

Energy - Docket Optical System

From: Ownby, Adrian@Energy
Sent: Thursday, March 05, 2015 3:30 PM
To: Energy - Docket Optical System
Cc: Shirakh, Maziar@Energy; Strait, Peter@Energy; Geiszler, Eurlyne@Energy
Subject: FW: ATTCP Regulations (15-BSTD-01)

Importance: High

California Energy Commission

DOCKETED

15-BSTD-01

TN # 75323

MAR 05 2015

Docket Unit – Please add the email from Thomas Enslow below to docket #15-BSTD-01. Thanks.

-Adrian

Adrian Ownby
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California Energy Commission
(916) 651-3008



From: Geiszler, Eurlyne@Energy
Sent: Thursday, March 05, 2015 10:15 AM
To: Ownby, Adrian@Energy
Subject: Fw: ATTCP Regulations
Importance: High

Can you make sure this was docketed please.

From: Loyer, Joe@Energy
Sent: Friday, February 20, 2015 04:55 PM
To: Wong, Daniel@Energy
Cc: Walter, Joan@Energy; Geiszler, Eurlyne@Energy; Shirakh, Maziar@Energy; Pennington, Bill@Energy; Strait, Peter@Energy
Subject: FW: ATTCP Regulations

FYI

From: Thomas A. Enslow [<mailto:TEnslow@adamsbroadwell.com>]
Sent: Friday, February 20, 2015 4:28 PM
To: Loyer, Joe@Energy
Subject: ATTCP Regulations
Importance: High

Joe,

On behalf of the California State Labor Management Cooperation Committee for the International Brotherhood of Electrical Workers and the National Electrical Contractors Association ("LMCC") and the Joint Committee on Energy and Environmental

Policy ("JCEEP"), this email summarizes our February 10, 2015 meeting regarding proposed amendments to the Title 24, Part 1, Section 10-103-A and Section 10-103-B Acceptance Test Technician Certification Provider ("ATTCP") regulations.

1. Clarifying employer training requirements when an employer has multiple offices - Section 10-103-A, subd. (c)(2).

The current regulations do not address the situation where a large contractor has multiple offices across the state. The proposal ensures at least one manager in each office has taken the required webinar for employers.

Summary of Discussion: CEC staff stated they agreed this should be addressed, but stated that the proposal was too specific. Staff agreed to consider more general language and to consider putting the more specific language into the compliance manual in order to provide an example of how to comply.

Proposed more general language: The ATTCP shall provide its policies for employer certification where an employer has multiple offices and its policies for retraining a new employer representative if the representative who completed the Acceptance Test Employer certification training no longer works in the office employing Acceptance Test Technicians.

2. Ensuring that employers maintain general liability insurance and comply with applicable licensing and safe practices requirements - Section 10-103-A, subd. (c)(2).

ATTCPs should not be allowed to certify employers that are not insured or that violate applicable licensing and safety requirements.

Summary of Discussion: CEC staff stated that proposal was too specific. Staff agreed to consider more general language and to consider putting the more specific language into the compliance manual in order to provide an example of how to comply.

Proposed more general language: [This language should be moved to Section 10-103-A, subd. (c)(3)(F) and combined with language requiring description of ethic policies and equipment policies.] "The ATTCP shall provide a copy of all ethics policies, licensing and insurance policies, safe practices policies and equipment maintenance and calibration policies that it requires its Acceptance Test Employers and Technicians to follow."

3. Clarifying the training and testing requirements for technician certification - Section 10-103-A, subd. (c)(3)(A).

The proposed amendment clarifies that ATTCP's may not certify a technician unless the technician has completed both the training and testing requirements.

Summary of Discussion: Staff stated that they did not intend to remove requirements for both hands on and theoretical training requirements.

Comment: Proposed language not substantive, but the IBEW/NECA LMCC requests that it be adopted for clarity.

4. More clearly defining the three years of professional experience required to enroll in the certification classes - Section 10-103-A, subd. (c)(3)(B)(iii).

The proposed amendment more clearly defines the three years of professional lighting control experience required to enroll in the certification class and defines professional experience as experience in professions that provide training and work experience in designing, installing, or commissioning advanced lighting controls. Proposed amendment also leaves in current language requiring "verifiable" experience, which staff has proposed deleting.

Summary of Discussion:

(1) Staff stated that they were okay with first part of proposal: "Participation in the technician certification program shall be limited to persons who have at least three years of documented, verifiable professional experience and expertise in designing, installing, or commissioning lighting controls as defined by Section 100.1 of Part 6 ~~as determined by the Lighting Controls ATTCPs, to demonstrate their ability to understand and apply the Lighting Controls Acceptance Test Technician certification training.~~"

(2) Staff stated they were okay with clarifying that professional experience and expertise would be verified by letters from employers or other written evidence.

(3) Staff stated that they would consider putting the rest of the proposal into the compliance manual:

Professional experience means experience designing, installing, or commissioning lighting controls as a (1) California licensed electrical contractor; (2) California certified general electrician; (3) California licensed professional engineer; (4) lighting control manufacturer representative; or (5) a commissioning professional certified by the Building Commissioning Association, the Association of Energy Engineers, American Society of Heating and Air Conditioning Engineers or other equivalent commissioning certification entities. Upon submission of supporting evidence and concurrence by the Commission, an ATTCP may expand the definition of professional experience to include additional professional occupations that are demonstrated to provide industry-accepted training and work experience in designing, installing, or commissioning advanced lighting controls.

Installing and repairing "lighting fixtures" does not constitute experience with lighting controls or systems.

5. Clarifying that ATTCPs must follow standard industry practices and federal guidelines for validating tests for rigor, reliability and lack of bias; and requiring ATTCPs to use multiple versions of tests to ensure test security and reliability - Section 10-103-A, subd. (c)(3)(B)(v).

The proposed amendment requires validation of certification exams and multiple versions of tests.

Summary of Discussion: Staff was informed that this proposal is a **high priority** to IBEW/NECA LMCC and JCEEP. Test validation is critical to ensuring a fair, reliable and valid certification process. It was agreed that, if adopted, this proposal should be revised to clarify that it applied only to the written examinations, not the hands on testing.

6. Requiring technician oversight audits - Section 10-103-A, subd. (c)(3)(F).

This amendment proposes more detailed and rigorous requirements for technician oversight paper and on-site field audits.

Summary of Discussion:

(1) Staff stated they were okay with requiring: "Certified Acceptance Test Technicians and Employers to enter into an audit agreement that defines roles and responsibilities, including a requirement that Technicians submit a notice of completion to the ATTCP or its authorized auditor within 48 hours of completion of a lighting control acceptance test."

(2) Staff also stated they were okay with requiring ATTCP applicants to "describe in detail what constitutes a failed audit and what consequences shall occur to both the Acceptance Test Technician and the Employer upon a failed audit." Staff stated that they would consider putting into the compliance manual the additional proposed language stating that failed audits should trigger at least two additional audits within the next few jobs.

(3) Staff took the position that any requirement for field audits higher than 1% would need to demonstrate cost-effectiveness.

IBEW/NECA LMCC stated that it strongly supported higher levels of audits during the first three to five years of a provider's operation, but understood that the levels they were proposing for field audits might not be feasible for mechanical acceptance testing. Staff suggested keeping field audits at 1%, but increasing paper audits to 10 or 20%. Given IBEW/NECA LMCC's concerns with its perception of inadequacies in other portions of the ATTCP regulations, IBEW/NECA LMCC maintains its position that field audit requirements should be significantly higher than 1% in order to provide a statistically reliable level of confidence. However, a substantial increase in paper audits during the first five years of operation may be an acceptable compromise as long as other concerns with the ATTCP regulations (such as meaningful test validation requirements) are also addressed.

During subsequent discussions with NEMIC/TABB, staff discussed a willingness to waive the field audit requirement for providers who obtain ISO/IEC 17024 accreditation. Given the reputation and rigor of 17024 certification, IBEW/NECA LMCC would be okay with that proposal as long as it was clear that the field audit requirement would be kept in place for any entities that did not obtain accreditation.

7. Clarifying that an ATTCP must have an ethics policy and equipment maintenance policy - Section 10-103-A, subd. (c)(3)(F).

This amendment requires an ATTCP applicant to maintain an ethics policy and equipment policy for its certified Acceptance Test Technicians and Employers.

Summary of Discussion: CEC staff stated they that supported this in concept, but suggested putting it into the compliance manual. IBEW/NECA LMCC and JCEEP would be okay with putting more specific language in the compliance manual, but feels this needs to be set forth at least generally in the statute in order to ensure enforceability.

Revised Proposal with more general language: [This proposal is combined with the proposal requiring description of licensing, insurance and safe practices policies discussed above.]

"The ATTCP shall provide a copy of all ethics policies, licensing and insurance policies, safe practices policies and equipment maintenance and calibration polices that it requires its Acceptance Test Employers and Technicians to follow."

8. Requiring an ATTCP applicant to have sufficient qualifications and experience to demonstrate a likelihood of success - Section 10-103-A, subd. (c)(4) [New Section].

In order to ensure the success and reliability of the certification program, the Commission should only approve certification providers that have demonstrated sufficient experience, reputation and success in running similar programs.

Summary of Discussion: CEC staff stated they that they felt that this was contrary to the Governor's policy for simplifying business regulations and that the experience requirement would be difficult to implement. IBEW/NECA LMCC and JCEEP stated that this was a high priority amendment in light of the other inadequacies they see in the ATTCP regulations. In IBEW/NECA LMCC's view, both the entity applying to be an ATTCP and the entity's executives need to have sufficient experience, reputation and success in running similar programs.

9. Requiring ATTCPs to provide the Commission a summary of all failed audits and the resultant remedial actions - Section 10-103-A, subd. (d).

This amendment requires ATTCPs to provide the Commission an annual summary of all failed audits and the resultant remedial actions.

Summary of Discussion: This proposal was only made for lighting control ATTCPs, not for mechanical ATTCPs. It was discussed that, if adopted, this needs to be amended to clarify that the names of the technicians or employers who failed audits and complied with remedial actions would not be identified in the summary.

10. Clarifying the grounds for the Commission's approval of an ATTCP - Section 10-103-A, subd. (f).

This amendment clarifies that the Commission's approval is based not just on submittal of a complete application, but also on the Commission's determination that the content of the application is sufficiently rigorous and detailed to demonstrate a strong likelihood of success and reliability.

Summary of Discussion: Staff agreed that their proposed amendment to this section should not be adopted and stated that they agreed that review by both staff and the Commission should be based not just on submittal of a complete application, but also on the a determination that the content of the application is sufficiently rigorous and detailed to demonstrate a strong likelihood of success and reliability. Staff agreed to consider the proposed language or to adopt similar language.

11. Providing currently approved ATTCPs with a 180 day grace period for complying with any newly enacted ATTCP requirements - Section 10-103-A, subd. (h) [New Section].

This provides currently-approved ATTCPs a 180 day grace period after the effective date of any new ATTCP requirements in which to demonstrate compliance.

Summary of Discussion: Staff agreed that currently-approved ATTCPs should be required to meet any new ATTCP requirements, but disagreed with providing them an additional 180 day grace period after the effective date of any new ATTCP requirements. IBEW/NECA LMCC and JCEEP agree that an additional 180 day grace period is unnecessary.

Proposed revised language:

(h) Updates to ATTCP Requirements

ATTCPs that have already been approved by the Commission shall submit a report demonstrating compliance with any substantive changes made to the requirements for approval as an ATTCP no later than the effective date of the

requirements. ATTCPs that do not amend or update their certification program by the effective date of the new regulations shall be suspended until such time as they meet the new requirements.

CONCLUSION

Please let me know if any of these comments are inconsistent with your recollection of the meeting. It appears that we have general agreement on most of the items, with potentially some difference of opinion on what needs to be included in the regulation and what can be clarified in the compliance manual. I see three items that still need resolution: (1) requiring ATTCPs to follow standard industry practices and federal guidelines for validating tests for rigor, reliability and lack of bias; and requiring ATTCPs to use multiple versions of tests to ensure test security and reliability; (2) requiring a higher rate of field audits during the first 5 years of an ATTCP's operation; and (3) requiring an ATTCP applicant to have sufficient qualifications and experience to demonstrate a likelihood of success. **The first item (validated test questions and multiple versions of tests) is of highest importance to the IBEW/NECA LMCC and JCEEP.** The second item is of high importance to the IBEW/NECA LMCC, but they are open to staff's proposal for higher paper audits if their other concerns with the regulations are addressed. The third item is also important to the IBEW/NECA LMCC and JCEEP, but they would be open to a more general requirement to demonstrate qualifications and experience in running a certification program if their other concerns with the regulations are addressed.

Regards,

Tom Enslow

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