

DECISION MEMORANDUM

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

RUL-R-11-01

**FROM: DON HOWELL
DEPUTY ATTORNEY GENERAL**

DATE: JULY 22, 2011

**SUBJECT: UPDATING THE COMMISSION'S RAILROAD SAFETY AND
ACCIDENT REPORTING RULES, IDAPA DOCKET NO. 31-7103-1101**

The Commission's Railroad Safety and Accident Reporting Rules (IDAPA 31.71.03) adopt by reference the federal safety regulations pertaining to the transportation of hazardous material by rail. In particular, Rule 103 adopts various parts of Title 49, Code of Federal Regulation (CFR). Currently Rule 103 adopts the October 1, 2010 edition of the CFRs.

The Staff proposes that the Commission adopt the current version of the CFRs to be published on October 1, 2011. This would include recent changes to 49 C.F.R. Parts 107, 171, and 172.

CFR CHANGES SINCE 2010

Since Rule 103 was last updated, the Pipeline and Hazardous Material Safety Administration (PHMSA) has made several changes to the railroad hazardous material rules. In particular, Staff recommends that the Commission adopt two CFR changes. First, in January 2011, PHMSA amended 49 C.F.R. Parts 107 and 171 revising procedures regarding special permits when a hazardous material rail car has a defect.¹ 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. The new edition of Title 49 of the CFRs will be published on October 1, 2011.

¹ These changes to the CFRs also amended Part 105 that applies to PHMSA. Staff is recommending that the Commission not adopt changes to Part 105 because it does not issue "special permits."

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.

COMMISSION DECISION

Should Rule 103 of the Commission's Railroad Safety and Accident Reporting Rules be updated by the adoption of the 2011 CFR provisions concerning the transportation of hazardous materials by rail (Parts 107, 171, 172)? Does the Commission wish to forward these proposed changes to the Administrative Rules Coordinator for publication in the next Administrative Bulletin to be issued on October 5, 2011?



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