

IDAPA 31—IDAHO PUBLIC UTILITIES COMMISSION

31.71.03—RAILROAD SAFETY/SANITATION RULES

DOCKET NO. 31-7103-0301

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-515 and 61-113, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, political subdivision, or an agency, no later than September 17, 2003. The hearing site will be accessible to persons with disabilities. Requests for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

DESCRIPTIVE SUMMARY: In March 2003, the U.S. Department of Transportation in conjunction with the Department of Homeland Security issued new rules to enhance the security of hazardous materials transported by railroads. The amended safety rules (to be codified in scattered sections in 49 C.F.R. Part 172) require shippers of hazardous materials and railroads to develop and implement security plans. 68 Fed. Reg. 14510 (March 25, 2003). Briefly, security plans are to address risk assessments, personnel security, unauthorized access to materials, and in-route transportation safety. In addition, the federal rules require shippers and transporters of hazardous materials to provide security awareness training to their employees. The Commission proposed to adopt these new safety rules by incorporation.

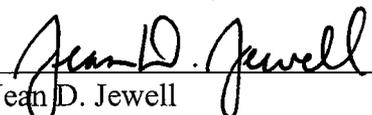
FEE SUMMARY: There are no fees associated with this proposed rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because the proposed rule merely adopts existing federal safety regulations applicable to shippers and transporters of hazardous materials by rail.

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 these proposed rules. All written comments concerning the proposed rules must be delivered to the Commission Secretary at the address identified below or must be postmarked on or before September 24, 2003.

DATED at Boise, Idaho this 25th day of July 2003.



Jean D. Jewell

Commission Secretary
Idaho Public Utilities Commission
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Boise, ID 83720-0074
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IDAPA 31
TITLE 71
CHAPTER 03
31.71.03—RAILROAD SAFETY/SANITATION RULE

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, 2000~~3~~). 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.

~~(3-30-01)~~(_____)

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)

RULEMAKING CHECKLIST FORM

Docket Number (Assigned by the Office of Administrative Rules): 31-7103-0301

IDAPA, Title, and Chapter Number and Chapter Name :

31.71.03, Railroad Safety and Sanitation Rules

Agency: Public Utilities Commission

Agency Contact and Phone Number: Don Howell, 334-0312

Legal Authority for rulemaking - Idaho Code Section(s): 61-515 and 61-113

This rulemaking is a: (Check at least one. It may be necessary to check more than one.)

Negotiated Rule Proposed Rule

Temporary Rule Effective Date of Temporary Rule: _____

Temporary Rule Justification (See Idaho Code Section 67-5226):

- Protection of the public health, safety, or welfare; or
 Compliance with deadlines in amendments to governing law or federal programs; or
 Conferring a benefit.

Pending Rule Date Pending Rule Will Become Effective: _____

Correction to Pending Rule Vacation of Rulemaking

Amendment to Temporary Rule Rescission of Temporary Rule

Does any portion of this rulemaking impose or increase a fee or charge?

If yes, provide a specific description along with the citation of the statute authorizing the imposition or increase.

NO

Does this rulemaking necessitate changes in other rules?

If yes, please specify.

NO

Does this rulemaking incorporate by reference other documents?

Specify an exact description of document(s) incorporated by reference.

YES. 49 CFR § 172.802 and 172.704(a)(4-5).

HAVE YOU . . .

1. Had your legal counsel review your rulemaking?
 2. Received Director, Board or Commission approval for the rulemaking?
 3. Provided nine hard copies of the Notice of Rulemaking and the text of the rule changes to the Legislative Services Office?

HAVE YOU INCLUDED . . .

1. An approved Proposed Administrative Rules Form?
 2. A 3 1/2 inch diskette containing the Notice of Rulemaking and the complete text of the rule changes in Word Perfect or Microsoft Word?
 3. An 8 1/2 by 11 hard copy of the Notice of Rulemaking and the complete text of the rule changes?