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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 9 1991

MEMORANDUM

OFFICE OF
PESTICIDES AND TOXIC
SUBSTANCES

SUBJECT: AHERA Reaccreditation

FROM: Maureen Lydon, Chief Compliance Branch *Maureen Lydon*

Robert McNally, Chief Assistance Programs Development Branch *Robert McNally*

Cindy Fournier, Office of Enforcement Toxics Litigation Division *Cindy Fournier*

TO: Robert Harding, Chief Toxics Section, Region VIII

This memorandum responds to your attached March 8th correspondence regarding AHERA reaccreditation. As you may know, this issue was discussed at the May RAC meeting in Dallas. However, we still wanted to followup in writing and we apologize for the delay in providing this written response.

First of all, we support the attached letter to Jeffrey Lee of the University of Utah which Dave Combs prepared. OTS previously provided minor comments on the letter. We feel that the letter accurately reflects the current situation as summarized in the following two paragraphs:

"Prior to the July 23, 1990, policy statement, EPA permitted individuals who successfully completed a supervisor's refresher course to maintain their dual accreditation without taking the project designer refresher course. However, completion of a supervisor's refresher course after July 23, 1990, does not meet the requirements for reaccreditation as a project designer and vice versa. If an individual's accreditation expires after July 23, 1990, the individual does not have to take a refresher course until his/her current accreditation expires.

Someone who received the initial dual accreditation by completion of an initial supervisor's course is not required to go back and take the initial project designer course to maintain

his/her accreditation as a project designer. The individual only needs to complete the appropriate (supervisor or project designer) refresher course for which reaccreditation is desired, or both courses if the individual desires to continue working as a project designer and supervisor. However, if the individual does not take an appropriate refresher course within one year of expiration of initial accreditation, the individual must complete the appropriate initial training to become reaccredited. (This time frame may vary depending on individual state rules and regulations.)"

Taking into account the above, if an individual is designing response actions after July 23, 1990 without having completed the aforementioned appropriate training, enforcement actions would be pursued.

If you would like additional information, you or Dave Combs should feel free to call any one of us. We look forward to speaking with you soon.

Attachments

cc: Dave Combs



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2405

Ref: 8AT-TS

MAR 8 1991

ENFORCEMENT SENSITIVE

MEMORANDUM

TO: Maureen Lydon, Acting Chief
Compliance Monitoring Branch (EN-342)

→ Robert McNally, Chief
Assistance Programs Development Branch (TS-799)

→ Cindy Fournier
Office of Enforcement
Toxics Litigation Division (LE-134P)

FROM: Robert Harding, Chief
Toxic Section

SUBJECT: AHERA Reaccreditation

Over the past couple of years there has been considerable confusion within EPA and the regulated community concerning the AHERA's requirements for being accredited and reaccredited. This has been particularly true for contractors/supervisors (supervisors) and project designers. On July 23, 1990, OTS issued a policy statement clarifying the Agency's position concerning the need to take refresher courses which are specific to the discipline for which reaccreditation is desired.

Based upon OTS's July 23, 1990, policy statement, anyone seeking reaccreditation must now take a discipline specific refresher course. This policy clarification could have a major impact upon project designers and supervisors. Currently there are only a limited number of accredited project designers. The major reason for this is the Agency has allowed (see 100 Questions numbers 76 and 77) accredited supervisors to design projects. A direct result of this policy has been a reduction in the number of project designer training courses being offered.

Under the AHERA Model Accreditation Plan (Model Plan) a person seeking accreditation as a project designer can obtain accreditation by completing "... either a 3-day abatement project designer training course ... or the 4-day asbestos abatement contractor and supervisor's training course ..." This provision of the Model Plan has been implemented in several different ways by the various Regions. Examples include some of the Regions allowed training course providers to issue "dual" credentials

while others would only allow the training providers to issue "supervisor" credentials with a statement that the supervisor is qualified to design projects under the AHERA. No matter how the Regions have implemented this provision of the regulations, from an enforcement standpoint, the Agency has allowed anyone who has a valid supervisor's credential to design abatement projects.

The question now is can a person who was initially accredited as a supervisor, and has maintained this accreditation by completing the required supervisor refresher course(s), continue to design response actions under the AHERA or must this person now complete an approved project designer refresher course in order to design response actions? Several issues must be addressed to answer this question including: are the current supervisor refresher training courses sufficient (curriculum, etc.) to meet the needs for project designers; what is the criteria for approving project designer refresher courses; can the training community meet the demands for project designer refresher courses; if EPA requires project designer accreditation; how will the Agency implement the policy; etc.?

If EPA allows individuals who have maintained their supervisor's accreditation to continue to design response actions under the AHERA, the July 23, 1990, OTS policy on specific refresher courses for each discipline will have little effect on project designers and supervisors. There will be no need for an accredited supervisor to become reaccredited as a project designer. If the Agency requires reaccreditation as a project designer in order to design response actions under the AHERA, then the Agency must take quick and positive action to clarify the issue within EPA, as well as with the states, training providers, and the regulated community. This policy must be consistent nation-wide.

Another major question is how do the Regional Offices enforce this regulation/policy? If an individual is only accredited as a supervisor and is designing response actions under the AHERA, is this a violation of the AHERA and its regulations? If an accredited supervisor cannot design response actions under the AHERA, how and what is the time frame for implementation of this policy clarification? If this is not the Agency's policy and anyone who has a valid supervisors accreditation can legally design response actions under the AHERA, how is the Agency going to clarify the situation in a prompt and concise manner? These questions need to be clarified in order help resolve some of the confusion within EPA, the states, the regulated community and training providers.

This situation has been further confused by the letter (copy attached) sent to Mr. Thomas J. Mylod by OTS. The letter to Mr. Mylod stated "Because there was confusion about the question of dual accreditation for contractor/supervisors and project

designers, we used this occasion to clarify that, although a person could receive dual accreditation in these two disciplines by completing the prescribed initial contractor/supervisor training, this same person would have to complete project designer refresher training in order to become reaccredited and to continue working as a project designer." This letter has received wide spread distribution.

In response to an inquiry from the University of Utah, Dave Combs drafted, in conjunction with Wolfgang Brandner, the attached letter explaining the Agency's current position on accreditation and reaccreditation under the AHERA. Dave also provided an earlier version of the draft to Phil King, OTS. Regions VII and VIII plan on sending such a letter to their states and training providers in the near future. Please review the proposed letter and provide Dave with your comments as soon as possible. We would like to send the letter out by April 15, 1991.

If the Agency expects the training community to adequately respond to the need for project designer refresher courses, it must provide definitive guidance. On the other hand, if the Agency is going to continue to allow accredited supervisors design projects under the AHERA, a clarification of this policy needs to be finalized and widely distributed as soon as possible. Your cooperation in addressing this issue would be greatly appreciated. Thank you for your assistance. If you have any questions or need any further information, please give Dave a call at FTS 330-1442 or Wolfgang at FTS 276-7381.

Attachments

cc: Regional Asbestos Coordinators



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2405

Ref: 8AT-TS

Jeffrey Lee, Ph.D., CIH
University of Utah
RMCOEH
Building 512
Salt Lake City, Utah 84112

Dear Jeff:

This is in response to your letter concerning accreditation of project designers under the Asbestos Hazard Emergency Response Act (AHERA). On July 23, 1990, EPA's Office of Toxic Substances (OTS) issued a policy statement (copy enclosed) clarifying that, consistent with the Asbestos Hazard Emergency Response Act's (AHERA) "EPA Model Accreditation Plan" (Model Plan) (April 30, 1987), all refresher training courses must be specific to the particular discipline.

Obviously there has been some confusion concerning "dual" accreditation as a project designer and a contractor/supervisor (supervisor). Although a person can receive dual accreditation as a project designer and a supervisor by successfully completing an initial supervisor's training course, the person must now complete specific refresher training courses for project designers and supervisors in order to be reaccredited in both disciplines. In lieu of completing the two individual specific refresher courses (two days), a person may retake an initial supervisor's training course (four days) for dual accreditation.

Under the AHERA's Model Plan, a person who has successfully completed an initial supervisor's training course can be dual accredited as a supervisor and project designer and can design response actions as well as supervise response actions under the AHERA. For various reasons, EPA's Regional Offices and training course providers used different approaches to implement this issue. Some training course providers issued dual credentials (supervisor/project designer) to individuals who completed the initial supervisor's course, others issued supervisor credentials with a statement that the supervisor was qualified to design response actions, etc. From an enforcement standpoint, EPA has permitted individuals who successfully completed the initial supervisor's course to design projects and conduct response actions. The Agency previously addressed this issue in the "100 Commonly Asked Questions About The New Asbestos-In-Schools Rule" questions number 76 and 77 on page 48.

Prior to the July 23, 1990, policy statement, EPA permitted individuals who successfully completed a supervisor's refresher course to maintain their dual accreditation without taking the project designer refresher course. However, completion of a supervisor's refresher course after July 23, 1990, does not meet the requirements for reaccreditation as a project designer and vice versa. If an individual's accreditation expires after July 23, 1990, the individual does not have to take a refresher course until his/her current accreditation expires.

Someone who received the initial dual accreditation by completion of an initial supervisor's course is not required to go back and take the initial project designer course to maintain his/her accreditation as a project designer. The individual only needs to complete the appropriate (supervisor or project designer) refresher course for which reaccreditation is desired, or both courses if the individual desires to continue working as a project designer and supervisor. However, if the individual does not take an appropriate refresher course within one year of expiration of initial accreditation, the individual must complete the appropriate initial training to become reaccredited. (This time frame may vary depending on individual state rules and regulations.)

The AHERA regulations require that all response actions be designed by accredited project designers. If an individual is designing response actions after July 23, 1990, or conducting response actions without having completed the appropriate refresher course, EPA may take appropriate legal action under the AHERA.

Hopefully this will help clarify some of the confusion concerning reaccreditation under the AHERA. If you have any questions or need any further information, please give me a call at (303) 293-1442.

Sincerely,

Dave Combs
Regional Asbestos Coordinator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AM 25 1991

OFFICE OF
PESTICIDES AND TOXIC
SUBSTANCES

Mr. Thomas J. Mylod
Assistant to the Director
of Plant Operations
St. John's University
Grand Central and Utopia Parkways
Jamaica, New York 11439

Dear Mr. Mylod:

Thank you for your recent letter expressing concern about our policy on Project Designer accreditation. We have received other comments on our interpretation of this question, and we are eager to try to clarify any misunderstanding about our policies.

The Environmental Protection Agency issued a policy memorandum to its Regional Offices in July 1990, clarifying that, consistent with the EPA Model Accreditation Plan (issued in April 1987), all refresher training courses were to be specific to a particular discipline. Because there was confusion about the question of dual accreditation for contractor/supervisors and project designers, we used this occasion to clarify that, although a person could receive dual accreditation in these two disciplines by completing the prescribed initial contractor/supervisor training, this same person would have to complete project designer refresher training in order to become recredited and to continue working as a project designer. This meant that an accredited supervisor who wished to become recredited as a supervisor would have to take the 1-day supervisor refresher training course. It also meant that a person with dual accreditation based upon completion of initial supervisor training who wished to continue his/her dual accreditation would have to take both refresher courses. However, this does not mean that someone who received the initial dual accreditation needed to go back and take the initial project designer course to become recredited as a project designer.

In your circumstances, had you acted before the grace period expired, you would only have needed to complete the 1-day project designer refresher course to continue working as a fully accredited project designer. If you were not seeking recreditation as a supervisor, you would not have had to take the 1-day supervisor refresher course at all.

We are aware that project designer refresher training courses are in short supply nationally. In part, our policy clarification was aimed at stimulating greater demand for these courses, and thereby bringing more of them into the marketplace. At present, our records indicate that there are a total of 47 project designer refresher courses. These approved courses are found in all ten EPA Regions; that is, they are widely available. In addition, the Agency has given full approval to 17 state programs which can approve additional project designer refresher training courses. In this way, the total number of available designer courses can continue to grow.

Please understand that our recent policy clarification simply stated what has always been required by the EPA Model Accreditation Plan; that "the refresher (training) course shall be specific to each discipline." This clarification did not result in the disapproval of any previously approved AHERA training courses. We have advised our Regional Offices to work with persons and training providers affected by this decision to phase in their compliance, thereby mitigating any effects of this policy revision. If you or any of your associates are currently affected by this decision, we recommend that you contact your Regional Asbestos Coordinator for assistance in this regard.

I hope this is responsive to the concerns you raised.

Sincerely,


Joseph A. Schechter, Chief
Technical Assistance Section (TS-799)
Assistance Programs Development Branch
Environmental Assistance Division

cc: Senator Alfonse D'Amato
Senator Daniel Moynihan
Congressman Raymond J. McGrath
William K. Reilly
NATC-KU
Robert McNally
Philip King
Accreditation File
Asbestos Coordinators
Regions I - X

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