

**DECISION MEMORANDUM**

**TO: COMMISSIONER KEMPTON  
COMMISSIONER SMITH  
COMMISSIONER REDFORD  
COMMISSION SECRETARY  
COMMISSION STAFF**

**FROM: DON HOWELL  
DEPUTY ATTORNEY GENERAL**

RUL-5-10-01

**DATE: NOVEMBER 5, 2010**

**SUBJECT: UPDATING THE COMMISSION'S SAFETY AND ACCIDENT  
REPORTING RULES, IDAPA DOCKET NO. 31-1101-1001**

On October 6, 2010, the Commission caused to be published in the Idaho Administrative Bulletin a proposed rulemaking regarding changes to the Commission's Safety and Accident Reporting Rules, IDAPA 31.11.01. The Commission's Rule 201 adopts by incorporation the federal pipeline safety regulations issued by the federal Pipeline and Hazardous Material Safety Administration (PHMSA). Currently, Rule 201 adopts the PHMSA regulations found in the 2009 edition of Code of Federal Regulations (CFRs). In this rulemaking the Commission proposed to adopt the 2010 edition of the CFRs.

The proposed changes to Rule 201 also incorporates changes the Legislature made in the Administrative Procedures Act, *Idaho Code* § 67-5229. In House Bill 614 enacted this year, the Legislature required that agency rules indicate where electronic copies of incorporated materials can be obtained "or provide an electronic link to the incorporated materials." *Idaho Code* § 67-5229(2). Consequently, the Commission's rulemaking also reflects this subsequent requirement. Rule 201 is attached for your review.

As mentioned above, the Commission's proposed changes to these three rules were published in the Administrative Bulletin on October 6, 2010. Written comments regarding the proposed changes were due not later than October 27, 2010. The Commission received no comments in response to the APA notice.

The Commission did receive two letters from the Legislative Services Office. In its letter dated October 1, 2010, Legislative Services determined that it appears that the proposed

rules “have been promulgated within the scope of statutory authority granted to the Public Utilities Commission.” In a subsequent letter dated October 21, 2010, Legislative Services reported that no objections to the proposed rule changes will be filed.

**COMMISSION DECISION**

Does the Commission wish to make any changes to its proposed rules published in the Administrative Bulletin on October 6, 2010?

Does the Commission wish to adopt its proposed rules as its pending rules? If yes, does the Commission wish to have its notice of adoption of pending rules published in the next Administrative Bulletin on December 1, 2010?



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Don Howell  
Deputy Attorney General

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