

ELECTRICAL NEGOTIATED RULEMAKING MEETING

June 23, 2022 – 9:00 a.m. (MT)

Division of Building Safety
1090 East Watertower Street, Suite 150, Meridian

MINUTES OF THE JUNE 23, 2022 MEETING

NOTE: The following report is not intended to be a verbatim transcript of the discussions at the meeting, but to record the significant features of those discussions.

Deputy Administrator Tim Frost called the meeting to order at 9:04 a.m. (MT)

Audience Members:

Jeremy Redman, IBEW 291
Daryl Nelson
Jason Hudson, Idaho AFL-CIO
Mark Zaleski, IBEW 291
Kelly Lamp, Idaho NECA
Tom Brown, B&B Electric

DOPL Staff:

Tim Frost, Deputy Administrator
Michael Hyde, Executive Officer
Yvonne Dunbar, Legal Counsel
Renee Bryant, Board Support Supervisor
Carlotta Zito, Board Support Specialist

ZBR Negotiated Rulemaking – IDAPA 24.39.10 Rules of the Electrical Board

Overview of Proposed Amendments to IDAPA 24.39.10 Rules of the Electrical Board – Deputy Administrator Tim Frost addressed the current state of the negotiated rulemaking process. In the May 4, 2022 Administrative Bulletin, the Division noticed the intent to promulgate rules published by the Office of the Administrative Rules Coordinator. Today’s public hearing is the first formal hearing, and all meetings leading up to today were informal. The informal meetings were intended to draw ideas from stakeholders and identify how electrical rules are implemented throughout the State.

In addition to code amendments, the chapter outlines permitting and inspection requirements for any project under the Board and DOPL’s jurisdiction.

Two additional Negotiated Rule Making Meetings have been scheduled: July 11, 2022 at 9:00 a.m. (MT) and August 2, 2022 at 9:00 a.m. (MT). In mid-August an Electrical Board Meeting will be held.

The Deputy Administrator conducted an overview of the redlines in IDAPA 24.39.10 “Rules of the Idaho Electrical Board”.

- Section 001 “Scope” – No proposed changes.
- Virtual Inspections – Daryl Nelson suggested a definition of “virtual inspections” be added to the draft proposed rule. Deputy Administrator Frost stated the reason for not having a definition at this time is to provide the Board flexibility. Mark Zaleski, IBEW, asked whether fees for a virtual inspection will be less than that of an onsite inspection. Executive Officer

Hyde stated DOPL's fee for a virtual inspection will be \$45.00. The onsite inspection fee is \$65.00.

- 003 – Permits and fees – Deputy Administrator Frost explained there is no change to the fees in this section. The changes made are only to simplify language and duplicative permit options. Deputy Administrator Frost said 90% of permits are pulled online. Jeremy Redman, IBEW, asked why section 003.02.a, regarding outstanding fines and violations, has been removed. Executive Officer Hyde answered that this section is addressed in statute. Mr. Redman asked about a hypothetical scenario in which there is an outstanding \$20,000 fine and whether that person would be allowed to purchase further electrical permits unless or until all outstanding fees have been paid. Deputy Administrator Frost stated research needs to be done regarding statutory authority for collections and that over the next three years fees will be analyzed across all Boards.
- Jeremy Redman remarked on the addition of Section 004.01.a. Executive Officer Hyde stated the language was changed to “dwelling.” Deputy Administrator Frost explained the need to use the word “dwelling” consistently.
- Daryl Nelson expressed concern about the removal of Section 004.02.e, the \$10 fee for small work not exceeding five hundred (\$500) in cost and not involving a change in service connection. He feels it is important to keep this permit requirement so there is documentation of the small work that is done in case there is a problem like a fire after the work is performed. Executive Officer Hyde will contact Electrical Program Manager Warren Wing to discuss this issue.
- Executive Officer Hyde asked if anyone has heard any comments from industry regarding striking out 004.06 formerly #14 on page 4 – Fees for temporary Amusement/Industry Electrical Inspections. Daryl Nelson stated Idaho is the only state that inspects fairs. Jeremy Redman added requirements for vendors should be researched as well.
- Rule 100 - Sub Chapter A – Electrical Licensing and Registration – Section 103.01.b – Kelly Lamp had questions about continuing education and continuation training. Deputy Administrator Frost stated that continuing education and continuation training are different and this is a copy and paste of statute. Even though they are separate they are defined the same way so that is why they are combined. After further discussion, Deputy Administrator Frost stated continuing education and continuation training may need to remain separated.
- Rule 100 - Subchapter A Licensure History – Deputy Administrator Frost stated that during the ZBR process there will be no changes to renewal dates. The goal is to get rid of dates that hit the licensing staff all at once. Meetings are being held to gain context and history. The temporary rule stays in place until the ZBR process is finished no matter how long it takes.
- Rule 103 Examination and License 2a & 2b – Changing the word shall to will. Jeremy Redman commented that Electricians understand mandatory and permissive language and asked for the intent of changing the word shall to the word will. Deputy Administrator Frost replied they are looking at the number of restrictive words and not looking for an out. Jason Hudson commented the Legislature argues all day long about the use of the word shall vs. will. Deputy Administrator Frost stated DOPL is looking toward more permissive or future tense language. Daryl Nelson stated if the word shall is in NEC (National Electrical Code) then it has to stay.

- Rule 103.01.b – Deputy Administrator Frost stated the requirement of a notarized letter from the employer was intentionally removed. The applicant will submit evidence of successful completion of eight (8) years of work experience.
- Rule 103.2.b – Deputy Administrator Frost asked which vendors provide the Journeyman exam and whether there are other exams available. Daryl Nelson stated inspector examinations are proctored by the state. Executive Officer Hyde stated Board approved exams are written by the state. Deputy Administrator Frost asked how local authorities approve their inspectors. Daryl Nelson responded inspectors take a forty (40) question test which is required by the city. Tom brown stated municipalities can do what they want.
- Rule 106 – Electrical Contractors and Limited Electrical Contractors. Deputy Administrator Frost stated Master’s license cannot be removed because of statute. He will pull the legislative history from 2007 & 2008 regarding this matter.
- Jeremy Redman opened discussion on Rule 106.9.a regarding Journeyman to Apprentice ratios. Deputy Administrator Frost stated DOPL is pulling legislative history and working with outside legal counsel as well as looking at employer restrictions to explore this issue. Objective data will be brought to the July 20th meeting to bring context to this ratio as well as the connection to Davis Bacon laws and safety.
- Rule 150 – License Requirements - Deputy Administrator Frost asked for comments on this entire section. Daryl Nelson asked if a limited license for residential can be added. Deputy Administrator Frost stated there has been discussion about a 2 year journeyman’s license. Jeremy Redman added that a few years ago there was discussion about the definition of the word residential.
- Rule 200 – Examinations - Deputy Administrator Frost stated some exams have a passing score of 70% while for others it is 75%. DOPL chose 75% as the passing score so he asked if this was the right spot and what score meets the industry standard. Jeremy Redman stated the passing score for the National Association of State Contractor’s Licensing Agencies (NASCLA) exam is 70%. Also, the 75% passing score requirement causes a loss of reciprocity with Oregon because in Oregon the exams are pass/fail and a percentage score cannot be extracted. Kelly Lamp stated that if someone doesn’t receive a passing score they cannot go to any other state. Deputy Administrator Frost asked whether there are other exams Idaho should consider and would support the Board’s review of other standardized exams that are available.
- Rule 250 – Deputy Administrator Frost stated the five-year rule of review does not prevent reviewing the 2023 code. The five-year requirement is a repeal and replace process with nothing preventing a more frequent review. Kelly Lamp commented that in the last Electrical Board meeting solar set back restrictions were discussed and may need to be included in future meetings. Deputy Administrator Frost asked for Mr. Lamp’s comments on this issue. Mr. Lamp did not have any issue with considering this idea and is in favor of possible restrictions based on setback distance requirements. Deputy Administrator Frost will talk with Mr. Stark at Idaho Power about an exemption of rapid shut down. Jason Hudson added you cannot get an exemption unless you are a certain distance from another structure.
- Rule 400 – Certification and Approval of Electrical Products and Materials – Daryl Nelson suggested striking 400.02.a but keeping b and c.

- Rule 450 – Civil Penalties - Daryl Nelson questioned why the civil penalty of not more than \$200 for the first offense was removed. Deputy Administrator Frost answered dollar amounts of civil penalties are addressed in statute. Daryl Nelson suggested minimums could be removed in all parts but allow a \$1,000 maximum fine for all. Deputy Administrator Frost stated hesitancy on putting maximums on first offense and is seeking specific feedback on which parts should have maximums. Kelly Lamp added that the \$1,000 maximum civil penalty is in statute. Executive Officer Hyde asked for feedback on the Failure to Disclose section that was added. Jeremy Redman commented it is better to have this section and not need it rather than need it and not have it.

With no further comments or questions, Deputy Administrator Frost adjourned the meeting at 12:51 p.m. (MT)

These DRAFT minutes are subject to possible correction and final approval. 07/27/2022cz