

## DECISION MEMORANDUM

**TO:** COMMISSIONER KJELLANDER  
COMMISSIONER SMITH  
COMMISSIONER RAPER  
COMMISSION SECRETARY  
JOE LECKIE

**FROM:** DON HOWELL  
DEPUTY ATTORNEY GENERAL

**DATE:** NOVEMBER 12, 2015

**SUBJECT:** UPDATING THE COMMISSION'S RAILROAD SAFETY AND ACCIDENT REPORTING RULES, IDAPA DOCKET NO. 31-7103-1501 (CASE NO. RUL-R-15-01)

On October 7, 2015, the Commission caused to be published in the Idaho Administrative Bulletin a Notice of Proposed Rulemaking to update its Railroad Safety and Accident Reporting Rules (IDAPA 31.71.01). The Commission's Railroad Safety Rules adopt by reference the federal safety regulations pertaining to the transportation of hazardous materials by rail. Currently, Rules 103 and 104 adopt by reference the 2013 edition of the Code of Federal Regulations. The Commission's Rulemaking Notice proposed to adopt the October 1, 2014 edition of the CFRs for both rules.

The Notice required that written comments be submitted to the Commission no later than October 28, 2015. No person filed comments regarding the Commission's proposed changes to the Railroad Safety Rules. The Commission did receive two letters from the Legislative Services Office (LSO). The first letter advised the Commission that its rulemaking was within its statutory authority. The second letter indicated that the Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes and these subcommittees have no objections to the proposed rule. Consequently, Staff recommends that the Commission adopt its proposed rule as a pending rule and submit the updated rules for legislative review in 2016.

### COMMISSION DECISION

Does the Commission wish to adopt the proposed rule as its pending rule? Does the Commission desire to publish its Notice of Pending Rule in the January 6, 2016 edition of the Administrative Bulletin and submit the pending rule for legislative review in 2016?

*Don Howell*  
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Don Howell  
Deputy Attorney General