

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

Public Utility Commission	860
Agency and Division	Administrative Rules Chapter Number
Diane Davis	(503) 378-4372
Rules Coordinator	Telephone
PO Box 2148, Salem, OR 97308	
Address	

**RULE CAPTION**

In the Matter of Adopting the 2012 Edition of the National Electrical Safety Code.

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

**RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing  
**ADOPT:**

**AMEND:** 860-0024-0010

**REPEAL:**

**RENUMBER:**

**AMEND & RENUMBER:**

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

Other Auth.:

Stats. Implemented: ORS 757.035

**RULE SUMMARY**

The proposed amendments to this rule adopt the latest edition of the National Electrical Safety Code (NESC) to stay up to date with current national standards and practices used in the construction, operation, and maintenance of electric supply lines and communications lines. Staying current with the national standards and practices is especially critical for electric and communications utilities and operators as well as contractors and consultants who work in more than one state. The American National Standards Institute approved the 2012 edition of the NESC on June 3, 2011. This 2012 edition becomes the new American National Standard across the nation for the construction, operation, and maintenance of electric supply lines and communication lines. Per ORS 183.332, state agencies should seek to retain and promote federal requirements and equivalent standards.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 563 on comments and file them by e-mail to the Commission's Filing Center at [PUC.FilingCenter@state.or.us](mailto:PUC.FilingCenter@state.or.us) and also send a signed hard copy to the Filing Center at PO Box 2148, Salem, Oregon 97308-2418. For more information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=17259>.

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

February 22, 2012, 5:00 p.m.

**Last Day for Public Comment** (Last day to submit written comments to the Rules Coordinator)

<i>Diane Davis</i>	<a href="mailto:diane.davis@state.or.us">diane.davis@state.or.us</a>	Diane Davis	1/13/2012
Signature		Printed name	Date
*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.			
			ARC 923-2005

Secretary of State

**STATEMENT OF NEED AND FISCAL IMPACT**

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

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter Number

[In the Matter of Adopting the 2012 Edition of the 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: Adopting the 2012 Edition of the National Electrical Safety Code in OAR 860-024-0010.

Statutory Authority: ORS 183, 756, 757, &amp; 759

Other Authority:

Stats. Implemented: ORS 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 used in the construction, operation, and maintenance of electric supply lines and communications lines. This is especially critical for electric and communications utilities and operators as well as contractors and consultants who work in more than one state. The American National Standards Institute approved the 2012 edition of the NESC on June 3, 2011. This 2012 edition becomes the new American National Standard across the nation for the construction, operation, and maintenance of electric supply lines and communication lines. Under ORS 183.332 state agencies should seek to retain and promote federal requirements and equivalent standards.

Documents Relied Upon, and where they are available:

ORS 757.035 available online at <http://www.leg.state.or.us/ors/757.html>

Oregon Administrative Rules (OAR) in Chapter 860, Divisions 24 available online at

[http://arcweb.sos.state.or.us/pages/rules/oars\\_800/oar\\_860/860\\_024.html](http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_024.html)

National Electrical Safety Code (NESC), 2012 edition is available from several sources including the IEEE (see [www.ieee.org](http://www.ieee.org)); the Oregon Joint Use Association (see [www.ojua.org](http://www.ojua.org)) and Builders Books, Inc. (see [www.buildersbook.com](http://www.buildersbook.com)) or for review at the PUC.

**Fiscal and Economic Impact:**

The adoption of the 2012 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 or communication lines and associated equipment. This rulemaking will have a cost impact on applicable small businesses that construct, operate, or maintain electric supply lines or communications 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 systems, facilities, and practices. It appears that reporting, recordkeeping, and administrative activities and compliance requirements will not significantly change.

PUC Staff believes that there will also be cost savings with some NESC rule changes in the 2012 edition. For example, Rule 380D allows lesser clearances between aboveground enclosures and fire hydrants, with the approval of the local fire authority (much the same as the 2007 code allowed lesser clearances between poles and fire hydrants in Rule 231A). The tables for Arc Hazard Analysis in Rule 410.A.3.a have been simplified and now allow an electric operator to determine appropriate clothing systems directly from a simple table rather than having to perform a complex and possibly expensive arc hazard analysis calculation.

If the 2012 NESC is not adopted in Oregon, this state will be 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.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The rule changes will have minimal impact on the Public Utility Commission or its legal counsel at the Department of Justice. Impact on units of local government or the public that construct, operate, or maintain electric supply lines or communications lines will be impacted based on the application of the national standards; and 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 systems, facilities, and practices.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: There are approximately 40 electric utilities, 32 telephone utilities, and 40 cable television utilities that own and operate utility-type facilities in Oregon. It is estimated that 17 of the 40 electric utilities have 50 or fewer employees. Information on the communications utilities is less available, however an estimate was made with available data and about 25 of the telephone and 30 of the cable utilities have 50 or fewer employees. There are a number of contractors, consultants and other small business entities that design, construct, operate or maintain electric supply or communication facilities; however, it is impractical to identify the number of these entities operating in Oregon.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: The cost impact to small utilities and small business entities that design, construct, or operated electric supply or communication facilities is unknown. Cost-impact would vary with each entity according to the type of utility work performed.

c. Equipment, supplies, labor and increased administration required for compliance: The cost impact to small utilities and small business entities that design, construct, or operated electric supply or communication facilities is unknown. Cost-impact would vary with each entity according to the type of utility work performed.

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

Representatives of utilities, utility providers and operators, industry associations and others were invited and attended an open workshop after the Salem OUSC meeting on March 19, 2010 on proposed changes to the 2012 NESC. The Oregon Joint Use Association (OJUA) was notified and comments were solicited during the annual meeting on October 20 and also on November 16, 2011, during the regular Standards Committee Meeting.

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

As noted above, representatives of utilities, utility providers and operators, industry associations and others were invited and attended an open workshop after the Salem OUSC meeting on March 19, 2010 on proposed changes to the 2012 NESC. The Oregon Joint Use Association (OJUA) was notified and comments were solicited during the annual meeting on October 20 and also on November 16, 2011, during the regular Standards Committee Meeting.

<i>Diane Davis</i>	Diane Davis	1/13/12
Signature	Printed name	Date

**860-024-0010**

**Construction, Operation, and Maintenance of Electrical Supply and Communication Lines**

(1) Except as provided in section (2), every operator shall construct, operate, and maintain electrical supply and communication lines in compliance with the standards prescribed by the ~~2012~~2007 Edition of the National Electrical Safety Code approved June 3, 2011~~16, 2006~~, by the American National Standards Institute.

~~(2) Rule 410.A.3 of the 2007 Edition of the National Electrical Safety Code will not become effective until January 1, 2010.~~

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

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

Stats. Implemented: ORS 757.035

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 173, f. & ef. 1-14-76 (Order No. 76-037); PUC 1-1978, f. 1-13-78, ef. 2-13-78 (Order No. 78-076); PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 6-1990, f. & cert. ef. 5-25-90 (Order No. 90-833); PUC 11-1993, f. & cert. ef. 6-23-93 (Order No. 93-809); PUC 13-1994, f. & cert. ef. 8-31-94 (Order No. 94-1243); PUC 7-1997, f. & cert. ef. 2-6-97; PUC 9-2002, f. & cert. ef. 2-26-02; PUC 6-2007, f. & cert .ef. 5-14-07; PUC 5-2008, f. & cert. ef. 12-29-08