

ELECTRICAL COMMISSION  
MINUTES OF PUBLIC HEARING

The Electrical Commission convened at 10:10 a.m. on Tuesday, April 21, 2020 via teleconference.

The purpose of the meeting was to conduct a public hearing on the proposed rules of the Commission numbered: 20:44:14:01, 20:44:15:07, 20:44:16:23, 20:44:18:02, 20:44:18:06, 20:44:19:05, 20:44:19:06, 20:44:20:01 to 20:44:20:10, inclusive, 20:44:20:13, and 20:44:20:05, adopted under the authority of SDCL 36-16.

**Hearing Officer:** Sean Lyons, Yankton, South Dakota.

**Members of the Board in Attendance:** via teleconference call: Rick Cronin, Dave Eide, John Hoffman, Duane Mergen, Russ Vanderwerff, and Doug Fuerst. All members were present.

**Others in Attendance:** JJ Linn, Pierre; Graham Oey, Sioux Falls; Roxie Mobley, Pierre; Tony Jockheck, SDHBA; Tim McClintock, NEMA; Larry Kippes, City of Sioux Falls; Steve Arne, AE Tech; Don Iverson, Schneider Electric/Square D; David Smith, Eaton; Jay Mendel, SDHBA; Gary Honold, NFPA; Brad Mair, HBA of the Sioux Empire; and Todd Boots, SDHBA.

**Written Testimony**

Written testimony was received as follows:

Representative Herman Otten submitted a letter supporting SDHBA's recommended changes. The letter expressed the cost-safety balance and asked for adoption of new safety measures only when completely necessary. He expressed concern that the NEC committees could be swayed by the "right pitch." If none or very few deaths were linked to conditions addressed by these changes then adoption of the updates should be questioned. The meter disconnect proposal is only a convenience for firefighters and not a life-safety issue. Surge protection for the house is not a life-safety issues. (Included with Exhibit B.)

**Oral Testimony**

Proponent testimony was provided by JJ Linn, South Dakota Electrical Commission. JJ presenting the proposed rules with the following amendments:

1. Informed commission of likelihood that proposed rule 20:44:15:07 may not succeed. Recommended removing "any application or administrative fees" as the underlying statutes require collection of those fees.

Proponent testimony was provided by Tim McClintock, NEMA in favor of adopting the rules and explaining the diligent adoption process conducted by NFPA; Larry Kippes, City of Sioux Falls in favor of adoption of the code; Steve Arne, AE Tech in favor of adoption of the code and importance of conducting the adoption in a timely manner and without skipping cycles; Don Iverson, Schneider Electric/Square D in favor of the code; and David Smith, Eaton in favor of adoption of the code (See Exhibit A – material provided with verbal testimony).

Opponent testimony was provided by Jay Mendal, President of the South Dakota Home Builders Association to consider exemptions as noted in Exhibit B:

South Dakota Homebuilders Association ("SDHBA") submitted the following recommendations:

1. Change code section 210.8(A) remove "through 250 volt" and replace it with "single-phase, 15- and 20-ampere." SDHBA stated that the reason for the update was a single event that was caused for other reasons. The amendment is too broad and not supported by the [NEC]

committee substantiation. Additionally, 250-volt receptacles differ from 150-volt as 250-volt appliances are plugged in and left for the operation of the appliance, whereas 125-volt are accessible to consumers and often used for multiple electric appliances.

2. Change code section 210.8(A)(5) remove “Basements” and replace it with “Unfinished portions or areas of the basement not intended as habitable rooms.” SDHBA stated there was no substantiation supporting this. It is not justified where no water is expected. NEC committee reasoning only applied to older homes which would not be required to update.
3. Remove code section 210.8(F). SDHBA stated GFCIs are shown to be effective where a corded product is plugged into a standard “convenience” receptacle in a wet or damp location. However, this requirement is for condenser units, which are hardwired
4. Remove section 230.67. SDHBA stated the code-making panel did not provide adequate substantiation and the utilization of surge protection should be decided by the end user.
5. Remove section 230.85. SDHBA stated other means would satisfy this requirement and the requirement is not needed where other arrangements have been made by local responders.
6. Change code section 406.9(C) to remove the new verbiage within “a zone measured 900 mm (3 ft) horizontally and 2.5 m (8 ft) vertically from the top of the bathtub rim or shower stall threshold. The identified zone is all-encompassing and shall include the space”. SDHBA stated the new verbiage will cause non-uniform enforcement.

Opponent testimony was provided by Brad Mair, South Dakota Home Builders Association of the Sioux Empire to consider exemptions as noted in Exhibit B.

Rebuttal testimony was provided by Tim McClintock, NEMA:

1. GFCIs in basements resulted from an increasing trend of electrocutions in basements,
2. 250-volt GFCI – Informed the Commission Members of additional electrocutions stemming from 250-volt appliances,
3. Emergency disconnects – stated the adopted code resulted from requests of multiple emergency response associations in 2017 and was resubmitted in 2020. Also noted the National Homebuilders representative testified during the 2020 adoption process in favor of emergency disconnects,
4. Stated there is obvious risk in bathrooms and noted the exception for smaller bathrooms,
5. Noted a cost impact analysis conducted by Minnesota resulting in \$256.

Rebuttal testimony was provided by Don Iverson, Schneider Electric/Square D: His employer conducted multiple tests on outside AC units noting no incapability results.

Rebuttal testimony was provided by Larry Kippes, City of Sioux Falls noting the need for GFCI protection in basements whether they are finished or unfinished.

Rebuttal testimony was provided by David Smith, Eaton noting surge protection cost around \$70-\$80.

Rebuttal testimony was provided by Brad Mair, South Dakota Home Builders Association of the Sioux Empire noting safety measures should only be implemented after weighing life safety with affordability.

Rebuttal testimony was provided by Gary Honold, NFPA noting the code is a living document which he encourages participation at the national level.

Public input was closed.

Rick Cronin made a motion to approve the rules as presented with the amendments presented by Director Linn. Mergen seconded the motion. Commission conducted discussion and initiated question and answer session with testifiers. A roll call vote was held. Motion passed. (Lyons-aye, Eide-aye, Hoffman-nay, Cronin-aye, Fuerst-aye, Vanderwerff-aye, Mergen-aye).

Respectfully submitted,

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John. J. Linn Jr.

**Adjournment:** 11:35 a.m.