DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

MYRNA WALTERS

TONYA CLARK

STEPHANIE MILLER

DAVE SCHUNKE

RANDY LOBB

DAVID SCOTT

WORKING FILE

FROM:DON HOWELL

DATE:SEPTEMBER 3, 1997

RE:AMENDING THE COMMISSION’S SAFETY AND ACCIDENT REPORTING RULES, CASE NO.  31-11.01-9701

On June 12, 1997, the Commission issued a Notice of Proposed Rulemaking to amend its Safety and Accident Reporting Rules (IDAPA 31.11.01) by adopting the updated versions of various national safety codes and the federal gas pipeline safety regulations.  The Commission’s Safety and Accident Reporting Rules (hereinafter the Safety Rules) were last updated in 1993.  In its prior Notice, the Commission proposed to adopt the 1997 edition of the National Electric Safety Code; the 1996 edition of the National Fuel Gas Code; and the 1997 edition of the Uniform Mechanical Code referring to gas or gas-burning appliances.  The Commission also proposed to update the gas pipeline safety rules promulgated by the United States Department of Transportation found at 49 C.F.R. Parts 191, 192, 193, 195, and 199 effective October 1, 1996.  The Commission’s proposed amendments to the Safety Rules are attached for your final review.

Pursuant to the Idaho Administrative Procedures Act, the Commission’s Notice was published in the Administrative Bulletin on August 6, 1997.  See Vol. No. 97-8 at p. 183.  In its Notice of Proposed Rules, the Commission requested that interested persons desiring to comment do so on or before August 27, 1997.  The Commission received timely comment from Legislative Services indicating that the Senate and House Subcommittees for review of Administrative Rules examined the proposed changes to the Commission’s Safety Rules and reported that “no objections will be filed” to the proposed safety rules.  No other comments were received.

Normally, a pending Rule becomes final and effective on July 1st following the conclusion of the legislative session at which the Rule was submitted for review.  Idaho Code § 67-5224(5).  However, this statute also provides that a rule may be applied retroactively provided the effective date is stated in the rule.  The Staff recommends that the Commission consider making this rule effective April 1, 1998, given the safety implications.  Staff also recommends that the Commission adopt the proposed rules as its final rules pending legislative review.

Commission Decision

1.  Does the Commission wish to adopt the proposed Rules as its final Rules pending legislative review by the 1998 Legislature?

2.  Because these Rules may effect the public safety, does the Commission wish to have these Rules become effective before July 1, 1998, (e.g., at the conclusion of the legislative process, April 1, 1998)?

Don Howell

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