

Dear Senators MCKENZIE, Fulcher, Malepeai, and  
Representatives LOERTSCHER, Crane, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Two Sets of Public Utilities Commission Proposed Rules:

IDAPA 31.11.01 - Rules Pertaining To The Safety and Accident Reporting Rules for Utilities  
Regulated by the Idaho Public Utilities Commission (Docket No. 31-1101-1101);

IDAPA 31.71.03 - Rules Pertaining To The Railroad Safety and Accident Reporting Rules (Docket  
No. 31-7103-1101).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 10/11/2011. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/09/2011.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address or FAX  
number indicated on the memorandum enclosed.



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

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## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate State Affairs Committee and the House State Affairs Committee  
**FROM:** Division Manager - Mike Nugent  
**DATE:** September 21, 2011  
**SUBJECT:** Two Sets of Public Utilities Commission Proposed Rules

IDAPA 31.11.01 - Rules Pertaining To The Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission (Docket No. 31-1101-1101)

IDAPA 31.71.03 - Rules Pertaining To The Railroad Safety and Accident Reporting Rules (Docket No. 31-7103-1101)

Enclosed with this memo are IDAPA 31.11.01 - Rules Pertaining To The Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission (Docket No. 31-1101-1101) and IDAPA 31.71.03 - Rules Pertaining To The Railroad Safety and Accident Reporting Rules (Docket No. 31-7103-1101). Both sets of rules make date changes to bring modern codes and federal regulations into the PUC's administrative rules. It appears both rules have been promulgated within the scope of statutory authority granted to the Public Utilities Commission.

cc: Public Utilities Commission  
Jean D. Jewell & Deputy Attorney General Donald L. Howell, II

## IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

### 31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-1101

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-515, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2011.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the Commission's address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Safety and Accident Reporting Rules currently adopt by incorporation various national safety codes applicable to electric, telephone and natural gas utilities and federal safety regulations applicable to natural gas and pipeline utilities. Currently, Rule 101 adopts the 2007 edition of the National Electric Safety Code (NESC) published by the Institute of Electrical and Electronic Engineers, Inc. Rule 201 adopts the 2010 edition of 49 Code of Federal Regulations (CFR) Parts 191-193, 195 and 199 addressing the construction and operation of natural gas pipelines. Next, Rule 202 incorporates by reference the 2009 edition of the International Fuel Gas Code (IFGC) published by the International Code Council. Finally, Rule 203 incorporates by reference the 2009 edition of the International Mechanical Code (IMC) for natural gas or gas-burning appliances. The Commission proposes to update these four safety rules by adopting the 2012 edition of the NESC, the 2012 edition of the IMC, and the 2012 edition of the IFGC. The Commission also proposes to adopt the October 1, 2011 edition of the pipeline safety CFRs and 18 C.F.R. Part 260.9.

1. Rule 101. There are several revisions to the 2007 edition of the NESC contained in the 2012 edition of the NESC. First, Section 91 has been clarified concerning the procedures for effectively grounding conductors and equipment. Second, Sections 94.B.(7) and 99.B. have been revised concerning the length and thickness requirements for using a directly embedded metal pole as a grounding electrode and changing the grounding conductor for communication equipment. Third, Section 110.A.(2) and Table 111-1 have been revised to reduce clearances between fences and electric apparatus and the illumination levels for generating states and substations. Fourth, Section 214.A.(5) was revised to add consistency to the application of the terms "grounded" and "effectively grounded." Fifth, Section 261.H.(1) was revised to address the "tensions" standards for overhead supply conductors and shield wires. Next, Sections 441 and 410.A.(3) were revised concerning the calculation of minimum approach distances and arc flash exposure. Finally, Section 410.A.(3) was revised to establish arc energy thresholds for different equipment at voltage levels below 1,000 volts.

2. Rule 201. There are four revisions included in the 2011 edition of the federal pipeline safety regulations contained in the CFRs. First, in October 2010, the Pipeline and Hazardous Material Safety Administration (PHMSA) amended 49 C.F.R. Part 192, 193, and 195 by adopting various technical standards. Adoption of these technical standards allows pipeline operators to use current technologies, improved materials, and improve their management practices. Adoption of these technical standards does not require pipeline operators to take on any significant new pipeline safety initiatives. Second, in November 2010, PHMSA revised its pipeline safety regulations to improve the reliability of data collected from operators of natural gas pipelines. These amendments affect 49 C.F.R. Parts 191, 192, 193, and 195.

Third, in February 2011, PHMSA amended 49 C.F.R. Parts 191 and 192 to clarify the types of pipeline fittings involved in the reporting of compression coupling failures. These changes require the operators of pipelines to report the failures of mechanical fittings and clarify the reporting requirements for "excess flow valves." These changes became effective in April 2011. Finally, in June 2011, PHMSA amended 49 C.F.R. Parts 192 and 195 to require pipeline operators to implement procedures for the operation of their system "control rooms." These operating procedures include shift lengths, maximum hours-of-service, and responses to alarms. These changes became

effective August 15, 2011.

3. Rule 202. There are three revisions included in the 2012 edition of the International Fuel Gas Code. First, the International Code Council has revised Section 301.11 regarding the location of mechanical equipment and systems located in flood hazard areas except for equipment specifically designed and installed to be waterproof. Second, Sections 406.7.1 through 406.7.3 have been revised to improve the procedures and requirements for purging fuel gas lines. Finally, Section 410.5 requires that a flashback arrester and backflow check valve be installed on both fuel supply and oxygen lines when fuel gas is used in combination with oxygen.

4. Rule 203. There are three major revisions included in the 2012 edition to the International Mechanical Code. First, Section 301.16 requires all mechanical equipment and systems for structures located in flood hazard areas to be elevated above flood level unless such equipment is specifically designed to be waterproof. Second, Section 401.4 adopts new provisions concerning the locations of air intake openings. In particular, intake openings must be located a minimum of 10 feet from property lot lines. Air intakes may be located less than 10 feet horizontally from a street, alley, parking lot, or loading zone as long as they are located not less than 25 feet vertically from the surface below. Finally, Section 501 has been revised to require that single or combined environmental exhaust systems must be independent of all other exhaust systems.

**FEE SUMMARY:** There are no fees associated with this proposed rulemaking.

**FISCAL IMPACT:** There is no fiscal impact on the state general fund resulting from this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this proposed rule adopts updated national safety codes and federal regulations necessary for the safety of utility employees and the public during the installation, operation, or maintenance of natural gas pipelines, fuel gas systems and natural gas-fired appliances.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

Adoption of the current national safety codes and the CFRs will make these rules consistent with federal safety regulations concerning natural gas and pipeline utilities. In addition, incorporation of the three national safety codes will promote the safety of utility employees, utility customers, and the public. Finally, incorporation by reference will mitigate the need to publish hundreds of pages of safety codes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 26, 2011. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 25th day of August, 2011.

Jean D. Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
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**THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 31-1101-1101**

**101. NATIONAL ELECTRICAL SAFETY CODE (NESC) (RULE 101).**

The Commission adopts by reference the American National Standards Institute (ANSI) C2-2007<sup>12</sup> National Electrical Safety Code (NESC), 2007<sup>12</sup> Edition. The National Electrical Safety Code, 2007<sup>12</sup> Edition, is published by the Institute of Electrical and Electronics Engineers, Inc., and is available from the Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, New York, NY 10016-5997 and may be ordered by calling 1-800-678-IEEE. All electrical and telephone corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of the NESC. (3-30-07)(\_\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**201. FEDERAL NATURAL GAS SAFETY REGULATIONS (RULE 201).**

The Commission incorporates by reference Part 260.9, Title 18 (April 1, 2010<sup>1</sup>) and Parts 191, 192, 193, 195, and 199, Title 49, the Code of Federal Regulations (October 1, 2010<sup>1</sup>), except that federal accident reporting requirements contained in the rules adopted by reference in Rule 201 are replaced for state reporting purposes by orders of the Commission or rules of the Commission. These regulations are found in the Code of Federal Regulations, available on the web from the U.S. Government Bookstore, <http://bookstore.gpo.gov>, and click on "Code of Federal Regulations," or by calling toll-free 866-512-1800. The incorporated CFR Parts are also available in electronic format at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html). All gas and pipeline corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of these federal regulations adopted by reference. (4-7-11)(\_\_\_\_\_)

**202. INTERNATIONAL FUEL GAS CODE (IFGC) (RULE 202).**

**01. Incorporation by Reference.** The Commission incorporates by reference the International Fuel Gas Code, 2009<sup>12</sup> Edition except for Part 2 of Chapter 1. The International Fuel Gas Code is published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington D.C. 20001-2070. The Code is available from the Code Council and may be ordered online at [www.iccsafe.org/Store/Pages/default.aspx](http://www.iccsafe.org/Store/Pages/default.aspx). Telephone orders may be placed by calling toll-free 800-786-4452. (3-29-10)(\_\_\_\_\_)

**02. Utility Compliance.** All gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the International Fuel Gas Code and to connect for service and light only those installations that: (3-20-04)

**a.** Have been inspected and approved by authorized agencies; or (4-1-98)

**b.** When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the International Fuel Gas Code as a condition of receiving service or continuing to receive service. (3-20-04)

**203. INTERNATIONAL MECHANICAL CODE (IMC) (RULE 203).**

**01. Incorporation by Reference.** The Commission incorporates by reference those portions of the 2009<sup>12</sup> International Mechanical Code explicitly referring to gas or gas-burning appliances except Part 2 of Chapter 1. The International Mechanical Code is published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington D.C. 20001-2070 and may be ordered by calling toll-free 800-786-4452 or online at [www.iccsafe.org/Store/Pages/default.aspx](http://www.iccsafe.org/Store/Pages/default.aspx). (3-29-10)(\_\_\_\_\_)

**02. Utility Compliance.** Gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the International Mechanical Code and to connect for service and light only those installations that: (3-20-04)

**a.** Have been inspected and approved by authorized agencies; or (4-1-98)

**b.** When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the International Mechanical Code as a condition of receiving service or continuing to receive service. (3-20-04)

## IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

### 31.71.03 - RAILROAD SAFETY AND ACCIDENT REPORTING RULES

DOCKET NO. 31-7103-1101

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-515, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2011.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the Commission's address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Railroad Safety and Accident Reporting Rule 103 adopts by reference the federal safety regulations pertaining to the transportation of hazardous materials by railroads issued by the federal Pipeline and Hazardous Material Safety Administration (PHMSA). Railroad Safety Rule 103 adopts the 2010 edition of the Code of Federal Regulations (CFR). The Commission proposes to adopt the 2011 edition of the CFR.

There are two major revisions included in the 2011 edition of the federal hazardous material safety regulations. First, in January 2011, PHMSA amended 49 C.F.R. Parts 107 and 171 revising procedures regarding the issuance of special permits when a hazardous material rail car has a defect. The special permit issued by PHMSA would allow a shipper to move the hazardous car to a repair facility. This change became effective on March 7, 2011. Second, PHMSA amended 49 C.F.R. Part 172 to remove saccharin and its salts from the list of hazardous substances and reportable quantities. This change was effective June 27, 2011.

**FEE SUMMARY:** There are no fees associated with this proposed rulemaking.

**FISCAL IMPACT:** There is no fiscal impact on the state general fund resulting from this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this proposed rule adopts updated CFR Parts necessary for the safe transportation of hazardous materials by rail.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The two revisions to be adopted in the 2011 edition of the federal hazardous material safety regulations are explained in detail in the descriptive summary above. Adoption of the 2011 federal safety regulations will provide uniformity between state and federal rail safety provisions.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 26, 2011.

Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 4<sup>th</sup> day of August, 2011.

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Commission Secretary  
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**THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 31-7103-1101**

**103. TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL (RULE 103).**

**01. Hazardous Material Defined.** “Hazardous material” means a substance or material which has been determined by the United States Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated by the Secretary of Transportation. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials as defined in 49 C.F.R. Section 171.8, materials designated as hazardous under the provisions of 49 C.F.R. Section 172.101, and materials that meet the defining criteria for hazardous classes and divisions in 49 C.F.R. Part 173. (3-30-01)

**02. Adoption of Federal Safety Regulations.** The Commission hereby adopts by reference 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179, and 180 (October 1, 2010~~1~~). All customers offering hazardous materials for shipment by rail and all railroads operating in Idaho that transport hazardous materials listed in, defined by, or regulated by the adopted federal safety regulations must comply with 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179 and 180. (~~4-7-11~~)(    )

**03. Recognition of Federal Exemptions.** Whenever a railroad or shipper has applied to a federal agency and has been granted an exemption from the transportation or packaging requirements of the federal safety regulations adopted in Subsection 103.02, the federal exemption will also be recognized under these rules. The Commission shall not administer a program to duplicate consideration or approval of federal exemptions on a state level. (3-30-01)