



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

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OFFICE OF
PESTICIDES AND TOXIC SUBSTANCES

MEMORANDUM

SUBJECT: Accreditation: Final Policy Decisions and
Recommendations

FROM: Joseph Schechter, Chief
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Environmental Assistance Division

TO: Regional Branch Chiefs
Regional Asbestos Coordinators

This memorandum responds to the Region's comments on the October 24, 1989, draft memo about accreditation policy issues and recommendations. We want to thank all the Regional staff who took considerable time and effort and helped us make better final decisions and recommendations. What follows is a summary of the issues presented in the earlier memo, an overview of the comments from the Regions, and a statement of the final policy or recommendation in each accreditation area. The policy on transfer of course ownership is still under consideration, and will be sent to you as soon as it is resolved. We hope to send a summary of these issues to all providers in February. Please do not send copies of this memo to providers as it is for internal use only.

1) **INSTRUCTORS**

- Issues:
- a. Determining the acceptable number of instructors for each course.
 - b. Notifying the Regions of instructor changes.
 - c. Rescinding contingent approval or denying full approval because of serious instructor problems.

a) DETERMINING THE ACCEPTABLE NUMBER OF INSTRUCTORS

Summary:

Our policy has been that a single, well-qualified instructor is suitable for teaching the relevant practically oriented abatement worker skills, but that more teachers are needed for all other courses.

Regional Comments and Discussion:

Two Regions felt that more than one instructor was needed to effectively present even a worker course because one instructor was not likely to have sufficient grasp of all the topics or the stamina to engage students over a three-day course.

We understand these reservations and recommend that the Regions encourage providers to enlist more than one instructor to teach any AHERA worker course. However, based on points raised in the discussion section of the draft paper, we do not feel that a change in policy is warranted at this time.

Final Policy:

EPA shall continue to approve one-instructor worker courses when the instructors are both field experienced and qualified.

Under no circumstances shall a contractor, inspector/management planner, or project designer course be taught by a single instructor.

b) NOTIFYING THE REGIONS OF INSTRUCTOR CHANGES

Summary:

The Model Plan requires that individual or group sponsors of EPA-approved asbestos training courses submit to EPA the names and qualifications of course instructors. We need to remind course providers that they are also required to provide the Regions with updated instructor documentation each time a provider adds or substitutes instructors (i.e., new or guest instructors) for those initially reviewed by EPA. Specifically, the Regions should maintain an active file that includes names, resumes, and professional certifications of all the instructors teaching in their jurisdictions. In addition, the Regions should make a special effort to stay abreast of EPA-approved courses

taught by instructors whose credentials have not been reviewed. In those instances where the Regions determine that a new or guest instructor's qualifications seem inadequate, the Regions should immediately notify the provider of that finding and urge him or her to make appropriate personnel changes.

Regional Comments and Discussion:

There were no Regional comments on this issue.

Final Policy:

The Regions shall require that providers submit the new or guest instructors' credentials in situations where it is unclear how much or which topics new or guest instructors will teach.

c) RESCINDING CONTINGENT APPROVAL OR DENYING FULL APPROVAL BECAUSE OF SERIOUS INSTRUCTOR PROBLEMS

Summary:

EPA course reviewers shall recommend denying full approval (or contingent approval, for course providers whose pre-October 15 applications make their courses eligible for EPA review) where providers or key instructors face legal actions for non-compliance with relevant Federal Environmental regulations or have demonstrated a pattern of non-compliance over time. Regions shall not recommend denying full or contingent approval if the instructor who has violated regulations teaches only one or two lectures. However, Regions should direct course providers not to use these instructors for future courses.

Regional Comments and Discussion:

There were no Regional comments on this issue.

Final Policy:

The Regions shall continue to take the lead in determining which courses and which instructors are not suitable for EPA approval. However, we would remind you that the procedure outlined in the August 30, 1988, memorandum is still the recommended way to withdraw course approvals. These steps are to forward to Headquarters: 1) a draft of the EPA sponsor notification letter informing the course provider of the course's deficiencies; 2) any supporting documentation; and 3) a memorandum requesting headquarters concurrence.

2) DURATION OF COURSES

Issue: Over how long a period may a single course extend?

Summary:

At our May AARP conference, several RACs made a strong case for limiting the total time in which a provider could present an asbestos course. Course providers in some of the Regions have proposed segmenting a particular course into a series of short presentations which, when added together, meet the Model Plan's total hour requirements.

Regional Comments and Discussion:

Two Regions commented on this issue. They both argued that because AARPs conducted most course audits, extending courses over two weeks would pose scheduling and resource problems.

Headquarters is conducting a survey of all the course providers listed in the Federal Register that should provide a clearer sense of how many courses are offered on nights and weekends. We do not expect to find many night and weekend courses. However, if the data from the survey indicates that these courses are a greater concern than previously anticipated, we will revisit this issue in the future. At this time, we feel that the two-week timeframe for offering courses recommended in the policy paper is a workable option.

Final Policy:

Course providers will be allowed to segment courses subject to the following stipulations:

- o The total hours required by AHERA are completed within two weeks.
- o Attendees are not required to sit through more than eight hours of actual training in a 24-hour period. (For instance, EPA will not approve worker courses given in two 12-hour sessions to fulfill the 24-hour Model Plan requirement.)
- o Evening instruction does not exceed a maximum of four hours per evening. (This requirement will help ensure that trainees are not asked to absorb an unrealistic amount of material after a full work day.)

3) **AUDITING CONTINGENTLY APPROVED COURSES**

Issue: What criteria should guide course auditors in recommending a contingently approved course for full approval?

Regional Comments and Discussion:

We recommended a possible framework for evaluating courses that most of the Regions accepted without comment. The comments we received focused on the fact that the Regions should have the opportunity to work with course providers to bring their courses up to AHERA standards. We concur with this view. At the same time, we feel that there are instances where a course is so deficient that it is unlikely it will ever provide sound asbestos training.

Recommendation:

When auditing contingently approved courses to determine whether they are sufficiently stringent to warrant full course approvals, I recommend that the Regions use the following framework for decision making:

- o Acceptable courses -- those that meet or exceed the Model Plans's requirements -- should be granted full approval.
- o Marginal courses -- those with instructors or course materials that appear to fall just short of EPA's minimum quality expectations -- should be allowed to retain their contingent approval until they have a chance to make the appropriate modifications. If these courses do not make the necessary changes by the next audit, course approval should be revoked.
- o Inadequate courses -- those that are clearly flawed beyond the point of simple corrective measures (e.g., courses disseminating inaccurate information or taught by grossly inadequate instructors) -- should have contingent approvals withdrawn as soon as possible.

4) IDEAS FOR SITE VISITS AND AUDITS

Issue: How can the Regions more closely monitor course offerings?

Regional Comment and Discussion:

There were no Regional comments on this issue.

Recommendation:

Regions should take every opportunity to remind providers of EPA's notification requirements (see 1(b) above). Whenever possible, home Regions should also assume responsibility for providing updated course schedules and instructor lists to other Regions serviced by their multi-State providers. Once the Regions have updated schedule information in hand, they should occasionally call course providers and imply that a course audit is likely even when the Region is not sure that it will actually audit the course; that is, we should keep providers guessing about when we will audit.

5) FULLY APPROVED PRE-1987 COURSES

Issue: Will EPA grant full approval to courses offered prior to 1987 that were essentially as stringent as the Model Plan? Which interimly approved courses should be eligible for retroactive reclassification?

Summary:

Certain providers have urged EPA to retroactively reclassify pre-1987 interimly approved courses as fully approved AHERA courses, because those courses were essentially equivalent to fully approved AHERA courses.

Regional Comments and Discussion:

Three Regions commented on this issue. One noted that the issues were controversial and suggested not taking a firm policy position. Two others argued that retroactive approvals of this type would be arbitrary, and fail to insure that contractors had the information they needed to conduct AHERA abatement jobs properly. We agree with this second comment.

The October 1989 decision to discontinue course reviews signaled a new direction for EPA's accreditation policy. We are now firmly committed to an enhanced State role with respect to important asbestos training decisions. Under AHERA, States have the discretion to determine the level of stringency of their accreditation programs as long as they meet the Model Plan requirements. States need to also determine whether pre-1987 courses meet current State training requirements. EPA is no longer reviewing asbestos courses. In the future, States with accreditation programs can make their own determinations on the merits of grandfathering and related asbestos issues.

Final Policy:

As of February 1, 1990, pre-1987 courses previously granted EPA-approval for interim purposes will no longer be eligible for retroactive full course approval.

6) WORKER AND CONTRACTOR/SUPERVISOR REFRESHER COURSES

Issue: May course providers offer a single refresher course that updates both the worker and contractor courses?

Summary:

In response to provider inquiries, several Regions have in recent months requested clarification on the issue of merging the worker refresher course with the contractor/supervisor refresher course.

Regional Comments and Discussion:

Only one Region commented on our policy recommendation. The Region maintained that there was a substantial overlap between the worker and contractor supervisor courses. The Region further maintained that this overlap made it possible to offer a combined contractor/supervisor refresher in a format similar to the three-day worker plus one additional day contractor/supervisor format presently used by most providers. For instance, a combined worker/contractor refresher course could consist of five hours of worker training, followed by four hours of refresher training developed specifically for contractor/supervisors.

In this case we do not agree with the comments. The Model Plan requires States to provide refresher courses specific to each AHERA discipline -- a notion we have since reinforced in our September 1988 policy memo. Furthermore, questions as to whether an individual may take a contractor/supervisor refresher courses to update his project designer certificate fall under the same general policy. Individuals may not substitute contractor/supervisor refresher courses for project designer refresher courses.

Final Policy:

Each refresher course shall correspond to only one AHERA discipline.

7) **PROVIDING REFRESHER-ONLY COURSES**

Issue: May a course provider offer refresher-only courses?

Summary:

The issue is whether, we have a basis for approving refresher courses that are not derivatives of full AHERA courses.

Regional Comments and Discussion:

Two Regions commented on this issue. One argued that there is good reason for requiring a full AHERA course submittal as a prerequisite for approval to offer a refresher course. The other interpreted the Model Plan to require a previous full AHERA course.

Conversations with the other eight Regions indicate that they concurred with the policy interpretation that did not require prospective refresher course sponsors to have previously approved full AHERA courses. Based on those discussions, we have not changed the draft policy position on providing refresher-only courses.

Final Policy

Course providers shall be allowed to give refresher-only courses; they shall not be required to give full courses or to purchase ATLAS materials as a condition of having their refresher courses approved.

Recommendation:

- o The Regions should require, where appropriate, that refresher course providers explain exactly how they plan to meet the requirements of the Model Plan; and
- o The Regions, may recommend that course providers purchase ATLAS materials to provide a framework for their refresher courses.

8) **NON-ENGLISH COURSES**

Issue: Will EPA approve courses that provide written materials in one language and lecture in another? Will EPA approve

courses where the lecturer is not conversant in the language of the majority of the attendees?

Summary:

A number of courses around the country are being conducted in foreign languages -- most often Spanish or Vietnamese. A serious problem arises when the printed materials developed to support these lectures are written in English, even though most of the attendees read and speak little or no English.

Regional Comments and Discussion:

Only one Region commented on this issue. The Region recommended that we delete "in general" from our draft language to avoid second guessing and confusion. We concur with that recommendation.

Final Policy:

- o Non-worker courses shall only be offered in English.
- o Worker courses may be offered in languages other than English on condition that trainees are provided course materials in the same language. To offer a non-English workers course, the course provider must do the following: 1) translate (or have translated) the course materials into the other language, 2) provide the course-related materials to EPA, and 3) give written assurance with the submission of the course that the translation has been checked for accuracy.
- o Workers courses shall be taught by instructors fluent in the language of the majority of trainees. Workers courses shall not be taught using an English-speaking lecturer and an interpreter. Regions shall not approve courses that are taught using an interpreter.

9) RETAKING EXAMINATIONS

Issue: How many times may trainees take course examinations?

Summary:

The question of how many times a trainee may take an examination that certifies him or her to do asbestos work in schools has been raised by several Regions. EPA's position has been that States and course sponsors should determine how often

and how many times individuals will be allowed to sit for the course examination.

Regional Comments and Discussion:

Two Regions strongly disagreed with the Agency position. They felt that the Agency should be more than a neutral observer on the re-examination issue because individuals who could not pass an exam after repeated attempts did not have a good grasp of the required material.

We agree with the comments from the Regions. However the considerations raised in the policy paper continue to make it difficult to take a position on exactly how many times one should be allowed to retake an exam. Given that fact, we will not change the policy that allows course providers to set the limit on examinations. In the future, Headquarters will provide guidance to providers which strongly recommends that they not allow students to sit for examinations more than twice. After two failures, the student should retake the full course before being allowed to re-test. We recommend that the Regions provide similar encouragement to providers when this issue arises.

Final Policy:

Course providers and States will determine what is acceptable regarding retesting.

Recommendation:

EPA strongly recommends that students only be allowed to retake an exam twice. After two failures, the student should retake the full course before being allowed to retest.

In concluding, I would like to take this opportunity to raise two additional points. First, it has been suggested that it might be advisable to "sunset" EPA course approvals at some time in the future. As you know, EPA AHERA course approvals have no termination date; that is, a course, once approved, becomes an ongoing EPA responsibility until the course goes out of business or until responsibility is delegated to an approved State program. As you are also aware, on October 15, 1989, EPA ended its role in accepting new courses for review and approval. This

signaled the beginning of a phaseout of EPA's role under AHERA. Sunsetting course approvals could represent another step in that process. This action would provide a strong incentive for States to assume the lead role for all asbestos courses, as was intended by AHERA. Obviously, any such action on our part would require more consideration, broader discussion, and notice to the public through the Federal Register. If we decide to move in this direction, the process would likely take at least 6 to 9 months to accomplish. Key challenges in this process would be to carefully time the strategy to impose a minimal burden on asbestos professionals and consumers and to develop a program to help States, providers, and others during the transition. We would appreciate written or phoned-in comments (see number below) on this point. Please do not raise this issue outside the Agency until we have had a chance to consider it internally.

A last point is that we are developing a list of accreditation policies that have evolved since the "100 Questions" document. This list would be distributed to course providers, States, and other interested parties. It would provide access to guidance on accreditation issues that has been distributed to the Regions but in many cases never finds its way outside the Agency. If you have comments about our sending out such a cumulative guidance document, or other suggestions on accreditation issues, please call Stan Neal of my staff at (FTS) 382-3949. Thank you again for your assistance.

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