



State of Idaho
Division Of Occupational and Professional Licenses
Idaho Electrical Board

BRAD LITTLE
Governor
RUSSELL BARRON
Administrator

11341 W Chinden Blvd.
P.O. Box 83720
Boise, ID 83720-0063
(208) 332-3433
dopl.idaho.gov

Minutes of 09/12/2022 – Negotiated Rulemaking Meeting

Division Staff: Michael Hyde
Tim Frost
Yvonne Dunbar
Linda Pratzner
Carlotta Zito

The negotiated rulemaking hearing was called to order at 2:00 p.m. (MT) by Tim Frost.

Overview of Proposed Amendments to IDAPA 24.39.10 *Rules of the Electrical Board*

Deputy Administrator Frost - To give clarity to kind of our process and what's gone on so far, starting last year, we held nine listening sessions around the state to talk about, in preparation for the Governor's Executive Order, Zero Based Regulation, to repeal and replace the rule chapter for the Idaho Electrical Board. In those listening sessions, we heard a lot of good feedback on where can be the starting point, what are the things we should consider, what are the things the Board shouldn't consider, and from there, we crafted a rule chapter in the spring of this year. We started the Zero Based regulatory process with the Board and stakeholders. We've had countless informal meetings, and I think we're around four scheduled negotiated hearings with industry prior to going to proposed. So, a lot of good feedback back and forth on the red lines of the rule chapter. Our Board has, I believe, reviewed, and discussed the rule chapter at three different occasions, and at the last meeting, they voted to take the rule chapter and propose it as a proposed rule. What that does is starts the formal process, according to the Administrative Procedures Act. It's a twenty-one-day comment period. Agencies are required to hold at least one hearing. We're holding two hearings on this rule chapter. So, between the publication of the bulletin, I believe it was September 7th, the first Wednesday in September, we'll take public comments all the way until October 5th. Perhaps you don't have a verbal comment today but you'd like to provide written comments in email or mail them. All of those written comments are due by October 5th. Perhaps you have a verbal comment today or on Wednesday and would also like to provide written comments. That's certainly acceptable as well. I just wanted to give context. This is the formal opportunity for you, as a stakeholder, to provide input for the Board to review at their October meeting to make any potential adjustments to the proposed rule chapter before adopting it as a pending rule. Once the Board reviews everything that's happened during the comment period time, and they vote to move it to a pending status, that pending chapter will get published in the December Bulletin. That'll be published the first Wednesday of December and will be packaged then to review with the Idaho legislature, usually within the first three weeks of January, when they review our rule chapters. So, for the purposes of today, this is an opportunity to take the clean chapter that is renumbered, reordered, and pushed in the Office of the Rules Coordinator and provide any public comment that you have towards that. If you will, when your time comes, state your name for the record, who you represent, and if you have broader comments related to the entire rule chapter, that's completely fine. If you have some specific comments, we would appreciate if you pointed out what particular rule section or subsection that you're commenting on. That's helpful just for the rulemaking record. Our board support team over here will be documenting names, who you represent, and the comments received. This will be provided in a summary to the Board for their decision in October. I will pause there. Are there any questions about the administrative rulemaking process about this hearing today, or any other questions that

stakeholders may have before we get started. Not hearing any, I'd invite any members of the public. We've got two microphones upfront. If you have comments related to the published rule chapter that the Board has put forth as proposed, we would appreciate you taking your time to provide those comments now. So, we'll open up the floor.

Daryl Nelson, Master Electrician - Question on 000-*Legal Authority*. I must have missed it prior but why is it not, um, complete Title 54 Chapter 10 when it now has several different parts that exclude some parts of Chapter 10 Title 54.

Deputy Administrator Frost - Thank you for the question, Mr. Nelson. So, we're talking here on page 242, Rule 000-*Legal Authority*. So, these are the specific sections of Idaho code that give the Board authority, or the Division authority to adopt rules. So, you'll see some of these sections detailed are in Title 54 Chapter 10, some of them are in Title 67 Chapter 26. This would cover all the citations, rulemaking authority, for the entirety of the chapter. So, if there is a scenario where you feel like, hey, there's a section related to rule making authority here and that was missed, feel free to give us that guidance. But overall, the recommendation from the rule writer's manual, which is developed by the Division of Financial Management, their request was to put in all the specific sections of statute by which the Board or the Division has authority to promulgate rules.

Daryl Nelson - Alright, thank you.

Deputy Administrator Frost - Board support team are there any members in the public with their hands raised?

Board Support Specialist Linda Pratzner - No, there is not.

Deputy Administrator Frost - Okay. I would just remind any members of the public online, if you have a comment, this is certainly your opportunity to give verbal feedback to the Board on the proposed rule chapter. We accept support comments as well but wanted to make you aware this is your opportunity today, as well as the meeting on Wednesday, for a public hearing comment opportunity. Whether that's in support, whether that's opposition, whether that's questions, whether that is specific amendments you think the Board should consider, this is your opportunity to make those comments. Mark if you will come up front, that way the microphone will hear you. Thank you, sir.

Mark Zaleski, IBEW Local 291 - Thank you, Mark Zaleski, journeyman wireman. Just a quick question for clarification, you know, to what Mr. Nelson pointed out, and I just noticed a few word changes here and there in what we were given today. What I have with me, or maybe you can help me, the last red line I have dated July 18th, would that have been the most recent prior to the board meeting?

Deputy Administrator Frost - Mr. Zaleski give me one second. We have versions that were published online, June 13th, June 10th, July 10th, my apologies, and August 12th. The August 12th, I believe, would have been the follow-up to after the Board voted, so, the updated red lines based on the Board vote at the last meeting.

Mark Zaleski - So August 12th was after the meeting, after the Board meeting.

Deputy Administrator Frost - I believe that is correct.

Mark Zaleski - And July 10th you said.

Deputy Administrator Frost - July 10th.

Mark Zaleski - Okay. All right. Yeah, well, I probably received that July 18th, that's why I have that written down.

Deputy Administrator Frost - Is there any questions, just on that one, that maybe we can work through?

Mark Zaleski - No, I just want to know what went before the Board and what we have in front of us today.

Deputy Administrator Frost - I appreciate the question. Thank you. So, if you were, to any members of the public, if you also wanted to see the red lines, we still have all the red lines available on our Division rulemaking websites. So, it will show each version and the iterations the Board has seen and voted on. When it comes to publishing in the bulletin, they're doing a repeal and replace of that chapter, and so doesn't provide as a red line because it's 100% new text and new language; however, we will continue to do our best to mirror a red line clean copy situation that's full time for transparency. We do expect that the legislature will ask us for the red lines. The piece that I would say to just the public is we have renumbered and reordered many of these sections for consistency. So we want all of our chapters, whether it's our trade

rule chapters, or other professions and occupations chapters, to have a consistency of this, which is the 100 rules, these are the 400 rules, these are the 700 rules and so you will see language move, maybe to a different section of that chapter.

Mark Zaleski - Sure. Okay, understood. Thank you.

Deputy Administrator Frost - Thank you, sir. Board support team is there anybody online with hands raised?

Board Support Specialist Pratzner - There is not. No.

Deputy Administrator Frost - For those just coming in or just joining online now, again, this is the negotiated rulemaking hearing for the Idaho Electrical Board. We have a hearing today as well as a hearing this Wednesday, and this is the opportunity for the public to provide any formal public comment on what the Board has proposed as a new rule chapter that was published in the September bulletin. The Board will review any verbal comment provided here today, or provided on Wednesday, and any written comments that are received between September 7th and October 5th. It will review all of those comments at the next board meeting, and they will take that into consideration before adopting a pending rule chapter. This is your opportunity as a stakeholder. I know many of you have been involved and provided quite a bit of pre-negotiated meeting comments and we're very thankful for that. This is an opportunity to let us know, did the Board and staff land in a good place, are there areas of this chapter that you support. Are there areas that you would like to see different amendments. You certainly are not obligated to comment either but I will continue to ask. So, while everybody is still thinking on potential comments, I will walk through the process one more time. The Board has met three different times and walked through the red line version of the repeal and replace of this rule chapter. We've held quite a few, we call it pre-negotiated meetings, many times in this room, and walked through the merits of a number of the different changes that we've had and the Board reviewed those at three different meetings. At the last meeting, they made a decision to move forward with a proposed rule chapter. They had edits to that rule chapter, based off of all the negotiated meetings, and the comments that were provided at both those negotiated meetings and the Board meetings. That was published as a clean, new, reordered, renumbered chapter in the September bulletin. September 7th, that starts the formal comment process through the Administrative Procedures Act. So, we will be accepting written comment from last, this would be last Wednesday the 7th, all the way until October 5th. So, if you or your organization wants to submit formal written comments in an email or mail, you have the opportunity to do so, until October 5th. The Board would certainly appreciate any feedback, good, bad, or indifferent on the proposed rules, and you have the opportunity today, as well as Wednesday, to provide any verbal comments on the proposed rule chapter before you. If you have a comment, please come to the front of the microphone, state your name and who you represent for the record; specify, what your comment is, and if possible, detail what rule number it is. You are certainly not obligated to take public comment, or provide it but this is your opportunity, as a stakeholder, if you have any. I would also note if you have any questions for staff related to the chapter published, we'd be happy to take those questions. I'd also note if you have any recommendations that aren't addressed in this rule chapter that you want the Board to address, this is, again, your opportunity to detail those comments.

Tyler Perot, City of Meridian - I just have a question. I'm just curious about the meeting on Wednesday. Is it a second opportunity for people to make it so if we can't make it, it's not like we're missing anything if we were here today?

Deputy Administrator Frost - Correct. Thank you for the question, Tyler. So, the question is, is the meeting on Wednesday, what's the format. Is it any different, are we going to miss it, if you miss it does it change. So, the meeting on Wednesday is the exact same as today, to schedule negotiated hearing. It's your opportunity to provide public comment, and again, both today's meeting and Wednesday's meeting will have any comments received, the individual, who they represent, what that comment was that will be packaged for the Board for the October meeting. So, if you're unable to make it Wednesday, you should be able to see the written version of what happened Wednesday. Thank you for that comment.

Daryl Nelson - I think I'm ready to make a comment. Daryl Nelson, Master electrician. Let's see. Where do I need to go back to? I got a lot of papers here. Going back to page 244, this would be IDAPA 24.39.10.200.03(a), says master, journeyman or limited electrical installer shall be designated supervising

electrician. I don't see anywhere in 54-1010 where it says a limited electrical installer can sign or be the supervising electrician for that. Simply look at 54-1010, it outlines that it has to be a master or a journeyman. So, I think by having that part in there, that a limited, they couldn't even countersign for a limited license.

Deputy Administrator Frost - Daryl, can I ask a follow up question?

Daryl Nelson - Yes.

Deputy Administrator Frost - So, my understanding is the Board's work last year, prior to this ZBR, they consolidated contractor requirements for both limited and for master or limited and for just contractor requirements into one, and so, it previously detailed, I believe master or limited and the separation would be as a limited electrical installer can only supervise over those trainees in the work that's under limited. It doesn't now qualify you to go beyond what that limit is.

Daryl Nelson - But I don't see that the end part of here for limited electrical installer to actually be able to countersign for a limited energy license. 54-1010(2), it simply says journeyman or master. I don't see the language in statute that actually says a limited installer license allows you to sign for a contractor's license and be a supervising electrician.

Deputy Administrator Frost - Are you saying, you don't see it, they can't be a supervisor.

Daryl Nelson - I don't see it in statute, where we have 200.03(a) where it specifies limited installer can act as a supervising electrician. I don't see where that goes back and forth in the statute.

Deputy Administrator Frost - So, just so I understand the question here is you don't think there's statutory authority for a limited electrical installer to sign as the contractor over limited electrical work?

Daryl Nelson - Correct. I don't see that in here, so it kind of goes back to the other thing where we've had language prior, that wasn't part of the proposed rules. I think that because of what has happened here in the past, and currently, we need to have a part in here that says, maybe not 2008 like it says, but as of July 1st this next year, 2023, kind of go back into 54-1010(1). If you had a license there, you could remain that part in there but let's go back in there and add to it that a contractor, electrical contractor, does need a masters license, limited would need a journeyman, and any others that have previously held a license can still maintain the license until they get a new designee.

Deputy Administrator Frost - So, I just want to make sure I have clarity on the comment. The recommendation here is one, review statutory authority related to a limited electrical installer signing as a contractor for limited electrical work.

Daryl Nelson - Correct.

Deputy Administrator Frost - So that's the first piece, and then the second piece is under your view if there's not statutory authority to move that back towards the requirement to employ a journeyman.

Daryl Nelson - And have them as the designated supervising electrician. 54-1010(2) simply states it has to be a journeyman, or a master. Going back to that because it does say electrical contracting business that isn't limited to just a contractor's license or a limited contractors. Lay it out in rule that for electrical contracting license you do need to have a master and for a limited license you would have to have a journeyman be the supervising electrician.

Deputy Administrator Frost - So, I'm going to ask a follow-up question, just so I have clarity. We're not saying that 54-1010 requires the contractor to be a masters or a journeyman we're saying 54-1010 requires them to employ a masters or journeyman. Is that correct?

Daryl Nelson - I think I'm having the wrong one here again. The individual owner of electrical contracting business may act as his own journeyman electrician or master electrician provided, they meet and comply with provisions of sections 54-1002.

Deputy Administrator Frost - Correct. So, what I'm trying to get to is the scenario where the individual who's the contractor and owner of the business is not a master or a journeyman or a limited electrical installer but they have the ability to own the business. So, in that instance, if we're talking about limited electrical installer, they would have to employ, your recommendation is to and make sure they have to employ a journeyman or a masters.

Daryl Nelson - A master for electrical contractor, journeyman, for a limited. It makes it so you have that or in statute that's countersigned for both, and then, if you had previously held the license, you could keep your license as long as you don't need another designee.

Deputy Administrator Frost - So, I'm just, my question is the statute says masters or journeymen. So, are you saying for a limited electrical installer, they employ either a masters or a journeyman?

Daryl Nelson - So, the statute says electrical contracting business. It doesn't actually define if it's an electrical contractor or limited license contracting license. It's just a generic contracting license. It says master or journeyman. I think the rules specify when you need to have a masters when it's okay to have a journeyman.

Deputy Administrator Frost - So, there's two parts of that. One is a statutory interpretation, and two is your recommendation that, for electrical contracting business, it be a requirement to employ a masters.

Daryl Nelson - Correct.

Deputy Administrator Frost - And the other piece of it is, if it's a limited electrical, you were at minimum required a journeyman.

Daryl Nelson - That kind of goes back to your perspective analysis here whereby allowing a journeyman everywhere. We are not even close to any of these other states in here where they all have a designated, not just a journeyman, but it kind of goes up a little bit at a different level. Hoping that makes sense.

Deputy Administrator Frost - I think I have clarity.

Daryl Nelson - Okay. Thank you.

Deputy Administrator Frost - Board support, any members of the public have their hands raised?

Board Support Pratzner - No, there is nobody online with their hand raised.

Deputy Administrator Frost - Members of the audience, any additional public comments? I'm going to provide another five minutes and then I'm going to call last call. I will also detail to stakeholders, if there are any specific edits the Board made at the last meeting that you're in support of, this is certainly an opportunity to provide that support in a verbal manner. I'll describe the process one more time and then take a last call for comments. Again, this is the formal negotiated hearing process to provide public comment to the Board on the rule chapter that they have put forth as proposed. This is in alignment with Zero Based Regulation, our executive order from the governor, and the Board has thoroughly reviewed the entirety of their rule chapter. They went through red lines in the last three meetings, worked through comments in support and opposition, and made adjustments to that chapter accordingly, and this is the chapter that they've put forth as proposed. You have an opportunity, as stakeholders, to comment today during this hearing, as well as on Wednesday during the hearing, and then provide any written or mailed in public comment between now and October 5th. Please address that to me, Tim Frost, and you can send it to this address. It's like 1141 Chinden Boulevard. I don't have everything memorized. 11341. With that being said, this is your opportunity if you have verbal comments in support, if you have questions, if you have opposition, if you have considerations that you want the Board to consider prior to voting on pending status of the rule chapter. This is your opportunity. I'll take a last call for the purposes of this public hearing. Board support team anybody online with public comments?

Board Support Specialist Pratzner - Nobody with their hand raised up.

Deputy Administrator Frost - Any last call in the room, public comments for today's hearing? Not hearing any, I'd like the record to reflect I've sat through hundreds of hours of meetings with our electrical industry and this was the least number of comments, and so, I'm going to take that as a positive that we're moving in a good direction and the Board has navigated this correctly. So, I appreciate all of you showing up. As I've said it many times, our electrical industry is always aware, always engaged. I'm thankful for that. I appreciate you all showing up, and we would welcome any support or amendment letters before the October Board meeting. Thank you, all. Meeting adjourned.

The hearing adjourned at 2:39 p.m. (MT)

09/15/2022cz