

Regulatory Analysis
LSA Document #24-387**I. Description of Rule****a. History and Background of the Rule –**

Overweight trucks are estimated to cause hundreds of millions of dollars in damage to Indiana roadways each year. An 80,000-pound commercial vehicle has the equivalent single axle load (ESAL) value of 26,000 passenger vehicles. Every illegally operating, severely overweight truck that can be removed from the roadways has the same impact on the infrastructure as removing 44,500 passenger vehicles from the traffic flow. It is estimated that reducing the number of overweight trucks will save millions of dollars and extend the lifetime of Indiana highway infrastructure.

The US Department of Transportation reports that total freight shipment tonnage will increase at approximately 1.6% per year through 2050. With this anticipated added load on Indiana's highway infrastructure, Indiana began to explore the development and use of civil penalties to do the following: Increase the protection and preservation of pavement and the state's highway infrastructure, Improved highway safety, Improving motor carrier compliance with Federal and State truck size and weight regulations, and Reducing infrastructure and enforcement costs.

Although the Indiana Code already provides for civil penalties based on oversize-overweight violations, the Agency rules must describe the circumstances for which the Department determines the amount of civil penalty to assess.

The Department is responsible for administering the civil penalties found in [IC 9-20-18-14.5](#). The Indiana General Assembly establishes the amount of the civil penalties, the Indiana Department of Transportation (INDOT) sets the thresholds regarding what is considered oversize and overweight, the Indiana State Police (ISP) enforces these limits and writes the corresponding citations. The Department receives the citations from ISP and administers the civil penalties.

In the year 2001, the Indiana General Assembly passed P.L. 129-2001 (Sec. 31), adding a new section ([IC 9-20-18-14.5](#)) which imposed civil penalties in addition to other civil penalties that may be imposed under [IC 8](#) or [IC 9](#). For the first time a person that violated the oversize and overweight provisions of [IC 9-20-5-7](#) (vehicle or combination of vehicles having a total gross weight in excess of eighty thousand (80,000) pounds but less than two hundred sixty-four thousand (264,000)) incurred a civil penalty in the amount of five hundred dollars (\$500) for each violation. The civil penalties were to be deposited in the motor carrier regulation fund established under [IC 8-2.1-23](#). In addition, if a person operated a vehicle on a route other than a route designated by [IC 9-20-5-4](#) they were subject to a civil penalty of five hundred (\$500) for each violation. These civil penalties were deposited in the motor carrier regulation fund as well.

In the year 2006, the Indiana General Assembly passed 2006 P.L. 176-2006 (Sec. 12) that amended [IC 9-20-18-14.5](#) by making the civil penalties applicable to all of [IC 9-20](#) and therefore imposed on a person who obtained a permit and violated the article and was subjected to a civil penalty of five hundred dollars (\$500) for the first violation and one thousand dollars (\$1,000) for each subsequent violation. A person who transported heavy vehicles or loads subject to [IC 9-20](#) without obtaining a permit was subject to a civil penalty of five thousand dollars (\$5,000) for each violation. A new provision was added so a civil penalty could only be imposed if an administrative hearing was conducted, and the person had the opportunity to present information as to why the civil penalty should not be assessed.

In 2011, the Indiana General Assembly passed P.L. 45-2011 (Sec. 5), which amended [IC 9-20-18-14.5](#) so that the civil penalty would be imposed on the person who was registered on the vehicle transporting the load (the transportation carrier), In addition, the Legislature added the language "not more than" preceding each civil penalty amount.

In 2017, the Indiana General Assembly passed P.L. 218-2017 (Sec. 90), which provided that a civil penalty must be assessed in accordance with [IC 6-8.1-5-1](#), and a person against whom a civil penalty was imposed could request an administrative hearing. If a hearing was requested, the Department was directed to hold an administrative hearing. In addition, the notice of proposed assessment under [IC 6-8.1-5-1](#) was presumptively valid.

In 2021, the Indiana General Assembly passed P.L. 127-2021 (Sec. 4), which amended [IC 9-20-18-14.5](#) by using the word "carrier" to replace "a person whose United States Department of Transportation number is registered on the vehicle," and throughout the remainder of the code section. It also required each violation to be described in an Indiana state police vehicle examination report. It also imposed a civil penalty not to exceed ten thousand dollars (\$10,000) for a carrier that transports vehicles or loads, in excess of, the legal weights or dimensions and for which there was no permit available. The Department was also prohibited from assessing a civil penalty after more than one (1) year after notification of a violation. In addition, if a carrier protested a civil penalty, the Department was required to allow the carrier an opportunity to present information as to why the civil penalty should not be assessed and added language to allow the carrier to provide information as to why the civil penalty should be reduced pursuant to a defense provided under section 7 of this chapter.

In 2021, the Indiana General Assembly passed P.L. 179-2021 (Sec. 5), which amended [IC 9-20-6-2.5](#) to allow a civil penalty under [IC 9-20-18-14.5](#) if a local authority granted a permit and had a designated route for the permit and a deviation from the route occurs.

In 2023, the Indiana General Assembly passed P.L. 130-2023 (Sec. 4) which amended [IC 9-20-18-14.5](#) concerning a carrier that transported a vehicle or loads in which no permit was available and deleted the provision of "not more than ten thousand dollars (\$10,000)" and replaced it with a graduated civil penalty. Now for each issued Indiana state police vehicle examination report the Department may assess a civil penalty of five hundred dollars (\$500) for a violation of dimensional limits. The Department may assess a civil penalty of five hundred dollars (\$500) for a violation when the total excess weight is at least one thousand (1,000) pounds and less than five thousand (5,000) pounds, a one thousand dollars (\$1,000) civil penalty for a violation when the total excess weight is at least five thousand (5,000) pounds and less than ten thousand (10,000) pounds, or five thousand dollars (\$5,000) for a violation when the total excess weight is at least ten thousand (10,000) pounds.

As a result of passage of HEA1204(2023) the Department updated a previous policy document (effective date July 1, 2023) setting out the rationale for assessing civil penalties. These new rules are a codification of the Department's current policy in describing the circumstances for which the agency will implement, assess, and the circumstances that warrant a reduction in the civil penalties.

b. Scope of the Rule –

The proposed rules are required to comply with HEA 1623 and the changes to [IC 4-22-2-19.6](#). Although the Indiana Code already provides for civil penalties, the rules must describe the circumstances for which the agency will implement, assess, and circumstances that warrant a reduction in the civil penalties.

c. Statement of Need –

The proposed rules are required under HEA 1623-2023 and [IC 4-22-2-19.6](#) to set forth the amount and the circumstances under which the Department will implement, assess, and circumstances that warrant a reduction in the civil penalties.

d. Statutory Authority for the Proposed Rule: [IC 6-8.1-3-3](#)

e. Fees, Fines, and Civil Penalties –

These are rules governing the application of civil penalties.

The proposed rules put into Administrative Code guidance for the agency in determining how it will implement, assess, and circumstances that warrant a reduction in the civil penalties.

II. Fiscal Impact Analysis

a. Anticipated Effective Date of the Rule: January 1, 2025

b. Estimated Fiscal Impact on State and Local Government –

These rules are new. There are no proposed additions, deletions, or amendments. The proposed rules do not impact expenditures and revenues of State agencies or local government.

c. Sources of Expenditures or Revenues Affected by the Rule –

These rules are new. There are no proposed additions, deletions, or amendments. The proposed rules do not impact expenditures and revenues.

III. Impacted Parties

These rules will impact owners of commercial motor vehicles that violate the oversize overweight provisions set out in Indiana law, and thus incur a penalty pursuant to [IC 9-20-18-14.5](#). This will impact approximately four thousand motor carriers.

IV. Changes in Proposed Rule

There are no changes to the existing regulations, only additional rules to address the circumstances for which the agency will implement, assess, and the circumstance that warrant a reduction in the civil penalties found in [IC 9-20-18.14.5](#).

V. Benefit Analysis

a. Estimate of Primary and Direct Benefits of the Rule –

These rules provide guidance on the circumstances for which the agency will implement, assess, and the circumstance that warrant a reduction in the civil penalties found in [IC 9-20-18.14.5](#). This rule gives certainty on both the applicability and non-applicability of these civil penalties.

b. Estimate of Secondary or Indirect Benefits of the Rule -

There are no expected secondary or indirect benefits.

c. Estimate of Any Cost Savings to Regulated Industries –

These rules will provide minimal cost savings to potential permittees. Any expected savings would be from increased compliance, either from not acquiring unnecessary permits or a reduction of fines and penalties from failure to acquire a required permit.

VI. Cost Analysis

a. Estimate of Compliance Costs for Regulated Entities –

There are no additional compliance costs for regulated entities resulting from these regulations. Any costs are already incurred or potentially incurred by regulated entities.

b. Estimate of Administrative Expenses Imposed by the Rules –

There are no expected administrative costs for the Department of Revenue resulting from these proposed rules.

c. The fees, fines, and civil penalties analysis required by [IC 4-22-2-19.6](#) –

The rules meet the requirements of [IC 4-22-2-19.6](#). There is no increase in the civil penalties under [IC 9-20-18-14.5](#).

d. If the implementation costs of the proposed rule are expected to exceed the threshold set in [IC 4-22-2-22.7\(c\)\(6\)](#) –

The combined implementation and compliance costs of these proposed rules are not expected to exceed the threshold set in [IC 4-22-2-22.7\(c\)\(6\)](#).

VII. Sources of Information: None

VIII. Regulatory Analysis –

There are no additional costs or revenues associated with these proposed rules. These rules provide guidance on the circumstances for which the agency will implement, assess, and the circumstance that warrant a reduction in

the civil penalties found in [IC 9-20-18.14.5](#). These proposed rules are necessary for compliance with [IC 4-22-2-19.6](#), so the benefits outweigh the costs.

IX. Contact Information of Staff to Answer Substantive Questions –

Jeff Raney, Senior Counsel, Tax Policy, Indiana Department of Revenue, 100 North Senate Avenue, Indianapolis, Indiana 46204, 317-232-7630, jraney@dor.in.gov.

Notice of First Public Comment Period with Proposed Rule: [20241016-IR-045240387FNA](#)

Notice of Determination Received: September 23, 2024

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An [html](#) version of this document.