



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

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OFFICE OF
PESTICIDES AND TOXIC SUBSTANCES

MEMORANDUM

SUBJECT: AHERA Accreditation - Policy Issues and Recommendations

FROM: Joseph Schechter, Chief
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Assistance Programs Development Branch
Environmental Assistance Division

TO: Training Course Providers
State Program Offices
Other Interested Parties

This memorandum is intended to clarify EPA policy with respect to a variety of accreditation issues under the Asbestos Hazard Emergency Response Act of 1986 (AHERA). These issues have been reviewed by EPA Headquarters in consultation with the ten EPA Regional Offices. The Agency's decisions relative to these issues are reflected herein, and are now being disseminated in this form for purposes of both information and guidance. Should these policies change at any time in the future, you will be so notified. We issue this communication in the hope that it will answer certain frequently asked questions about the accreditation process and facilitate its uniform implementation.

**ISSUE ONE - HOW MANY INSTRUCTORS SHOULD THERE BE FOR EACH
AHERA TRAINING COURSE.**

Discussion: The EPA Model Contractor Accreditation Plan (40 CFR Part 763) stipulates training course requirements for each of AHERA's five disciplines: (1) inspectors, (2) management planners, (3) project designers, (4) contractors and supervisors and (5) workers. The Plan however, does not specify a requisite number of instructors to be provided in the conduct of any of these courses. Nevertheless, because the course requirements are broad and multidisciplinary, the provision of effective instruction necessitates specialized knowledge and skill in a wide range of subject areas.

Policy: EPA may approve the use of a single instructor for the worker course only. Where this is proposed, the intended worker course instructor must be both field experienced and qualified. There are no circumstances under which EPA will approve the use of a single instructor for the AHERA contractor, inspector/management planner or project designer courses.

ISSUE TWO - NOTIFYING THE EPA REGIONAL OFFICE OF INSTRUCTOR CHANGES.

Discussion: 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. Providers are reminded that they must also provide the Region with updated documentation whenever a course instructor changes so that an active file can be maintained (to include the names, resumes and professional certifications of all the instructors currently teaching in the Region). If review by a Region concludes that a new or guest instructor's qualifications appear inadequate, the Region will promptly notify the provider of that finding and urge that an appropriate personnel substitution be made.

Policy: AHERA training course providers are required to submit complete documentation for any new or guest instructors they may plan to utilize.

ISSUE THREE - RESCINDING CONTINGENT APPROVAL OR DENYING FULL APPROVAL BECAUSE OF INSTRUCTOR NON-COMPLIANCE WITH ENVIRONMENTAL REGULATIONS.

Discussion: Because the caliber of course instructors is so vitally important to the success of the AHERA accreditation program, EPA's course reviewers carefully scrutinize both providers and key instructors for problem histories of non-compliance with relevant federal environmental regulations. Corrective action may not be warranted if an instructor who has violated regulations teaches only one or two lectures. However, Regions will direct course providers not to use these instructors for future courses. Where problem histories are significant and/or a course provider is not responsive to expressed EPA concerns, corrective actions will be taken to ensure the continued integrity of the training program.

Policy: EPA course reviewers shall recommend denying full approval (or contingent approval, for course providers whose pre-October 15, 1989 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.

ISSUE FOUR - HOW QUICKLY MUST TRAINING COURSES BE COMPLETED.

Discussion: Certain providers have proposed segmenting particular courses into a series of short presentations which, when added together, would meet the Model Plan's hour requirements. This would enable the provision of courses on an evening or weekend schedule. Even though this proposal entails greater complications for auditing, EPA is sympathetic to this need.

Policy: Course providers may segment courses subject to the following restrictions: (1) the total hours required by AHERA must be completed within a single two-week timeframe, (2) attendees shall not be required to sit through more than eight hours of actual training in any single 24 hour period (e.g. 12 hour sessions would be disallowed), and (3) evening instruction shall not exceed a maximum of four hours in any single session.

ISSUE FIVE - CRITERIA FOR GRANTING FULL APPROVAL TO CONTINGENTLY APPROVED COURSES.

Discussion: Where contingently approved courses are determined through audit to fall just short of AHERA standards, Regions will try to work with these providers to enable their qualification for full approval. By the same token however, there are also instances where courses are found to be so severely deficient that it is unlikely that they will ever attain the prescribed standards. Given this dilemma, EPA is publishing the following recommended criteria for use by its course auditors in deciding when to award full approval to a contingently approved course.

Recommended Decision Framework:

- o Acceptable Courses -- those that meet or exceed the Model Plan'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 within a reasonable period of time, 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.

ISSUE SIX - GRANDFATHERING OF PRE-1987 COURSES.

Discussion: Some providers have urged EPA to retroactively reclassify pre-1987 courses as fully approved AHERA courses, because those courses were essentially equivalent to fully approved AHERA courses. The Agency is concerned however, about the apparent arbitrariness of such a decision rule, and also about the need to ensure that contractors have the up-to-date information needed in order to properly conduct AHERA asbestos abatement work.

Policy: Pre-1987 courses which had not obtained full EPA-approval by February 1, 1990 will no longer be eligible for retroactive full course approval.

ISSUE SEVEN - MULTIDISCIPLINARY REFRESHER COURSES.

Discussion: The Model Plan requires states to provide annual refresher courses specific to each AHERA discipline. This is rooted in the need for functional specialization in a highly technical field, a rapidly changing regulatory and technological context, and differing levels of knowledge and skill necessary for successful performance within each training discipline. The issue has often been raised as to whether it would be permissible for providers to streamline reaccreditation by offering a single refresher course that would meet the update requirements for two or more of the basic courses in a combined fashion. The Agency's position on this matter is that in general, the combining or substituting of courses compromises the reaccreditation process to an unacceptable degree.

Policy: Each refresher course shall correspond to only one AHERA discipline.

ISSUE EIGHT - PROVIDERS WHO OFFER REFRESHER COURSES ONLY.

Discussion: This issue relates to whether or not there is a basis for approving an annual refresher course which is not a direct derivative of a full AHERA course. Is it reasonable to assume that a refresher course can stand alone and still fulfill AHERA requirements? The Agency believes that it is, and that a full course offering in any AHERA discipline should not be considered a prerequisite to a provider making a refresher course offering.

Policy: Course providers shall be allowed to give refresher-only courses and shall not be required to offer full courses as a precondition to having their refresher courses approved.

Footnote: EPA strongly recommends two related actions in this regard: (1) that full course providers clearly indicate their telephone number and the name of a contact person with their firm on any training certificate they issue (so that subsequent confirmation of a student's qualification to take a refresher course can be made by another firm), and (2) that refresher-only course providers perform such confirmation prior to admitting students into their refresher courses. Strict adherence to these recommendations will ensure that only qualified asbestos professionals become/remain certified.

ISSUE NINE - NON-ENGLISH COURSES.

Discussion: A number of AHERA training courses around the country are now being conducted in foreign languages, most often in Spanish or Vietnamese. A serious problem arises when the printed materials supporting these lectures are written in English and most of the attendees neither read nor speak this language. The same difficulty can arise whenever the lecture and the printed materials are presented in different languages. This growing problem has posed a dilemma for the course providers as well as the Agency.

Policy: Worker courses may be offered in languages other than English on the 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 the course materials into the other language, (2) provide the translated course materials to either EPA or the State, whichever had approved the course (new foreign language courses must all be State-approved), and (3) give written assurance with the submission of the course that the translation has been checked for accuracy.

Worker courses shall be taught by instructors fluent in the language of the majority of trainees. Worker courses shall not be taught using an English-speaking lecturer and an interpreter. EPA's Regional Offices shall not approve courses that are taught using an interpreter.

Non-worker courses shall only be offered in English.

ISSUE TEN - RETAKING EXAMINATIONS.

Discussion: This issue relates to the question of how many times a trainee may retake an examination after having failed to achieve a qualifying grade of 70%. The Agency's position on this issue is that course providers may establish their own limits in this regard. However, EPA strongly recommends that students only be allowed to retake an examination twice. After two successive failures, the student should retake the full course before being allowed to retest.

Policy: Course providers and states may determine what is acceptable regarding retesting.

For further information regarding any of the policy issues addressed herein, please contact Phil King, of my staff, at (202) 382-3949. As appropriate, this office may transmit additional policy guidance in the future as other issues become problematic. Also, please be reminded that technical and regulatory assistance is available to you from both the TSCA Assistance Information Service at (202) 554-1404 and the Asbestos Ombudsman Clearinghouse at (703) 557-1938.

cc: Technical Assistance Staff
 AHERA accreditation file
 Asbestos Ombudsman Clearinghouse
 TSCA Assistance Information Service
 Regional Asbestos Coordinators