

Opinion No. 47-5035

June 2, 1947

BY: C. C. McCULLOH, Attorney General

TO: Mr. Robert L. Thompson, Engineer, Electrical Administrative Board, 411 N. 5th Street, Albuquerque, New Mexico.

{*56} We wish to acknowledge receipt of your inquiry of several days ago wherein the following inquiries were made:

1. Residence requirements for contractors License applicants. For example, would the board have the power to require an applicant to have been a resident for ninety days?
2. Does the Board have the right to issue special permission to non-electricians to wire their own homes?
3. At what point in the processing of ore does it cease to be mining and become manufacturing? For example, a company brings the ore to the surface and then refines it to different degrees according to the specifications of the various customers. Does inspection of the processing plant electrical equipment come under our jurisdiction? Would a refinery several miles away operated by a different company or a subsidiary of the mining company come under our jurisdiction?
4. Would the Board have the power to require a \$ 100 deposit by contractors to insure payment of inspection fees and/or proper performance of work contracted for?

It is my opinion the Electrical Administrative Board lacks authority to set up residence requirements for license applicants.

You will note that Sec. 51-2208 of the New Mexico 1941 Compilation establishes the terms and conditions upon which electrical contractors' licenses shall be issued. This section does not require applicant be a resident, nor does any other section of the act. While Sec. 51-2204 of the New Mexico 1941 Compilation does give the Board authorization to adopt rules and regulations and to issue orders, such powers are limited to the enforcement of the provisions of the Electrical Code.

Answer to your second question is contained in Opinion No. 4701, written April 2, 1945 by a member of this office, relating to the authority of the Board to issue certain classifications of electrical contractors' licenses. For your information, I am enclosing a copy of the foregoing opinion.

According to Sec. 51-2201, the only time a non-electrician may make installations of electrical wiring in a residence is when the source of energy is from an isolated plant located on the same premises as the residence in some rural district.

In specific answer to your second question, it is my opinion the Board does not have the right to issue special permission to non-electricians to wire their own homes.

In answer to your third question, I wish to state it is impossible to lay down any hard and fast rule as to when mining ceases and processing or manufacturing begins. Generally speaking, I am of the opinion Sub-sec. (c) of Sec. 51-2201 of the 1941 Compilation is broad enough to exempt a processing plant that is located on the mine premises from the scope of the electricians act. The pertinent part of sub-sec. (c) of Sec. 51-2201 provides:

"The provisions of this act shall not apply to the installation of electrical wiring in mines, **or on property used in connection with mines.** * * *"

{*57} Opinion No. 4827, written by Mr. Ward of this office on December 11, 1945, pertained to the inquiry at hand and I am enclosing a copy of said opinion for your information.

A refinery located several miles away from the mine and owned by a different company would, I believe, come under the scope of your Board. However, whether or not such a refinery owned by a subsidiary of the mining company and located several miles away from the mine, would be subject to your board is another question and no definite answer can be made until the facts are presented.

It is my opinion that your fourth question must be given a negative answer. A similar inquiry was made by Mr. Jones, then Engineer of the Contractors' Licensing Board back in June of 1944, as he asked me whether or not the Board could require electrical contractors to file a surety bond. For your information, I am enclosing copy of Opinion No. 4532 written June 19, 1944 in response to the inquiry made by Mr. Jones.

The only concern of the Board, under the act, is whether or not the work meets certain standards. Sec. 51-2215 of the 1941 Compilation bestows upon the Board authority to revoke and suspend licenses in certain instances. The Legislature made no provision requiring the giving of a surety bond or posting of cash, and it no doubt felt as if the aforementioned section was sufficient to assure the Board of collection of inspection fees.

Trusting the aforementioned satisfies your inquiry, I am

By ROBT. V. WOLLARD,

Asst. Atty. General