adjacent crops, pasture land, or other agricultural land.

**(b)** If it is impossible for the pipeline company to avoid any of the damages described in subsection (a), the pipeline company shall:

- (1) compensate the affected landowner for the landowner's reasonable damages; or
- (2) correct the damages so as to restore the affected land to its preconstruction condition.

**Sec. 19. (a)** As used in this section, "affected landowner" includes the heirs, successors, legal representatives, and assigns of an affected landowner.

**(b)** A pipeline company shall indemnify an affected landowner from and against any claims or damages resulting from or arising out of:

- (1) the pipeline company's construction, maintenance, operation, repair, removal, or use of pipeline on the affected landowner's property; or
- (2) the existence of the pipeline on the affected landowner's property;

except for claims or damages resulting from or arising out of the affected landowner's negligence, intentional acts, or willful omissions.

**Sec. 20. (a)** Not later than forty-five (45) days before beginning construction on an affected landowner's property, a pipeline company shall provide the affected landowner with a toll free telephone number that the landowner can call to report any construction activities or repairs that:

- (1) are performed by the pipeline company on the affected landowner's property; and



(2) violate, or appear to the landowner to violate, any provisions of this chapter.

(b) A pipeline company shall provide an affected landowner at least twenty-four (24) hours advance notice before entering the landowner's property to begin construction of the pipeline. This subsection does not affect a pipeline company's duties under IC 32-24-1-3(g) that apply:

- (1) before the pipeline company acquires an easement or other interest in the landowner's property under IC 32-24; and
- (2) in connection with the pipeline company's entry upon the landowner's property for the purpose of surveying or examining the property.

Sec. 21. (a) Except as otherwise:

- (1) provided in this chapter; or
- (2) agreed to by the pipeline company and an affected landowner;

any mitigative action required to be performed by a pipeline company under this chapter shall be performed not later than forty-five (45) days after the completion of construction activities on the affected landowner's property. However, if soil or weather conditions do not permit the pipeline company to perform a required mitigative action within the timeframe set forth in this subsection, the pipeline company shall perform the required action as soon as soil and weather conditions allow.

(b) Except as otherwise agreed to by the pipeline company and an affected landowner, a pipeline company's duty to perform any mitigative action required by this chapter:

- (1) extends beyond the initial construction of the pipeline on the affected landowner's property; and
- (2) includes the duty to repair or correct damages caused by the pipeline company during future construction, operation, maintenance, and repair activities related to the pipeline.

(c) The pipeline company shall implement all mitigative actions required by this chapter to the extent the actions do not conflict with the requirements of :

- (1) any federal, state, or local regulations or rules; or
- (2) any permits or approvals obtained by the pipeline company in connection with the pipeline construction project.

(d) A pipeline company shall include a statement of its duty to adhere to the standards set forth in this chapter in any:

- (1) environmental assessment; or
- (2) environmental impact statement;



prepared in connection with a pipeline construction project.

**Sec. 22.** Notwithstanding the standards set forth in this chapter, an affected landowner is entitled to negotiate for different construction standards with a pipeline company in the course of:

- (1) any negotiations involved in establishing a price for any:
  - (A) easement; or
  - (B) other interest in land;
    - needed by the pipeline company to construct the pipeline across the affected landowner's property; or
- (2) any other negotiations voluntarily entered into by the pipeline company and the affected landowner.

**Sec. 23.** The provisions of this chapter are severable as provided in IC 1-1-1-8(b)."

Delete pages 2 through 6.

Page 7, delete lines 1 through 21, begin a new paragraph and insert:

"SECTION 2. IC 8-1-22.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 22.7. Monitoring of Pipeline Construction Projects**

**Sec. 1.** The definitions in IC 8-1-22.6 apply throughout this chapter.

**Sec. 2.** As used in this chapter, "division" refers to the pipeline safety division of the Indiana utility regulatory commission established by IC 8-1-22.5-2."

Page 7, line 22, delete "10." and insert "3."

Page 7, delete lines 34 through 37.

Page 7, line 38, delete "(4)" and insert "(3)".

Page 7, line 40, delete "(5)" and insert "(4)".

Page 7, line 41, delete "12" and insert "4".

Page 7, line 42, delete "(6)" and insert "(5)".

Page 8, delete lines 1 through 17.

Page 8, line 18, delete "12." and insert "4."

Page 8, line 20, delete "The standards adopted by the division under section 7 of" and insert "A link to the pipeline construction standards set forth in IC 8-1-22.6."

Page 8, delete line 21.

Page 8, line 36, delete "10" and insert "3".

Page 8, delete lines 39 through 42.

Page 9, delete lines 1 through 7.

Page 9, line 8, delete "(F)" and insert "(E)".

Page 9, line 10, delete "(G)" and insert "(F)".

Page 9, delete lines 13 through 17.



Page 9, line 18, delete "(c)" and insert "(b)".

Page 9, line 24, delete "10" and insert "3".

Page 9, delete lines 25 through 42.

Page 10, delete lines 1 through 20, begin a new paragraph and insert:

"SECTION 3. IC 32-24-1-3, AS AMENDED BY P.L.163-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any person that may exercise the power of eminent domain for any public use under any statute may exercise the power only in the manner provided in this article, except as otherwise provided by law.

(b) Except as provided in subsection (g), before proceeding to condemn, the person:

(1) may enter upon any land to examine and survey the property sought to be acquired; and

(2) must make an effort to purchase for the use intended the land, right-of-way, easement, or other interest, in the property.

(c) The effort to purchase under subsection (b)(2) must include the following:

(1) Establishing a proposed purchase price for the property.

(2) Providing the owner of the property with an appraisal or other evidence used to establish the proposed purchase price.

(3) Conducting good faith negotiations with the owner of the property.

(d) If the land or interest in the land, or property or right is owned by a person who is an incapacitated person (as defined in IC 29-3-1-7.5) or less than eighteen (18) years of age, the person seeking to acquire the property may purchase the property from the guardian of the incapacitated person or person less than eighteen (18) years of age. If the purchase is approved by the court appointing the guardian and the approval is written upon the face of the deed, the conveyance of the property purchased and the deed made and approved by the court are valid and binding upon the incapacitated person or persons less than eighteen (18) years of age.

(e) The deed given, when executed instead of condemnation, conveys only the interest stated in the deed.

(f) If property is taken by proceedings under this article, the entire fee simple title may be taken and acquired.

(g) This subsection applies to a public utility (as defined in IC 32-24-1-5.9(a)) or a pipeline company (as defined in IC 8-1-22.6-7). If a public utility or a pipeline company seeks to acquire land or an interest in land under this article, the public



utility or pipeline company may not enter upon the land to examine or survey the property sought to be acquired unless either of the following occur:

- (1) The public utility or the pipeline company sends notice by certified mail to the affected landowner (as defined in IC 8-1-22.6-2) of the public utility's or the pipeline company's intention to enter upon the landowner's property for survey purposes. The notice required by this subdivision must be mailed not later than fourteen (14) days before the date of the public utility's or the pipeline company's proposed examination or survey.
- (2) The public utility or the pipeline company receives the landowner's signed consent to enter the property to perform the proposed examination or survey.

An affected landowner may bring an action to enforce this subsection in the circuit court of the county in which the landowner's property is located. A prevailing landowner is entitled to the landowner's actual damages as a result of the public utility's or the pipeline company's violation. In addition, the court may award a prevailing landowner reasonable costs of the action and attorney's fees."

Page 10, line 21, delete "2." and insert "3."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 529 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 9, Nays 0.

#### SENATE MOTION

Madam President: I move that Senator Rogers be added as coauthor of Senate Bill 529.

JACKMAN

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## SENATE MOTION

Madam President: I move that Senate Bill 529 be amended to read as follows:

Page 1, line 4, delete "Standards" and insert "Guidelines".

Page 1, line 8, delete "for the standards set forth in section 11 of this" and insert "as otherwise provided in the guidelines adopted by the division under section 9 of this chapter, ".

Page 1, line 9, delete "chapter,".

Page 1, line 14, after "an" insert "owner of an interest in property that:

(1) is located in Indiana; and

(2) meets one (1) or more of the conditions set forth in 18 CFR 157.6(d)(2).".

Page 1, delete lines 15 through 17.

Page 2, delete line 1.

Page 2, between lines 16 and 17, begin a new paragraph and insert: "Sec. 6. As used in this chapter, "division" refers to the pipeline safety division of the Indiana utility regulatory commission established by IC 8-1-22.5-2."

Page 2, line 17, delete "6." and insert "7."

Page 2, line 21, delete "7." and insert "8."

Page 2, delete lines 33 through 42, begin a new paragraph and insert:

"Sec. 9. (a) Not later than September 1, 2007, the division shall adopt guidelines governing the construction of a pipeline, or any segment of a pipeline, in Indiana. The guidelines adopted by the division under this section may include the following standards, to the extent not preempted by federal law:

(1) Standards specifying minimum depths at which a pipeline must be buried based on the topography and use of the land. In adopting any standards to establish burial depths for pipeline that crosses agricultural land, the division may specify depths that are appropriate for the land based on whether the land:

(i) is used for crops or as pasture; or

(ii) is comprised of soils that are classified by the United States Department of Agriculture as being prime soils.

(2) Standards for replacing topsoil removed during excavations performed in connection with pipeline construction or burial. Standards adopted under this subdivision may include requirements for any of the following:

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- (A) The segregation of topsoil and subsoil during excavation.
  - (B) The removal of rocks, construction debris, or other materials from the topsoil before replacement.
  - (C) The prevention of topsoil erosion.
  - (D) The alleviation of topsoil compaction.
  - (E) The restoration of soil on an affected landowner's property to the soil's preconstruction condition.
- (3) Standards requiring a pipeline company to prevent or remedy damage to underground drainage tiles during construction of the pipeline. Standards adopted under this subdivision may require a pipeline company to do any of the following:
- (A) Take certain actions to prevent damage to underground drainage tiles, including locating and staking all tile lines before construction.
  - (B) Maintain a specified distance between underground drainage tiles and the pipeline during the placement or construction of the pipeline.
  - (C) Probe or examine tile lines located in construction sites to determine whether any tile has been damaged during construction.
  - (D) Repair or replace any underground drainage tiles that are damaged during construction.
- (4) Standards for the removal of construction debris from an affected landowner's property during and after all construction activity.
- (5) Standards for restoring land to its preconstruction condition, including the restoration of the land's elevation and contour through leveling or other land restoration practices.
- (6) Standards governing the removal of trees from an affected landowner's property in connection with the construction of a pipeline.
- (7) Standards governing a pipeline company's duties to an affected landowner when the pipeline company's construction activities cause an interruption in the affected landowner's use of an irrigation system on agricultural land.
- (8) Standards governing the determination of routes to be used by a pipeline company in accessing a temporary or permanent easement on an affected landowner's property for construction or maintenance purposes, including the location of any temporary roads used in connection with construction





activities.

(9) Standards governing a pipeline company's use of surface rights-of-way, including any:

- (A) valve sites;
- (B) metering stations;
- (C) compression stations; or
- (D) other locations in which pipeline facilities or appurtenances are located.

(10) Standards governing the pumping of water from any open trenches on an affected landowner's property during construction.

(11) Subject to IC 32-24-1-3(g), standards requiring a pipeline company to:

- (A) provide advance notice to; or
- (B) seek the permission of;

an affected landowner before entering the landowner's property to perform survey, inspection, construction, or maintenance activities.

(12) Standards establishing a method for an affected landowner to report any construction activities or repairs that:

- (A) are performed by a pipeline company on the affected landowner's property; and
- (B) violate, or appear to the landowner to violate, any standards that are:
  - (i) included in the guidelines adopted by the division under this section and agreed to by the pipeline company; or
  - (ii) otherwise agreed to by the pipeline company.

(13) Standards for:

- (A) compensating affected landowners for damage to private property as a result of construction activities; or
- (B) repairing or replacing private property that is damaged as a result of construction activities.

Standards adopted under this subdivision may specify that a pipeline company's obligations with respect to damaged property extends beyond the initial construction of the pipeline to include damages caused by the pipeline company during future construction, operation, maintenance, and repair activities related to the pipeline.

(14) Standards setting forth the time frame in which a pipeline company must make any repairs or take any other mitigative



actions that are:

(A) prescribed in the guidelines adopted by the division under this section; and

(B) agreed to by the pipeline company.

(15) Standards requiring a pipeline company to indemnify an affected landowner against any claims or damages resulting from or arising out of:

(A) the pipeline company's construction, maintenance, operation, repair, removal, or use of pipeline on the landowner's property; or

(B) the existence of the pipeline on the landowner's property;

except for claims or damages resulting from or arising out of the landowner's negligence, intentional acts, or willful omissions.

(16) Any other standards that:

(A) the division determines are necessary and in the public interest; and

(B) do not conflict with the requirements of :

(i) any federal, state, or local regulations or rules; or

(ii) any permits or approvals required to be obtained by a pipeline company in connection with a pipeline construction project.

(b) The division may adopt the guidelines required by subsection (a) using the same streamlined procedures by which emergency rules may be adopted under IC 4-22-2-37.1. The division shall cause the guidelines adopted under subsection (a) to be published in the Indiana Register as a nonrule policy document.

(c) The guidelines adopted by the division under subsection (a) shall not be binding on any pipeline company or affected landowner but may be used by a pipeline company or an affected landowner to simplify negotiations involved in establishing a price for any:

(1) easement; or

(2) other interest in land;

needed by the pipeline company to construct a pipeline.

(d) In adopting the guidelines required by subsection (a), the division may consider adopting less intrusive or less costly alternative guidelines for pipeline companies that locate, or plan to locate, a pipeline along existing rights of way or easements. The division may consider the following methods of minimizing the burdens or costs of compliance for pipeline companies described in



this subsection:

- (1) The establishment of less stringent guidelines governing the construction, maintenance, or repair of the pipeline.
- (2) The establishment of less stringent schedules or deadlines for construction, maintenance, or repair activities.
- (3) The consolidation or simplification of construction, maintenance, or repair guidelines.
- (4) An exemption from part or all of a particular guideline.

(e) In adopting the guidelines required by subsection (a), the division may consult with other states, or agencies of other states, that have adopted similar guidelines for the construction of pipelines. The division may also consult with any of the following:

- (1) Other state agencies in Indiana.
- (2) Any political subdivisions in Indiana in which pipelines are located or proposed to be located.
- (3) Public utilities, municipally owned utilities, or cooperatively owned utilities.
- (4) Pipeline companies.
- (5) Organizations representing agricultural interests in Indiana.
- (6) Other individuals or organizations that have an interest in, or are knowledgeable about, pipelines or pipeline construction.

Sec. 10. (a) For purposes of this section, a pipeline company proposes to construct a pipeline in Indiana if it does any of the following:

- (1) Files an application for a certificate of public convenience and necessity with the Federal Energy Regulatory Commission.
- (2) Undertakes:
  - (A) environmental, engineering, or cultural surveys; or
  - (B) other studies or surveys;
 in Indiana in preparation for filing an application described in subdivision (1).
- (3) Holds public meetings or hearings in Indiana concerning a proposed pipeline.
- (4) Enters upon land in Indiana for the purpose of determining the route or location of a proposed pipeline.
- (5) Contacts landowners in Indiana for the purpose of negotiating the price for:
  - (A) easements; or
  - (B) other interests in land;



necessary for the construction of a pipeline.

(6) Undertakes other actions in preparation for the construction of a pipeline.

(b) The division shall send, by certified mail, the following to each pipeline company that proposes to construct a pipeline in Indiana:

(1) A copy of the guidelines adopted by the division under section 9 of this chapter.

(2) A notice that includes the following:

(A) A statement that the division has adopted the pipeline construction guidelines included with the notice.

(B) A statement indicating:

(i) that the pipeline construction guidelines have been mailed to all affected landowners, as determined by the division under section 11(a) of this chapter; and

(ii) that the division has encouraged the affected landowners to agree to the guidelines in any negotiations for easements or other land interests with the pipeline company.

(C) A statement asking the pipeline company to agree to comply with the construction guidelines included with the notice. The statement required by this clause must specify a method and deadline by which the pipeline company must do one (1) of the following:

(i) Indicate the pipeline company's agreement to comply with the guidelines.

(ii) Reject the guidelines and request a conference with the division to negotiate different or amended guidelines.

(iii) Reject the division's guidelines and negotiate construction standards with individual landowners as necessary to obtain easements or other interests in land.

(D) A statement indicating that any guidelines agreed to by the pipeline company under clause (C) shall not be binding on the pipeline company or affected landowners but may be used by the pipeline company and an individual landowner to simplify negotiations involved in establishing a price for any:

(i) easement; or

(ii) other interest in land;

needed by the pipeline company to construct the pipeline.

(E) A statement including the contact information for the one (1) or more project coordinators designated by the



division under section 12 of this chapter.

(c) The division shall mail the guidelines and notice in accordance with subsection (b):

- (1) as soon as the division learns of the proposed pipeline as a result of the pipeline company performing one (1) or more actions described in subsection (a); or
- (2) not later than three (3) business days after the Federal Energy Regulatory Commission provides notice under 18 CFR 157.9(a) of the pipeline company's application for a certificate of territorial authority;

whichever occurs earlier.

**Sec. 11. (a)** For purposes of this section, the division shall, to the extent practicable, determine the affected landowners with respect to a proposed pipeline project from any of the following:

- (1) Any actions described in section 10(a) of this chapter that are undertaken by the pipeline company.
- (2) Any information on the pipeline's location, including any maps, that is included in a notice given by:
  - (A) the pipeline company under 18 CFR 157.6(d)(1); or
  - (B) the Federal Energy Regulatory Commission under 18 CFR 157.9(a).
- (3) The tax records of each county that contains land that will be crossed or used by the proposed pipeline.

(b) The division shall send, by certified mail, the following to each affected landowner:

- (1) A copy of, or reference to, the guidelines adopted by the division under section 9 of this chapter.
- (2) A notice that includes the following:
  - (A) A statement that the division has adopted the pipeline construction guidelines included with, or referenced in, the notice.
  - (B) A statement indicating:
    - (i) that the pipeline construction guidelines have been mailed to the pipeline company; and
    - (ii) that the division has asked the pipeline company to agree to the guidelines in any negotiations for easements or other land interests with affected landowners.
  - (C) A statement indicating the date by which the pipeline company must:
    - (i) agree to comply with the guidelines;
    - (ii) reject the guidelines and negotiate different or amended guidelines with the division; or



(iii) reject the division's guidelines and decide to negotiate construction standards with individual landowners in connection with negotiating a price for easements or other interests in land necessary for the construction of the pipeline.

The statement required by this clause must specify a date after which the affected landowner may contact a toll free telephone number established by the division to provide information on the status of any construction guidelines agreed to by the pipeline company.

(D) A statement indicating that any guidelines agreed to by the pipeline company shall not be binding on the pipeline company or affected landowners but may be used by the pipeline company and an individual landowner to simplify negotiations involved in establishing a price for any:

- (i) easement; or
- (ii) other interest in land;

needed by the pipeline company to construct the pipeline.

(E) A statement encouraging the affected landowner to agree to any construction guidelines that the pipeline company agrees to follow, to the extent that the landowner determines that the guidelines are not contrary to the landowner's best interests.

(F) A statement including:

- (i) contact information for the one (1) or more project coordinators designated by the division under section 12 of this chapter;
- (ii) contact information for the Federal Energy Regulatory Commission, including a local or toll free telephone number; and
- (iii) the commission's web site address.

(c) The division shall mail the information required under subsection (b) not later than twenty (20) days after:

- (1) the division learns of the proposed pipeline as a result of the pipeline company performing one (1) or more actions described in section 10(a) of this chapter; or
- (2) the Federal Energy Regulatory Commission provides notice under 18 CFR 157.9(a) of the pipeline company's application for a certificate of territorial authority;

whichever occurs earlier."

Delete pages 3 through 10.

Page 11, delete lines 1 through 35.



Page 11, line 36, delete "3." and insert "12".  
 Page 12, line 9, delete "4" and insert "13".  
 Page 12, line 11, delete "4." and insert "13".  
 Page 12, line 13, delete "pipeline construction standards set forth in" and insert "guidelines adopted by the division under section 9 of this chapter."  
 Page 12, delete line 14.  
 Page 12, line 29, delete "3" and insert "12".  
 Page 12, between lines 36 and 37, begin a new paragraph and insert:  
 "(b) The division shall update the information required under subsection (a)(1) whenever:  
 (1) one (1) or more guidelines adopted under section 9 of this chapter are amended or repealed by the division; or  
 (2) one (1) or more new guidelines are adopted by the division."  
 Page 12, line 37, delete "(b)" and insert "(c)".  
 Page 13, line 1, delete "3" and insert "12".  
 Page 13, line 37, delete "IC 8-1-22.6-7)." and insert "IC 8-1-22.6-8)."  
 Renumber all SECTIONS consecutively.  
 (Reference is to SB 529 as printed February 23, 2007.)

JACKMAN

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SENATE MOTION

Madam President: I move that Senator Nugent be added as coauthor of Engrossed Senate Bill 529.

JACKMAN

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred Senate Bill 529, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 9, delete "under section 9 of this chapter," and insert ",".  
 Page 2, delete lines 2 through 9.

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Page 2, line 10, delete "5. (a) "Construction" or "construction activity"" and insert "3. (a) As used in this chapter, "construction"".

Page 2, line 17, delete "6." and insert "4.".

Page 2, between lines 19 and 20, begin a new paragraph and insert:

**"Sec. 5. As used in this chapter, "guidelines" refers to a nonrule policy document adopted by the division that establishes voluntary guidelines to be considered by a pipeline company that proposes to construct a pipeline that will be located, in whole or in part, in Indiana."**

Page 2, line 20, delete "7." and insert "6.".

Page 2, line 24, delete "8." and insert "7.".

Page 2, delete lines 36 through 42, begin a new paragraph and insert:

**"Sec. 8. (a) The division shall establish voluntary guidelines to be considered by a pipeline company that proposes to construct a pipeline that will be located, in whole or in part, in Indiana."**

Delete pages 3 through 4.

Page 5, delete lines 1 through 40.

Page 5, line 41, delete "(c) The guidelines" and insert "(b) Guidelines".

Page 5, line 41, delete "under subsection (a)".

Page 5, line 42, delete "shall" and insert "are".

Page 5, line 42, delete "be".

Page 6, delete lines 7 through 35.

Page 6, line 36, delete "10." and insert "9.".

Page 7, line 19, delete "under" and insert ".".

Page 7, delete line 20.

Page 7, line 26, delete ", as determined by the" and insert "on the list provided by the pipeline company".

Page 7, line 27, delete "division".

Page 7, line 27, delete "11(a)" and insert "10".

Page 7, delete lines 32 through 42.

Page 8, delete lines 1 through 13.

Page 8, delete lines 24 through 35, begin a new paragraph and insert:

**"Sec. 10. (a) The pipeline company shall provide the division with a list of landowners that will be affected by the proposed construction of a pipeline or a segment of a pipeline in Indiana. The list must include all affected landowners that the pipeline company must provide notice to under IC 32-24-1-3(g)."**

Page 8, line 39, delete "under section 9 of this chapter." and insert ".".





Page 9, line 2, delete ":".

Page 9, line 3, delete "(i)".

Page 9, line 4, delete "; and" and insert ".".

Page 9, delete lines 5 through 17.

Page 9, run in lines 2 through 18.

Page 9, line 23, delete "(D)" and insert "(C)".

Page 9, line 31, delete "(E)" and insert "(D)".

Page 9, line 36, delete "(F)" and insert "(E)".

Page 10, line 3, delete ":" and insert "the division is notified by the pipeline company of the proposed route and is provided with a list of the affected landowners as required by subsection (a).".

Page 10, delete lines 4 through 10, begin a new paragraph and insert:

"Sec. 11. The division shall encourage pipeline companies to use the guidelines as a starting point for any negotiations with the various state agencies identified in the guidelines. The division may require a pipeline company proposing to construct a pipeline or a segment of a pipeline to sign a statement indicating whether or not the pipeline company agrees to use the guidelines for the project."

Page 10, line 30, delete "under" and insert ".".

Page 10, delete line 31.

Page 11, line 14, delete "under section 9 of this" and insert "by the division".

Page 11, line 15, delete "chapter".

Page 11, line 15, delete "amended or repealed" and insert "revised or superseded".

Page 12, line 24, delete "IC 8-1-22.6-8)" and insert "IC 8-1-22.6-7)".

Page 12, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 8-1-22.6, as added by this act, apply throughout this SECTION.

(b) Not later than September 1, 2007, the division shall publish a nonrule policy document in the Indiana Register that establishes voluntary guidelines to be considered by a pipeline company that proposes to construct a pipeline that will be located, in whole or in part, in Indiana. The division shall consider including, but not be limited to including, the following topics in the nonrule policy document:

(1) Minimum depth for burying pipeline based on topography and use of land.

(2) Replacing topsoil and subsoil removed during excavation



or construction, or both, on agricultural land and other land.

(3) Removal of construction debris from topsoil and landowner property.

(4) Prevention of topsoil erosion.

(5) Alleviation of topsoil compaction.

(6) Prevention and remediation of damages to underground drainage tile during construction and future maintenance.

(7) Restoring land to preconstruction condition (elevation and contour).

(8) Compensating landowners for property damage due to pipeline construction or maintenance.

(9) Providing advance notice before pipeline companies enter private property for inspection, construction, or maintenance.

(10) Indemnification of landowners against damages caused by pipeline company construction, maintenance, operation, repair, or use of the pipeline on the landowner's property, except for claims or damages arising from the negligent, intentional, or willful acts or omissions of the landowner.

(11) Providing a list of the designated state agencies that will be working with the pipeline company on the various aspects of the pipeline company's application to obtain a Certificate of Public Convenience and Necessity from the Federal Energy Regulatory Commission.

(c) The division shall develop the guidelines through a public process. Notice must be published in the Indiana Register and all interested parties must have an opportunity to comment on the proposed guidelines.

(d) In adopting the guidelines under this SECTION, the division may consult with other states, or agencies of other states, that have adopted similar guidelines for the construction of pipelines. The division may also consult with any of the following:

(1) Other state agencies in Indiana.

(2) Any political subdivisions in Indiana in which pipelines are located or proposed to be located.

(3) Public utilities, municipally owned utilities, or cooperatively owned utilities.

(4) Pipeline companies.

(5) Organizations representing agricultural interests in Indiana.

(6) Other individuals or organizations that have an interest in, or are knowledgeable about, pipelines or pipeline construction.



(e) Notwithstanding IC 8-1-22.6, as added by this act, a provision of IC 8-1-22.6, as added by this act, that imposes a duty related to the guidelines developed under this SECTION applies to pipeline companies and the division only after the finally adopted guidelines are published in the Indiana Register.

(f) This SECTION expires September 1, 2007."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 529 as reprinted February 26, 2007.)

HARRIS E, Chair

Committee Vote: yeas 9, nays 0.

