

## DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER  
COMMISSIONER RAPER  
COMMISSIONER ANDERSON  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL**

**FROM: EDWARD J. JEWELL  
DEPUTY ATTORNEY GENERAL**

**DATE: OCTOBER 25, 2018**

**SUBJECT: UPDATING THE (1) UTILITY SAFETY AND ACCIDENT REPORTING  
RULES, AND (2) RAILROAD SAFETY AND ACCIDENT REPORTING  
RULES; CASE NOS. RUL-U-18-01 AND RUL-R-18-01**

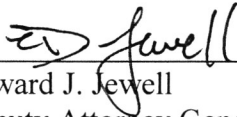
On October 3, 2018, the Commission caused to be published in the Idaho Administrative Bulletin a Notice of Proposed Rulemaking for the purpose of updating section 101 of the Utility Safety and Accident Reporting Rules (IDAPA 31.11.01.101). The Commission proposed to update its Safety and Accident Reporting Rules by incorporating the 2017 National Electric Safety Code.

On October 3, 2018, the Commission caused to be published in the Idaho Administrative Bulletin a Notice of Proposed Rulemaking for the purpose of updating section 102 of the Railroad Safety & Accident Reporting Rules (IDAPA 31.71.03.102). The Commission proposed to update its Railroad Safety and Accident Reporting Rules by explicitly including commercially bottled water as an acceptable source of drinking water for railroad employees.

The Notices for these proposed rules required that interested persons file written comments no later than October 24, 2018. The Commission received no written comments. Staff recommends the Commission adopt its proposed rules as pending rules and submit them for legislative review.

**COMMISSION DECISION**

Does the Commission wish to adopt the proposed rules as pending rules? Does the Commission wish to publish Notices of Pending Rules in the December 5, 2018 Administrative Bulletin?

  
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Edward J. Jewell  
Deputy Attorney General

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## 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. 31-1101-1801

#### 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 17, 2018.

The hearing site(s) 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 agency address below.

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

The Utility Safety and Accident Reporting Rules adopt by reference several 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 2012 Edition of the National Electric Safety Code (“NESC”). The proposed rule would adopt the 2017 Edition of the NESC.

There have been several minor updates and revisions to the NESC, including amendments to the grounding rules, guy insulator rules, ice loading rule, work safety standards, and other non-substantive editorial corrections. Adopting the current NESC will help protect telephone company workers and utility workers as well as the general public.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted because this proposed rule adopts updated national safety codes and is necessary for the safety of telephone company and utility employees and the public during the installation, operation, or maintenance of telephone lines or electric utility systems, as well as the general public.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), 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 NESC will promote the safety of telephone company and utility employees, customers, and the general public. Additionally, incorporation by reference will mitigate the need to publish hundreds of pages of safety code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Edward Jewell, Deputy Attorney General, at (208) 334-0314.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2018.

Dated this 30th day of August, 2018.

Diane M. Hanian, Commission Secretary  
Idaho Public Utilities Commission  
Telephone: (208) 334-0338  
Facsimile: (208) 334-3762

472 W. Washington  
Boise, ID 83702-5918  
PO Box 83720  
Boise, ID 83720-0074

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 31-1101-1801**  
**(Only Those Sections With Amendments Are Shown.)**

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

The Commission adopts by reference the American National Standards Institute (ANSI) C2-2012<sup>27</sup> National Electrical Safety Code (NESC), 2012<sup>27</sup> Edition. The National Electrical Safety Code, 2012<sup>27</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. (3-29-12)(\_\_\_\_\_)

**IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION**  
**31.71.03 – RAILROAD SAFETY AND ACCIDENT REPORTING RULES**  
**DOCKET NO. 31-7103-1801**  
**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 17, 2018.

The hearing site(s) 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 agency address below.

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

Amends Section 102 regarding sanitary cups and sanitary drinking water by allowing commercially bottled water to be provided as drinking water for employees.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted because this proposed rule is simple in nature.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Edward Jewell, Deputy Attorney General, at (208) 334-0314.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2018.

Dated this 30th day of August, 2018.

Diane M. Hanian, Commission Secretary  
Idaho Public Utilities Commission  
Telephone: (208) 334-0338  
Facsimile: (208) 334-3762

472 W. Washington  
Boise, ID 83702-5918  
PO Box 83720  
Boise, ID 83720-0074

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 31-7103-1801**  
**(Only Those Sections With Amendments Are Shown.)**

**102. SANITARY CUPS AND SANITARY DRINKING WATER (RULE 102).**

**01. Water.** An adequate supply of cool, clean, sanitary water, satisfactory for drinking purposes, shall be made available to all employees. Drinking water shall be obtained only from sources approved by the State

Department of Health, ~~or~~ an approved water line, or commercially bottled water.

(7-1-93)(\_\_\_\_)

**02. Water Containers.** When necessary, this water shall be provided in suitable, clean, sterilized and sanitary containers conveniently placed for the use of employees, but not in toilet rooms. Each container shall be equipped with an approved type of fountain, approved faucet, or other approved dispenser. (7-1-93)

**03. Cleansed and Sterilized.** All containers used to furnish drinking water shall be thoroughly cleansed and sterilized as often as necessary to assure a clean and sanitary water supply. (7-1-93)

**04. Common Drinking Cup Prohibited.** The common drinking cup for public use is prohibited; either single service containers or drinking fountains with sanitary angle head, shall be used in lieu thereof. (7-1-93)