
LEGAL UPDATE

Legal Services Division



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ADMINISTRATIVE RULES REVIEW COMMITTEE MEETING — FEBRUARY 26, 2021 (MARCH MEETING)

Purpose. *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

Public Safety Department, *Standards for Electrical Work - 2020 National Electrical Code (NEC)*, 11/18/20 IAB, ARC 5287C, FILED EMERGENCY

Background. This emergency rulemaking updates the Electrical Examining Board's adoption by reference of the National Electrical Code (NEC) from the 2017 edition to the 2020 edition. The rulemaking amends the adoption by reference to remove the requirement for ground fault circuit interrupters (GFCI) for 250-volt receptacles, and the amendment sunsets on January 1, 2022. Previous rulemaking on this subject was published on November 18, 2020. The department appeared before the ARRC on December 8, 2020, and the committee imposed a 70-day delay due to concerns with the amendment to remove the GFCI requirement. The department worked with the electrical board, members of the committee, and several stakeholders to address the concerns by establishing the sunset date for the amendment. The department sought authorization of the emergency rulemaking from the committee.

Commentary. Mr. Scott Webster, a member of Bettendorf's city council, explained that his area of the state gets competition from bordering states, and he expressed concern that the amendment and sunset provision had not been subject to public comment. Committee members responded that there had been multiple opportunities for public comment on the rulemaking. He asked what emergency prompted the emergency rulemaking as only a handful of states have adopted the 2020 NEC. He explained that he had previously served on the state building code board of review and if a code was amended, the board had to allow for either a 30- or 60-day public comment period. He also explained that he had attended meetings where NEC-type codes are developed and that the codes are driven by special interests. He provided an example of a smoke detector code that had been amended and that required two-phase smoke detectors even though two-phase smoke detectors were not available. He stated that breakers are already difficult to find in his area of the state and that very few manufacturers make arc fault circuit interrupters (AFCI). He also stated that the rulemaking will affect the affordability of homes in eastern Iowa, and the additional regulations increase overall expenses. He noted that he has a negative opinion of AFCIs as he had AFCIs in his house, and they failed to trip when he had a house fire. He expressed to the committee that he does not think current AFCI technology is safe.

Mr. Jay Iverson, executive officer of Homebuilders Association of Iowa (association), stated that the association had offered amendments that did not adversely affect health or safety; however, the department disregarded the amendments. He noted that the association does not object to the adoption of the NEC; however, the NEC is commonly adopted with amendments. He expressed concern that increased regulatory burdens increases the cost of building homes. He explained that he is the vice president of Homes for Iowa, the home building program at the Newton correctional facility, and that the

program builds homes for rural Iowa and tries to keep the cost at \$75,000. He stated that currently 30 percent of the cost of building a single-family home is due to regulatory burdens.

Mr. Dan Buuck, senior program manager with the National Association of Homebuilders, stated that he was a voting member of code-making panel 2 (CMP-2) which has responsibility over the NEC section where AFCIs are addressed. He also stated that he is speaking on his own behalf and not on behalf of CMP-2. He explained that he was a member of CMP-2 when AFCI requirements were added to kitchen and laundry areas; however, CMP-2 did not have clear substantiation of fires in those areas to justify that addition. He further explained that AFCIs should not have been expanded into those areas as moisture is present and that has resulted in greater use of dual-function AFCIs/GFCIs in those areas. He stated that this creates problems when newer energy-efficient appliances cause nuisance tripping of the dual-function breaker and a homeowner replaces the dual-function breaker with a standard breaker and removes the GFCI protection. He also stated that if a homeowner contacts a contractor to replace an AFCI/GFCI, the frustration and added cost sometimes leads the contractor to replace the dual-function breaker with a standard breaker. He explained that this is costly for the homeowner and misleads the homeowner into believing that their home is in compliance with the applicable NEC. He noted that newer homes do not require AFCIs, as the NEC has advanced greatly over the last few decades. He explained that the study that originally led to the inclusion of AFCIs in the NEC demonstrated that the majority of homes where fires occurred had been wired in compliance with either the 1965 edition or an earlier edition of the NEC, and that the advances in the NEC since that time have resulted in greater fire safety in newer homes. He further explained that the expansion of AFCI requirements has caused so much concern that 22 states have amended or made exceptions to the AFCI requirements. He stated that the amendments proposed by the association reflect that newer homes already address the issues meant to be addressed by requiring GFCIs in areas of homes where GFCIs have not traditionally been required.

Action. A motion to authorize the emergency rulemaking passed on a 9-0 roll call vote.

Next Meeting. The next committee meeting will be held in Room 103, Statehouse, on April 9, 2021, beginning at 9:00 a.m. Instructions for participation by videoconference can be found at the committee's internet site below.

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Internet Site: www.legis.iowa.gov/committees/committee?groupID=705

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