



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

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Minutes of 09/14/2022 – 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.

For the record, Deputy Administrator Tim Frost introduced himself, Operations Manager and Executive Officer Michael Hyde, Legal Counsel Yvonne Dunbar, and the board support team.

Tim Frost - All right, I'm going to call this meeting to order. For the record, my name is Tim Frost. I'm the Deputy Administrator here at DOPL. To my right, your left, is Michael Hyde. He is our Operations Manager and Executive Officer of the Idaho Electrical Board. To my left, your right, is the legal counsel and these lovely individuals over here are the board support team. They are taking minutes, and I believe recording this public hearing. So, this public hearing is in relation to 24.39.10, *Rules of the Idaho Electrical Board*. The Idaho Electrical Board went through the Governor's executive order process this year, which was Zero Based Regulation. It was a repeal and replace of the rule chapter. They worked through the entirety of the rules. We started in 2021 with nine listening sessions around the state to get feedback, and this year we held both informal and formal meetings. The Board met three different times to work through the red line chapter, and ultimately voted at the last meeting to move forward with a proposed rule chapter. That proposed rule chapter was published in the September 7th bulletin. It's the first Wednesday bulletin in September that can be found on the Office of Rules Coordinator website. You click the left-hand side of bulletin publications. It'll be the topmost bulletin publication. You'll see in that bulletin it is a renumbered and reordered clean copy version of the chapter the Board proposed. If members of the public and stakeholders are interested in continuing to follow the red lines of the rule chapter, that is available on our Division website. You go to dopl.idaho.gov, on the right-hand top side there's a page called *Rulemaking*. On that rulemaking page, if you fan down and select the Idaho Electrical Board, it will detail the various versions we've worked through, and ultimately, the most recent red line version that's available to the public. We'll continue to keep those redlines available. We expect the legislature to want red lines when they review, ultimately, the agreed upon and voted on pending rule chapter of the Board. So with that, for members of the public that are here and, in the back, there's clean copies published in the back as well as redline copies. I'd like to start this public hearing with anybody on the call and anybody in the room. Just announce yourself and who you represent. Before we do announcements, I'll open it for any questions. Any questions from members of the public and stakeholders available today? Not hearing any questions, if we could do some quick introductions, just state your name and who you represent. We'll go around the room and then I'll open up the hearing.

The following individuals introduced themselves: Mark Zaleski, Journeyman Wireman; Daryl Nelson, Master Electrician; Miles Whittington, Journeyman Wireman, and SW Idaho Electrical Training Center; and Jason Hudson, AFL-CIO.

Tim Frost - In the back we have Mr. Stark, our power provider Board member, and I believe on the call as well we have Mr. Marchetti.

Jim Marchetti - Yes, Journeyman Electrician.

Tim Frost - Thank you, sir. Any other members of the public on the call?

Linda Pratzner - We have someone with a 208 ending with 38 number.

Tim Frost - Can you announce yourself, your name, and who you represent for the record?

Debbie Draper, Southwest Idaho Electrical Training Center, introduced herself.

Tim Frost - Thank you for joining. So again, for those of you who walked in, this is a public hearing on the rules of the Idaho Electrical Board, which has gone through the initial parts of the negotiated process. It was published in the September bulletin. This is the second of two public hearings on this rule chapter. This chapter is available to provide public comment between when it was published on September 7th and October 5th. You are welcome to both provide verbal comment here today. You're not obligated to provide comment, but if you wish, this is your opportunity to provide comment for the Board and for them to consider anything you have. You're also able to provide written or mailed in comments between now and October 5th. I'd encourage you, if you don't have a public comment now, but you'd like to submit written comments to the Board, you have until October 5th to do that. We are taking meeting minutes of the comments we received and who made those comments. That will be pulled together in a summary of the public hearings and provided to the Board in their packet for the meeting in their consideration of all comments. Any written comments, verbal comments, heard two days ago and today, all of that will be summarized for the Board for them to consider as they continue through the negotiated rulemaking process. Any questions on that? Okay, not hearing any questions, I'm going to open up the floor for any public comments. If you will, we'd appreciate if you come in front of the microphone, state your name for the record, who you represent, and detail your comment. If you can be specific towards which rule your comment is pertaining to, we appreciate that, but we also have plenty of time to work through anything. If we need to look up something as we're working through the comments, we'd be happy to do so. With that, I'll open up this hearing for any comments of stakeholders.

Jason Hudson, AFL-CIO - I'll lead off because my comment is just a general comment on the process that arrived here. As someone who represents electricians and electrical apprentices all over the state and has been participating in this process since it started the beginning of last summer, I just wanted to commend the Board and DOPL staff on a very thorough, and very inclusive process. I've been traveling to these meetings around the state. We've been doing pre-hearing meetings from early last summer. I think it has been a really good process. I think that there were a lot of opportunities for people to weigh in, and I think ultimately, that leads to a better outcome, and so I wanted to just really commend both the Board and the staff on the very thorough process, and the Board on their considered deliberation. I know there were lots of different viewpoints that were considered from the industry, and I think ultimately, they arrived at something where nobody got every single thing they wanted, but most of the different sectors of the industry probably got some or most of the things they were hoping to see in there. I think that's usually indicative of a pretty good product. I just wanted to commend both the Board and the staff. I think it was well done and I think ultimately, they've arrived in a good place.

Tim Frost - Thank you for your comments, Jason.

Daryl Nelson - (Handed pages 242 - 243 to Mr. Frost.) Going through the rule packets here, this is looking at page 242 to 243 that I handed to Tim. It is the proposed change here for the journeyman. I read through that. At some point, when we changed the wording here, it looks like we put the journeyman down to 6,000 hours of experience to obtain that. Not 100% sure where that went in there. I caught that the other day, so my proposed change is to put that back up to 8,000, but you can still sit for the examination at six thousand. That's currently where everything is right now. That's 100.01(a) for those changes there. I don't think that was quite the intent to put the journeyman down from 8,000 to 6,000 hours to obtain that license.

Tim Frost - Daryl, so, I'm just going to read, for the record, to make sure everyone's following as we're talking about page 242 and it goes into 243, it's Rule 100, Subsection one. It reads, "An applicant must pass an examination designated by the Board and either (a) submit evidence of a minimum of six thousand (6,000) hours of work experience as an apprentice making electrical installations in accordance with the requirements of the jurisdiction in which the applicant obtained the experience and satisfactory completion of a four-year sequence of instruction approved by the Idaho Division of Career-Technical Education, or (b) submit proof of sixteen thousand (16,000) hours of electrical experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience." Your comment here is make sure we clarify, the text needs to be clarified in 100 subsection 01, the requirement for a journeyman electrician who is in an educational pathway to obtain the four years, 8,000 hours.

Daryl Nelson - Eight thousand hours to obtain the license. I think that was kind of consolidated there because we had the 6,000 under the examination part, able to take that exam.

Tim Frost - Thank you. I think that is a very relevant comment we can review and make sure we handle, and for the record, all comments are relevant. This is a public hearing.

Rick Stark, Board Member - Good afternoon, Mr. Hyde, Mr. Frost, I guess to clarify, I did actually send a written comment for the items I wanted to bring up today, but I'm happy to repeat them if necessary.

Tim Frost - Yeah, feel free.

Rick Stark - Okay, so it was my understanding at the last Board meeting the motion that passed did intend to include what was formerly paragraph three under *Permits and Inspections, 500 Permits and Inspections*, which I believe would now fit under 200 *Practice Standards*. That's where most of that stuff landed.

Tim Frost - For everybody following in the clean copy, this is on page 244 in subsection four, *Temporary Installations Connected Prior to Inspection*, and the red line copy, where it previously was housed, it had a paragraph related to temporary installations connected prior to inspection, and it also had a power provider rule paragraph just above it. Go ahead, Mr. Stark.

Rick Stark - I'd like to see that former paragraph three, *Power Supply Company*, added back in as written.

Tim Frost - Mr. Stark, just for clarity, what we were asked to do on this is take the provisions and combine them. It may not be possible to combine them because we're talking both temporary installations and not temporary installations if I understood you correctly.

Rick Stark - That's correct, yes.

Tim Frost - If you remove the title of subsection four of "Temporary", what is then missing, just from your perspective, and it may be something we work back and forth with online, but for clarity, and for the record, there's no intent to not provide both the same provisions of the temporary power providers.

Rick Stark - Yeah, I didn't interpret it that way. It looked like it was an effort to try and combine the two that kind of missed the mark.

Tim Frost - Understood.

Rick Stark - Well, from our perspective, the power provider's perspective, what we're really looking at here is service restorations in an emergency condition. We don't want to leave an existing customer without power for an extended period of time, especially if there's widespread problems like a storm or a fire. That puts a burden on the electrical inspectors to get around to do this work, and we don't want somebody being without heat, or domestic water, or unable to water their crops or something like that just because there's a time constraint and a workload issue. My conversations with Warren, as he's collectively worked not with just my power company, but all the power providers in the state, to try and get everybody on the same page with this for clarity. It's important for us and our customers as it is for other power companies and their customers to get them back on as soon as practically possible. Certainly, we would not hook up something we felt was unsafe, but that's really sort of the intent behind that first paragraph, as I've always understood it, and then the temporary services, that's more about temporary power for construction. The last two paragraphs, or sentences that were added to that paragraph, they could remain, but there's not, in my opinion, an emergency for a temporary construction power supply, necessarily. One person's definition of an emergency and another's is different, but from my perspective, I don't think that has to be included there. I would be happy to take a look at those paragraphs and submit an attempt at a combined paragraph that covered both if you would like that. I can do that. The bigger thing for us is just making sure we can get

people back up in the event of a storm outage in particular. That our guys are very aware of the need for that to be done by licensed electrician as opposed to a homeowner. That was again, something Warren has worked very hard on to try and make sure everybody is on the same page.

Tim Frost - We're happy to work with you on that; however, we need to get to the resolution. If we need to separate it back into two, we're willing to do so. Again, I think the goal and intent is same on both sides of this. We want to make sure our power providers have the flexibility to take care of people, these outages, and temporary situations. If it's amenable to you, I think what we should probably do is work outside of this meeting on some language, back and forth on either combining it or separating them out, however we get there, and we'll come with a one pager. We'll put it in the public packet for the October meeting so everybody can see it, and what we're kind of considering, and then it can be moved around if need be.

Rick Stark - Okay.

Tim Frost - At least on that side of things, people have a full acknowledgement and awareness, but we're also narrowly tailoring the language so we're not wordsmithing in the meeting in October.

Rick Stark - Right, right.

Tim Frost - Does that work from your perspective?

Rick Stark - That's fine. One of the big things here, and it's a side topic that I have had conversations with electricians that would like to see something like this in general, not just for emergency restoration, they're willing to take on that liability piece themselves for just normal service hookups. I've encouraged them to come to Board meetings and present their case, and so far, no one's taken me up on it, but, yes, it is important we keep that language in there. That the electrician does, in fact, bear that responsibility and is responsible for getting the permit and inspection coordinated on the next business day.

Tim Frost - Chairman, I think what my recommendation is, is Mike, Yvonne and myself will work back and forth with you on what that language is. We will make that all a public record in the packet so people can see the iterations of what we were looking at and then we'll provide an opportunity to comment on that particular piece at the October meeting for full transparency.

Rick Stark - Okay, I'm fine with that. The other comment I had, and I am glad Jim's here because it was part of this motion, I was kind of focused on the ratio fines and Jim, I don't know if you're planning on speaking to that. I don't want to steal your thunder, but I just noticed it wasn't there, so I didn't know where it was.

Tim Frost - Chairman, I can address that, and both you and Mr. Marchetti are welcome to provide comment. If you go to, and this is for the public, page 247, this is rule 300 *Civil Penalties* and I'd point to Subsection five. So, supervision, working as an apprentice or limited electrical installer trainee without the required journeyman, master, or installer supervision or employing an apprentice or trainee without providing required supervision. The rule related to ratio, as the Board adopted it, adopted it as a supervision ratio. Subsection five would provide us the full oversight of also pursuing a civil penalty on a ratio violation. Previously, it was like Subsection four and five together or five and six. I can't remember exactly how it is, but Subsection five would cover the entirety of the exact thing the Board was looking to provide. From an enforcement standpoint, I'm very comfortable telling the Board and advising from a civil penalty standpoint. From a rule perspective, it is covered for ratio and that would be the enforcement for everyone who's following the enforcement of the supervision requirements on page 244, Subsection 3(b), actually (c)(i), another scenario of not an intentional differentiation of where the Board's vote was just clarity.

Rick Stark - I was expecting to see the actual fee dollar amounts there. That's what I was thinking we were going to do but might that reside elsewhere. Is there any penalties, fees listed elsewhere in this document? I believe it was like \$200 for the first offense and \$1,000 maximum for the second.

Michael Hyde - That process we developed in house, internally, for our first offense not exceeding a certain dollar amount, and then after, if they were a multiple offender of the same act, that fine would increase to then a thousand.

Tim Frost - Chairman, I don't know if the Board got into this specificity in their vote, but I think what you're describing is the former rule detailed, unless otherwise specified in this section. The acts described in this section. "...shall be subject to the violator of a civil penalty of not more than two hundred dollars (\$200) for the first offense and not more than one thousand dollars (\$1,000) for each offense thereafter."

and this civil penalty language, rather than specifying the first offense, it just goes straight to not more than one thousand dollars. It still would give the Board the flexibility to do the \$200 for first offense. Is the comment here of just adjusting that language back to the two hundred dollars?

Rick Stark - No, no, not necessarily. I just expected to see the same language and I didn't catch it. I just wanted to make sure it was captured, but if it's the Division policy to handle it that way, I personally am okay with it. I would love to have Casey Wilson, I see he is on as well, either Jim or Casey chime in if they have different opinions. I yield the floor. Thank you.

Daryl Nelson - All right, I'm going to go again. This would be found on page 243 of the clean packet. This is in relation to continuing education. I had a couple minor wording changes in .05 section (a) and (b), striking out the part that says, "license cycle" and just putting in "the past three years", and it'd be adding "during the past year for requirements" to that, that go with those continuing education requirements. The change under (a), technically with what I read it to be, if you didn't do those CEUs during your license time, the only way you could actually re-get your license, if it expired, would be by taking the test. I don't think that was the intent because I think DOPL is currently just looking to make sure you've had that completed in the last three years, technically under a license cycle, before your license expired.

Tim Frost - Mr. Nelson, maybe we can address both of these separately, and just walk through these to make sure I understand it. In the first proposed thing, we're talking about for journeyman and masters, that they are required to do 24 hours of CE during the prior three-year license cycle, between the last time they renewed and the time they're coming for renewal. It's essentially creating a framework of you having to do 24 hours during that time period.

Daryl Nelson - Correct. Now if your license expires, and you get the CEUs, you can still revive your license in the next year, but there's just no way to backdate those CEU requirements. I'm thinking by moving it just to the past three years, it covers that to help go in for the revival of the license.

Tim Frost - Okay, I think I'm tracking what your comment is. I don't think renewal is connected to CE in that way, but I think it is a fair point because what you're trying to say is to not prevent a situation of somebody who didn't complete their CE, to then not being able to renew as a result of that.

Daryl Nelson - Correct.

Tim Frost - Okay, I will note for the public when it comes to CE. The legislature did pass a bill this year related to expungement of CE. It doesn't change the framework on how Boards can address civil penalties or penalties related to CE, but it does specify if a Board were to take formal discipline upon a licensee because of continuing education. That is a mandatory expungement of discipline after a three-year time period. That was a bill that passed in this last legislative session. I think the point is, the legislature's trying to thread the needle. If you have to provide a civil penalty or a late fee to allow them to get their CE done, feel free to do so as a Board, but don't revoke or take a formal action on somebody's professional license solely due to continuing education. It's kind of one of those informal versus formal disciplines. That was when both failure to timely renew the license or failure to complete continuing education were mandatory expungement scenarios after a three-year time period. I do believe your point is well taken on Subsection (a). Any questions on Subsection (a)?

Michael Hyde - If we took out the words "three-year" and just left "license cycle", would that help?

Daryl Nelson - No because the license cycle, if you say you are out of the trade and six months later you want to renew your license and you've never done that in the previous three and a half years, it's not in that license cycle that you're actually active. I'm thinking keeping just the previous three years would help. You can still renew your license without any problems, without the exception of this is technically enforced, you didn't get those CEUs during that time you held that active license. The only recourse would be to actually take the journeymen's exam again to get a license.

Tim Frost - Okay.

Daryl Nelson - Thank you.

Tim Frost - Daryl, can I have a quick follow up just to make sure everybody's following your comment because they don't have everything in front of them. Can you detail what your comment was related to that?

Daryl Nelson - What it currently says is if you're able to take the test, you meet the qualifications for that, and you haven't gotten your journeyman license in those two years, you have to have those 24 hours to renew an apprentice license again. I just wanted to put the caveat of the timeframe in there to say that it had to have been done in that last year before that two-year mark is up.

Tim Frost - Thank you for commenting Mr. Nelson. In Subsection (b), for everyone following, this is page 243, Subsection 5, *Continuing Education* (b). The requested comment is at the end of industry or related training, at the end of the paragraph, to add the four words "during the past year". That's what the request is. One thing, Daryl, that I guess I'm trying to think through is the apprenticeship registration is already on a year-to-year basis. Where are we missing the fact? It has to be done during the past year anyway, since it's on a year-to-year basis.

Daryl Nelson - It's done on a year-to-year basis but this specifies only those that are qualified to take the test and have not been required to do continuation training because it's actually continuation training on this one right?

Yvonne Dunbar - Continued education.

Tim Frost - This one's continuing education and that's due to the flexibility in statute related to continuing education, not specifying who that applies to. Our guidance to the Board was continuation training is clearly called out of what that is for individuals in an educational pathway, the five-year pathway, and the statute specifies essentially the five plus two, then they have to do continuation training. The Board's goal was to have some level of recourse of continuing education for lifetime apprentices, not in the educational pathway. While the statute and statement of purpose of the 1999 bill was not related to apprentices, we do think we have a legally defensible statute to allow the Board to move forward on adopting continuing education for lifetime apprentices. That's what the goal is here. This Subsection (b) would apply to both scenarios. An apprentice in an educational pathway who hasn't passed or taken their exam within two years would now have to do 24 hours of continuing education every year until they pass. In a lifetime apprentice that is in a non-educational pathway, so, eight years' time, plus the two years of not taking their exam after that would then have to do 24 hours. It's applying the same principle to both pathways. We did consolidate the terminology under continuing education just because I think everybody was sick of continuing education versus continuation training.

Daryl Nelson - I'm just hoping for the time frame to say it had to have been done in this time frame to renew once you hit that level.

Tim Frost - That would be my interpretation of what this rule would say. Since apprenticeship registration is already on a yearly basis then it would be during that time but I think it is a notable comment.

Daryl Nelson - All right, thank you.

Yvonne Dunbar - I do want to add one thing with regard to your comments related to the continuing education for journeyman and masters. I just wanted to let you know that I think that's already captured in 67-2614, Subsection 7, which says if somebody doesn't renew timely before the expiration date and the license therefore is canceled, within five years of that expiration date. In order to reinstate they have to fulfill whatever was required to have timely renewed, which means they have to complete the continuing education.

Daryl Nelson - Okay, does that predate the other part where you can revive only within the year? When you said five years?

Yvonne Dunbar - Right. So the statute says you can revive essentially within the five. This statute talks about five years. It would apply within that one-year time frame. I'll have to look at the specific practice act for the one year you're referring to but either way it still applies.

Daryl Nelson - Okay.

Tim Frost - For the record, Mr. Nelson you point out a good point. The nuance we're working through here is your revival date of one year under the Electrical Practice Act and the newer statute in the creation of the Division of Occupational and Professional Licensing under Title 67 Chapter 26, and that section applying to every single Board. I believe in that instance; we would probably have to advise the Board to give deference to that five-year period. I think it'd be difficult for us to say only the one year even with the electrical being as specific as it is, it's noteworthy for us to take a look at. I appreciate the comment. Thank

you, and Mr. Nelson, if you will, we would appreciate if you can send an electronic version of this. That would be helpful. Then that can also be included in the packet for the Board to see as well.

Daryl Nelson - Absolutely, thank you.

Tim Frost - Thank you, sir. Any members, licensees, stakeholders, or Board members on the call have any specific comments they would like to hear? I know many of our Board members are just here to listen, but certainly, if you have any specific comments as a licensee, we'd love to hear that. As everybody's thinking about what their comments may or may not be, I know the Board went through quite a bit of time reviewing these rule chapters, reviewing the edits, listening to stakeholders comments and phone calls. So I would encourage any stakeholders, if you have levels of support of the specific edits within, you submit comments on those to give the Board some affirmation of agreement with specific areas. I think that's always helpful to know. That could be specific sections of the chapter you agree with. Certainly, we will take any comments on amendments or disagreement as well, but I do know the Board has gone through a significant process and seeing feedback at this proposed stage is very helpful. Other comments for this hearing?

Mark Zaleski - I hope this is the place for this. It's more of a question on process and it's a follow up to Chairman Stark's fee question. When we attend a Board meeting, in the packet is a notice of violations with all the fines in them that were handed out during that quarter. The old language spoke to first offenses not exceeding \$200 for, I guess everything, any violation, so when I see those violations and some vary, \$200, \$400, whatever they might be, are those set? Has the Board put that number out? Is there a list that says each violation has a corresponding fee to it, and where I'm going is, maybe some of that language might need to be in there, that \$100 to a thousand. I'm not sure on that, but I guess, I don't know how we get to those fees. Again, if this isn't the place, and that's a follow up.

Tim Frost - Mr. Zaleski, I will take any comments or questions or anything in this process. I think it's all open and that's the benefit of going through the entire rule chapter. A couple pieces, and Mr. Hyde might be able to speak to kind of how we handle things, one would be the notice of violation process and the cite and fine ticket process under the law of the Electrical Board falls under the Division Administrator, under Electrical statutes. Our inspectors go out, they provide that notice of violation. If there's a civil penalty connected to that, that's been issued. Oftentimes, what then is seen before the Board is somebody contesting or disagreeing with that civil penalty that's been issued and that's when you'll see it in the packet in front of the Board. It's a secondary action. They're trying to appeal that violation that was cited by an inspector. As it relates to the civil penalty section on removing that language for first offense, it's my understanding that's been in the red line thus far, to keep that struck, and so that was an agreed upon decision of the Board. The Board, I don't think has had a thorough discussion on that. It's a fair point that maybe they want to address in October. The piece I would say is if you do limit it to \$200 for the first offense that does mean scenarios that are egregious on the first offense are limited to two hundred dollars.

Mark Zaleski - I'm not suggesting that at this point, I'm just trying to get my thoughts in a row as to what's right or what's wrong. I understand if I were to appeal a violation, it would be in the packet, but every violation is in the packet with each charge to it or each fee to it, not just appeals.

Tim Frost - It has been in the past. I think this may be a process, Mr. Zaleski, potentially of just how our Electrical program has run the fee process and notice of violation and what they put in the packet and what they haven't put in the packet. The Board is not obligated to put that in the packet for the public. I know some Boards have done that as an education tool. We're cautious as a Division of not being punitive towards somebody that gets disciplined, even if it's the first offense, not necessarily pointing that out to the public that they were disciplined or made a mistake. Boards have kind of gone back and forth on how they approach that. I don't know what our recent packets have included or not included on that. I will say any discipline like that is a public record, so discipline on an individual's license is a public record, and it's not protected under the public records act, and so is available upon request. Often times, if you go to our website and look under public records request, there's a couple of different things that pop up like, are you looking for a license, and are you looking for discipline related to a license. You can do the search functionalities and most of these former agencies have done a really good job of connecting discipline, formal civil penalties, and orders to the licensee where you can see that. I don't know what the former Division of Building Safety process was of the historical record keeping. I will say, with the

implementation of our new licensing system, the individual license name and all of that will pop up. It will show their license number and whether they're active, inactive, but it'll also have essentially their available record and if there's discipline on them. That could be nothing, clean, and it could be a list of several different things if they have significant numbers of notice of violations. As our technology transitions over the next two years, that will be much, much more transparent, and more easily available on an individual licensee standpoint. I can't speak towards how previously DBS, whether or not they connected those notice of violations in the Trak-It system or not. Do you have a follow up question to that?

Mark Zaleski - I don't I think so. I think I'm good, but if I may, just a quick second topic. I would echo what Jason Hudson opened the meeting with today. While I can't say I've enjoyed this whole process all the way along, it's been done professionally. I've gotten a response to everything I needed by the staff, and the Board worked well together to arrive where they did, and I just appreciate that of the Board. Thank you.

Tim Frost - Thank you for coming this morning, and for clarity. I think agency staff, this Board and others included would say the process is tenuous and going through it certainly has its toll. We appreciate the pragmatism and your comments as well. Other comments in the public hearing? Mr. Nelson?

Daryl Nelson - I'm not done yet.

Tim Frost - I have not put a limit on how much time you have to provide comments. You're welcome to provide every comment you have if you'd like.

Daryl Nelson - Having ideas in here for proposed change would be there again on page 243 of the packet. Proposed change is adding a couple more sections under the 100.04 section under (a), (b) and (c). Designating supervising electrician for electrical contractor gets to be specified as a master electrician (b), kind of goes down into supervising electrician for limited electrical contractors, can be a master journeyman or limited installer, and then (c) is any current active licensed electrical contractors or limited electrical contractors shall be permitted to retain their license until the time when a new supervising electrician is designated.

Tim Frost - So, Mr. Nelson, just so I have clarity, I understand your proposed Subsection (a), and proposed Subsection (b) because those are the comments you provided two days ago at the other hearing. Can you explain Subsection (c) on the current active license piece?

Daryl Nelson - Yes, so, (c), the previous parts of the red line was as of July 1, 2008, it allowed the previous existing licenses to retain their electrical contractors moving forward. Subsection (c) is an attempt to keep that still going there for any past practices, how anybody's gotten licensed. They can't come up here and say, sorry, you need to have a master now to qualify for the same license you've been doing business for years.

Tim Frost - I appreciate the comment, Mr. Nelson. I guess one follow up is, where in statute is it connecting? Is it connecting the ability to hold an electrical contractor license with having a supervising electrician? We have two things at play, right? One is holding the license, the other is who you have to employ to use the license. So if an employed contractor all of a sudden had a supervising journeyman or supervising master leave, they're not permitted to do the work under that contracting work, but what is now preventing them from keeping their license? How is that part impacting their license because those are individuals they employed are not necessarily connected to that license.

Daryl Nelson - Yeah, I did miss that part too because in previous rules it says they can maintain their contractor for 90 days and keep business and get another supervising electrician.

Tim Frost - Yes, and I appreciate this. I think the question I have for you is one of the things that, as we've gone through all the contractors requirements and connected back to statute, I think in the past, it was almost like this cancellation process of the contractor's license and I haven't found that cancellation process in statute. One thing that we're cautious of, as the Division, and as we guide the Board, is when we issue a license or a registration, that is now a property right to that individual. We have to have statutory grounds to put a probation, a limitation, a revocation, a civil penalty on that license. I think in the comment you are providing, as you think through this and submit anything else or thoughts on how to approach what you're trying to accomplish is how would a supervising electrician leaving impact that electrical contractors license? It would certainly, I would agree, that it would impact their ability to actually perform contracting

work because they are required to employ either a journeyman or master electrician according to the statute as it reads.

Daryl Nelson - That's statute of 54-1010.

Tim Frost - That's correct.

Daryl Nelson - I don't quite see it the way you presented your argument on that one or your comments on that.

Tim Frost - I understand that. I'm not arguing that. I appreciate that you've provided additional clarity to how you interpret 54-1010 in Subsection (a) and (b). I think the piece that I'm trying to understand for Subsection (c).

Daryl Nelson - What happens when that supervisor leaves?

Tim Frost - That's correct. What are we pointing to that automatically would now limit or take away that contractor's license in statute. If you find something, I'd be happy to work through that with you.

Daryl Nelson - Yeah, okay. Any other questions before I get up? The last one was pretty good too.

Tim Frost - No, we appreciate the comments. If you have more, feel free to immediately come back as Mr. Nelson's working through, any raised hands or public comments online?

Linda Pratzner - Not at this time.

Daryl Nelson - This would be page 244; this is under the supervision part of 200.03(a). I think this could be simplified a little bit in here by deleting the master electrician. This goes back to my last proposal of stipulating who can be a supervising electrician for any contractor or anything else. It has to go with the other one to have some clarity on this. We don't need to stipulate a master journeyman or whatever, just go back to the designated supervising electrician must be available during the work hours. Kind of simplified the (i) part in here that says the individual that's had their license revoked in the past year shall not be qualified to be a supervising electrician. I just don't see a point on number two being in there.

Tim Frost - For clarity of everybody following, we're talking page 244, Subsection 3 - *Supervision* (a)(i)(ii). The request is to remove the leading language of master journeyman or limited electrical installer and just specify the designated supervising electrician. Similarly, make those edits in (i) and (ii). I think I understand the comment Mr. Nelson. I'm not sure about statute, whether or not supervising electrician is defined. I think the goal here has been kind of like a three-year process with these rules to take the supervising master, which was a previous rule, a supervising journeyman, which was a previous rule, and the supervising limited electrical installer, which was a different rule, and bringing consistency together. I think that's why we have all three in one area, but what you bring up is the question of, do you need to even then specify? Can you just call out supervising electrician?

Daryl Nelson - Correct, but that kind of has to get defined in that previous part I brought up to say, who is that supervising electrician.

Tim Frost - Understood. It's kind of a joint proposal of the entire supervision rule. Can I understand (ii)? For those following, the suggestion is to strike (ii), "An individual contractor may act as his own supervising master journeyman or limited electrical installer upon the condition that he holds an active master, journeyman, or limited electrical installer license."

Daryl Nelson - Correct. The forward part on (a) says, it's referencing 54-1010, that says you can act as your own master or electrician.

Tim Frost - You're saying duplicative of statute?

Daryl Nelson - Technically, but it goes down to my definition and how I read that. If you're a CEO of a hospital, you can't technically go and do surgery, right? You have to be licensed to do that surgery, just because you're not the owner that statute says if you're the owner of a company, you can still do the work as a master or a journeyman. It doesn't technically say that's what qualifies you for a contractor's license.

Tim Frost - I think your point is well taken. To reiterate in a different way, if the statute allows the contractor to be a master, a journeyman, or a limited electrical installer, the statute also allows those same individuals to supervise. Do we need a rule saying you may be the supervisor if you hold an active license? You are already permitted under that license to be a supervisor?

Daryl Nelson - Correct.

Tim Frost - Mr. Nelson, just for clarity on that one. Is that particular Subsection, (ii), is that connected to your package edit or do you view that as a separate one, completely unnecessary?

Daryl Nelson - I do see that as a package edit. Kind of with that, but kind of wanted to get some comments on that first one before I bring that second part up here to you.

Tim Frost - Understood, thank you, sir.

Daryl Nelson - You ready for another one?

Tim Frost - We are here for a public hearing, and this is your opportunity as a stakeholder, Mr. Nelson, to give feedback to the Board.

Daryl Nelson - I have a proposed addition to 200.5 (i). It's not actually in the packet. I should find that, but I didn't. This is language for limited residential electrician installer license. It's under my assumption this can be done through Board approval or negotiated rulemaking. Simple language added in there, but we do have the states of Alaska, Montana, Oregon, Utah, and Washington, which all have those criteria that they have that license. Going back to 67-9409, which is the universal licensing, that's where I see that it's very beneficial to still move in a direction to try to get this added into language for a license type.

Tim Frost - I'm going to read this for the record so everybody else listening can at least hear this out, notwithstanding any conversation around our statutory requirements for limited electrical installations. The proposed edition is to create a new limited license for a limited residential electrician, and it states, "A residential electrician is only authorized to install, maintain, repair the following, excluding the work that is covered by chapter 567 of the National Electrical Code Subsection (a), new and existing one- and two-family dwelling units with a service not exceeding 400 amps and 240,120 Volt single phase. Subsection (b), new and existing one- or two-family dwelling unit associated buildings and (c), temporary construction power." I have clarity in the recommendation here. I do have two follow up questions. The first is, why draw the line for residential electrician at one- or two-family dwelling units or associated buildings, from your perspective?

Daryl Nelson - Going back to other meetings I've had, it's to limit it to some type of installation. Limiting the word here to a one- or two-family, it still allows for similar license from other states to come in here, obtain a job and work without restrictions placed on them that they would have had in those other states.

Tim Frost - One follow up, Mr. Nelson. In those other states, did they also limit it to a one- and two-family dwelling unit, or maybe I'll word the question another way. Is there another option the industry or Board can consider to kind of bridge that gap between an undefined commercial and industrial space and one- and two-family buildings, and how do we handle that in between?

Daryl Nelson - To look at the perspective analysis with all of the states that we're dealing with, I did go down to what I researched. It may not be 100% there, but some states only do allow that one and two, some states do allow multifamily dwelling units too. My effort is at least trying to get something in here. If the Board wants to help get that expanded a little bit more, I think it just needs to be something that gets proposed to try, to get a license for that.

Tim Frost - I do have a follow up question. If the industry, the Board, or any other individuals of the legislature were to consider adding in a residential journeyman, a limited electrical license for residential work, however, we want to use that terminology, would you support that approach? The addition of that license?

Daryl Nelson - I would to the extent that I do have a perspective analysis made for it too. If you'd like to see that.

Tim Frost - I'd be happy to include that in the Board packet. I just wanted, at least for the record, that if the legislature were to pursue that, that we at least have one industry member that's in support of it. Thank you.

Daryl Nelson - That is it all that I have.

Michael Hyde - Mr. Nelson, in relation to the proposal, just for clarification, it's one- and two-family dwellings not multifamily, three stories or less?

Daryl Nelson - Not multifamily, no. It did simplify that because looking at some of the other states the license does only allow one and two. So for the sake of getting it in there, it makes it so we're at least the same as another state and not more restrictive, but it still gets in there.

Michael Hyde - Did you find in your research any states that allowed for multifamily structures under a certain height?

Daryl Nelson - Yes, Oregon was one of them that did have that. I did kind of go down to the lowest common denominator to create something in there to get it presented for this negotiated rulemaking.

Michael Hyde - For clarification, single family, duplexes, townhomes, that's it.

Daryl Nelson - Yep.

Michael Hyde - Okay, thank you.

Tim Frost - And temporary construction power?

Daryl Nelson - And temporary construction power.

Michael Hyde - For any type of construction, not just single.?

Daryl Nelson - Thank you for that. I should probably clarify that for one- and two-family dwellings too. So that's why I like comments.

Tim Frost - And again, Mr. Nelson, I'd encourage you to submit this information electronically.

Daryl Nelson - Yes, I will.

Tim Frost - We'd appreciate that and that will also allow you, if you want, to make any. We appreciate the thoroughness of your comments and following the chapter, it's helpful. Any additional comments for this public hearing?

Miles Whittington - Good afternoon, my name is Miles Whittington. I currently hold a journeyman electrical license and I'm the training director of the Southwest Idaho Electrical Training Center, right across the street. I wanted to take a couple of minutes, part of this is going to be more of a suggestion for the Board, but also stating my support for some of the Board's decision here. I appreciate your patience with this. Through the negotiated process, I've not been shy about my position on quality education for those living in trade. The technicalities and dangers are often misunderstood or overlooked, especially if people aren't actively involved in the education or practice of our craft. I've impressed upon the Board the need for quality instruction and supervision for the safety and longevity of the working crews, basically, the future of our industry. In regard to instruction or education or continuation training, however you want to word it, I feel formal education is one of the foundational needs for success in our industry. By eliminating the need for the instructional element for those in the developmental phase of their career, it will hinder their safety and understanding of quality work. I applaud and respect the Board's decision last meeting to maintain ratios in the electrical rule. This demonstrated an industry-wide understanding for the need of proper supervision. There's no guarantee for the apprentices, not in an active instructional environment, to gain the knowledge of things like code, electrical safe work practices, or to learn the specifics of industry related applications. These have been requirements in the past, and I'm concerned to see that there's a proposal to strip away any kind of education related to apprentice registration. While there is no official guaranteed metric to measure the education of an apprentice on a job site, there is an industry knowledge that more often than not, the cheap labor apprentices provide often place them in repetitive tasks to ease the burden of the work performed by those who are supposed to teach them. I'm talking about the apprentices who've been running a whole hog for six months on a residential crew, the apprentices who were installing lighting whips for weeks, on and off in a large warehouse building, or the material handler who holds a license but is sent to stock shelves and clean Conexes because it needs to be done. There's no guarantee the work they're performing allows for the education they should be receiving as previously required. This ZBR process, as frustrating as it has been for a lot of us, was initiated by the Governor, but I want the Board members to remember they, as Board members, were also appointed by the Governor, authorized, and directed to prescribe and amend rules consistent with Title 54 Chapter 10 of our statutes. Idaho Code 54-1006.5 discusses the authority to maintain consistency in the administration of this chapter and effectuate the purpose thereof. That purpose I've heard, in and out of meetings, is that of public safety. To me, it's simple. We have established the importance of apprentice safety and education in this trade with ratios. To effectuate, I had to look that word up, to effectuate meaning to put into force or operation, the purpose of chapter 10 pertaining to our apprentices. I ask the Board to consider some type of educational requirement for apprentice registration. We need to level the playing field for all apprentices who may not be receiving their specific education needed to be safe on the job site. I understand we've batted back and

forth continuation training, continuing education, things like that. I would be open to entertain some sort of process where somebody, the most developmental part of somebody, learning any job is going to be that beginning portion of learning the job. If the Board, and I'd be open to hear from the staff or other stakeholders, I'm happy to work with them if there's a way to get some type of education upon registration. Not necessarily needed to renew it, but to say, upon registration X number of hours, whatever type of safety training we can get them out in the field, because somebody that started, in my case I was working in a totally different field prior to becoming an electrician. Getting onto that job site, I was immediately hit with pull this wire, stock these shelves, but there was no actual type of safety training on the job site involved. So, I'm at least opening the conversation up to see what kind of creative problem solving we can do to say, let's get them something to where any apprentice, no matter what type of job they're working, at least has the basic foundation of safety or code or anything like that no matter which pathway, whether it be apprenticeship with formal education in the classroom, or that 16,000-hour route. If we're really in the interest of public safety and the Board is interested in maintaining consistency, we need to make sure that they at least have some kind of training to maintain that safety for them. Thank you.

Tim Frost - Miles, I appreciate the comment. I have a follow up question.

Miles Whittington - Absolutely.

Tim Frost - For clarity, the request here is for the Board to consider if the statute allows, and I don't know if I have an immediate interpretation on the fly, but to consider as a requirement of registration as an apprentice, some form of baseline education. So that could be code training, that could be NFBA-70E. I'm sure I'm saying that wrong,

Miles Whittington - No, that's actually correct.

Tim Frost - Something as a baseline framework and that's a key part of the comment. Is that correct?

Miles Whittington - Yes.

Tim Frost - One follow up. Is this in addition to the continuing education requirements for lifetime apprentices or is this in lieu of?

Miles Whittington - I think this is more targeted on the front end for people who are getting into the trade when they're, I hate to use the word, vulnerable. When they're the most prone to accidents or mishaps. Like I said, there's no metric for that. I mean, we have OSHA reporting, but I've been on jobs several times where we've had a near miss, and it was never reported, and it usually happens with newer individuals who aren't familiar with electrical processes and the dangers they pose. My concern more is those who are just starting out. Now, if they go through and do all of that, and they get to that point where they hit that lifetime apprentice mark, I think that education should still be in place for them. I'm just more interested in keeping people safe while they're learning the trade at the beginning.

Tim Frost - Any questions? Thank you for comments, Miles. I do appreciate you showing up at all the listening sessions, the negotiated hearings, as well as this public hearing. Any additional comments? Is anybody online with a comment?

Linda Pratzner - No, there isn't.

Tim Frost - Any additional comments in the room for this public hearing? I'm going to do a last call online for any public comments for this public hearing for the negotiated rulemaking of the Idaho Electrical Board and last call in-person here in the Trinity room at the Chinden campus. I will note Board members, stakeholder's, licensees, anybody that you engage with, there is an opportunity to submit written comments, through email. You can email them to myself, Tim.Frost@dopl.idaho.gov, or you may email them to Michael.Hyde@dopl.idaho.gov. Those email requirements, our due date is October 5th. Again, as stated earlier, the summary of both of the public hearings for this rule chapter will be summarized and provided to the Board. Any submitted comments, and materials on behalf of this hearing or comments that we get from that September 7 timeframe all the way to October 5th, will all be packaged. It will be available in the public packet. The Board will be able to consider those comments at the upcoming meeting. Any questions?

Jason Hudson - Super, super nerdy, picky question and hopefully, it doesn't come to this, but is that October 5th at 5:00 PM at close of business or October 5th at midnight?

Tim Frost - I do not believe we have a Board meeting scheduled on that exact day, so I have no issues accepting any comment all the way up until midnight, but I appreciate the comment Mr. Hudson. I also think the Board has been very open and very amenable to comments, whether they are during negotiated or outside negotiated, or during the Board meetings. So I will do my best, if a comment comes in late or an individual follows the process late, hasn't been engaging and all of a sudden, they want to provide comments to the Board, as long as we have them within a reasonable time period to get into the Board packet for the Board to review, we will not withhold those comments if they come outside of that October time frame. We've tried to be open on that as well, during the pre-negotiated process of getting every comment in front of the Board that we can, including printing some the morning of. Any other questions? With that I appreciate all of you coming. I say this every time with the Electrical Board, our Electrical stakeholders are always showing up, they always provide comments, opinions, feedback, and we're appreciative of that. That helps us in the process, and it helps our Board work through complex problems in a complex rulemaking process, so thank you for that. With that, this public hearing is adjourned.

The hearing adjourned at 3:12 p.m. (MT).

10/25/22reb