

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
 A Statement of Need and Fiscal Impact accompanies this form.

Public Utility Commission	860
Agency and Division	Administrative Rules Chapter Number
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Rules Coordinator	Address Telephone

RULE CAPTION

In the Matter of an Amendment to Adopt the 2007 National Electrical Safety Code

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Administrative Law Judge
April 23, 2007	1:30 p.m.	Public Utility Commission Main Hearing Room, 1st Floor 550 Capitol Street NE Salem, Oregon	Christina Hayes

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (adopted or renumbered) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: 860-024-0010

REPEAL:

RENUMBER:

AMEND and RENUMBER:

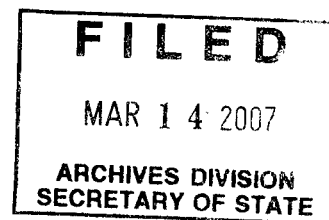
ORS 183, 756 & 757

Stat. Auth:

Other Authority

ORS 756.040, 757.035

Stats. Implemented:



RULE SUMMARY

The purpose of this rulemaking is to adopt the 2007 edition of the National Electrical Safety Code (NESC) as the minimum standard in Oregon for the construction, operation and maintenance of electric supply lines (or power lines) and communication lines. The American National Standards institute approved the 2007 edition of the NESC on June 16, 2006, as an American National Standard. This rulemaking applies to electric utilities, telecommunication utilities, telecommunications providers, cable television operators, and other persons or entities that are involved in the construction, operation or maintenance of electric supply lines and communication lines. The NESC contains basic provisions that are necessary for the safety of employees and the public.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

April 23, 2007, 5:00 p.m.
 Last day for Public Comment
 Last day to submit written comments to the Commission

Signature
 Diane Davis
 Printed Name
 3-14-07
 Date

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

 Agency and Division

Administrative Rules Chapter Number

Public Utility Commission

860

 In the Matter of an Amendment to Adopt the 2007 National Electrical Safety Code

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of an Amendment to Adopt the 2007 National Electrical Safety Code

Statutory Authority: ORS 183, 756 & 757

Other Authority:

Stats. Implemented: ORS 756.040, 757.035

Need for the Rule(s):

It is important for Oregon to adopt the latest edition of the National Electrical Safety Code (NESC) to stay up-to-date with current national standards and practices associated with the construction, operation, or maintenance of electric supply lines (or power lines) and communication lines. This is especially critical for electric and communication utilities and operators, as well as contractors and consultants who work in more than one state. At a February 27 open forum workshop, the electric supply and communication line industries were generally in consensus that the 2007 edition of the NESC should be adopted as soon as practical. The workshop participants further agreed that the PUC should review, prior to June 1, 2008, the new arc-hazard NESC rules, which are not scheduled to be effective until January 1, 2009.

The American National Standards Institute approved the 2007 edition of the NESC on June 16, 2006. This 2007 edition becomes the new American National Standard across the nation for the construction, operation, and maintenance of electric supply lines and communication lines. Pursuant to ORS 183.332 state agencies should seek to retain and promote federal requirements and equivalent standards. The Commission has specific authority to adopt updated editions of the NESC under ORS 757.035(3).

Documents Relied Upon, and where they are available:

1. Oregon Revised Statutes (ORS) 757.035 and Oregon Administrative Rules (OAR) in Chapter 860, Divisions 24 (available at <http://www.leg.state.or.us/ors/757.html> and http://arcweb.sos.state.or.us/rules/OARS_800/OAR_860/860_024.html)
2. National Electrical Safety Code(NESC), 2007 edition (ANSI C2-2007) (available at <http://standards.ieee.org/nesc/> or <http://www.buildingtechbooks.com>)
3. Summary of Major NESC Changes by Clapp Research, Inc. (available at http://www.puc.state.or.us/PUC/admin_rules/workshops/nov14ltr.pdf)
4. 2007 National Electrical Safety Code (NESC) Handbook, by Allen Clapp (available at <http://standards.ieee.org/nesc/> or <http://www.buildingtechbooks.com>)

5. McGraw-Hill's 2007 National Electrical Safety Code (NESC) Handbook, David J. Marne, (available at <http://www.codehandbook.com>)
6. Informal Comments from Interested Persons on 2007 NESC (*See* comments at http://www.puc.state.or.us/PUC/admin_rules/workshops/nesc_rule/nesc.shtml)
7. Information on PUC Staff Workshop with Interested Parties on February 27, 2007 about adoption of 2007 NESC (available at http://www.puc.state.or.us/PUC/admin_rules/workshops/nesc_rule/02_27notice.pdf)
8. PUC Adoption of the 2007 NESC-Portland General Electric Comments, especially note cost impacts (available at http://www.puc.state.or.us/PUC/admin_rules/workshops/nesc_rule/pge.pdf)

Fiscal and Economic Impact, including Statement of Cost of Compliance:

The adoption of the 2007 NESC will have a cost impact on businesses, government entities and other organizations such as electric utilities, telecommunications utilities, telecommunications providers, cable television operators, and other entities that construct, operate or maintain electric supply lines and communication lines and associated equipment. This rulemaking will have a cost impact on applicable small businesses that construct, operate or maintain electric supply and communication lines. The potential magnitude of changes in costs cannot be quantified at this time because the potential costs will be different for utilities, operators, and other entities, depending on their current systems, facilities and practices. It appears that reporting, recordkeeping, and administrative activities compliance requirements will not change.

Portland General Electric (PGE) itemized its cost impacts in a letter covered in item 8, in the section above entitled, Documents Relied Upon. PGE estimates that changes in the 2007 NESC will increase its annual operating expenses by over \$280,000 per year, with initial costs of approximately \$800,000 to comply with implementation of the code changes. The majority of these costs have to do with new arc-hazard mitigation standards, covered in NESC rules 410A3 and 420I2.

Other interested persons have expressed concern for the arc-hazard rules. They generally agree that the 2007 edition of NESC should be adopted as soon as practical. However, they want the PUC to complete a review of the impacts and conflicts created by these arc-hazard rules prior to June 1, 2008. The review should cover (1) conflicts with Federal and State Occupational Safety and Health Administration (OSHA) regulations and enforcement, (2) cost impacts to affected utilities, operators and interested persons, and (3) effective implementation dates.

PUC Staff believes there will be savings with some NESC rule changes in the 2007 edition, which allow more compliance latitude. An example is the change in NESC Rule 231A that allows lesser clearances for fire hydrants to utility poles, with approval of the local fire authority.

If the 2007 NESC is not adopted in Oregon, this state will become out-of-step with the rest of the nation with respect to utility standards and practices. This would cause increased costs for Oregon's utilities and operators in the long term. It would also cause increased unsafe conditions and practices jeopardizing utility workers and the public.

How were small businesses involved in the development of this rule?

Representatives of utilities, utility providers and operators, industry associations and others were invited to attend an open forum workshop on February 27, 2007, on this rulemaking. The Oregon Joint Use Association (OJUA) and other utility industry associations, which represent both small and large entities, participated in the workshop.

Administrative Rule Advisory Committee consulted? No If not, why?

The OJUA and electric utilities, telecommunication utilities, telecommunication providers, cable television operators, their associations, and interested persons were invited and participated in the February 27, 2007, open forum workshop sponsored by PUC Staff. Consensus was reached with the group on how to proceed in the rulemaking.

Diane Davis
Authorized Signer

Diane Davis
Printed Name

3-14-07
Date

Electric and Communication

860-024-0010

Construction, Operation, and Maintenance of Electrical Supply and ~~Signal~~ Communication Lines

Every operator shall construct, operate, and maintain electrical supply and communication lines in compliance with the standards prescribed by the 2007~~2~~ Edition of the National Electrical Safety Code approved June ~~14~~16, 200~~16~~, by the American National Standards Institute.

[Publications: Publications referenced are available **for review** from the Commission.]

Stat. Auth.: ORS 183, ORS 756, & ORS 757 & ORS 759

Stats. Implemented: ORS 757.035