

309 CMR: BOARD OF REGISTRATION OF
HAZARDOUS WASTE SITE CLEANUP PROFESSIONALS

309 CMR 3.00: LICENSING OF LICENSED SITE PROFESSIONALS

Section

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3.01: Licensing of Licensed Site Professionals

Applicants for licensure must provide such information and demonstration as the Board deems reasonably necessary to enable the Board to determine that applicants meet the qualifications in 309 CMR 3.02 and must achieve a passing score on an examination conducted by the Board in accordance with 309 CMR 3.04.

3.02: Qualifications for Eligibility to Take Licensing Examination

Applicants must demonstrate that they meet the following requirements for the Board to determine that they are eligible to take the licensing examination:

(1) Minimum Education Requirements. Applicants for licensure shall meet the requirements of one of the following tracks:

- (a) Standard Track. Applicant has earned a baccalaureate, masters or doctorate degree from a recognized educational institution in one of the curricula listed in 309 CMR 3.00: *Appendix A*, or in a curriculum found to be equivalent by the Board.
- (b) Alternate Track. Applicant has earned at least a high school diploma, but does not meet the requirements for the Standard Track.

(2) Minimum Experience Requirements. Each applicant shall demonstrate to the Board's satisfaction that the applicant meets the requirements for total professional experience and relevant professional experience, determined separately for each position. Qualifying total professional experience and relevant professional experience must be work of a professional grade and character performed for a minimum average of 20 hours per week that indicates the applicant is competent to render waste site cleanup activity opinions. Total professional experience or relevant professional experience performed for less than a minimum average of 20 hours per week will be applied toward the satisfaction of 309 CMR 3.02(2) on a *pro rata* basis.

- (a) Standard Track applicants must have eight years of total professional experience, five years of which are relevant professional experience. At least three years of the relevant professional experience must have occurred within five years prior to submission of an application for licensure.
- (b) Alternate Track applicants must have 14 years of total professional experience, seven years of which are relevant professional experience. At least three years of the relevant professional experience must have occurred within five years prior to submission of an application for licensure.
- (c) Work performed during a period of full-time undergraduate study at an educational institution is considered part of the educational program and is not considered acceptable professional experience; provided, however, that the Board may accept work performed for periods of at least two and one half consecutive months per calendar year when not enrolled as a full-time student, during, or incidental to, undergraduate education as total professional experience if the applicant did not receive college credits for that work.

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(3) Good Moral Character. Applicants shall demonstrate that they possess good moral character.

(4) Credits. Applicants who have earned degrees from recognized educational institutions in addition to those required to meet the minimum educational requirements set forth in 309 CMR 3.02 may request that the Board credit some or all of that additional education toward the requirements for total professional experience in accordance with the following:

(a) in the case of an applicant seeking a license *via* the Standard Track, one year credit for each master's degree, and two years credit for a doctorate degree, if the degrees are from a recognized educational institution in one of the curricula listed in Appendix A or in a curriculum found to be equivalent by the Board; or

(b) in the case of an applicant seeking a license *via* the Alternate Track, one year credit for each associate's degree, and two years credit for a baccalaureate or higher degree.

The Board will grant to an applicant up to two years maximum credit for additional education.

3.03: Application for Licensure

(1) Filing Procedure. An individual desiring to be licensed as a licensed site professional shall fully complete a current application form approved by the Board and file such completed form, together with the application fee. Incomplete applications, and applications which are not completed according to the instructions, or are not accompanied by the requisite fee, may be denied by the Board if the applicant fails to correct deficiencies in the application in a timely manner. The application form may require the applicant to submit, or cause to be submitted, references and information related to the applicant's moral character, employment history, education, experience, and any other information deemed appropriate by the Board. At any stage during the review of an application, the Board may require an applicant to provide additional information pertaining to his or her application.

(2) Documentary Evidence of Education. The applicant shall cause to be filed with the Board official transcripts or other documentation issued by the educational institution(s) from which the applicant earned the degree needed to demonstrate the minimum education requirement for licensure. Any official transcripts or other documentation shall be completed, certified and submitted by the educational institution(s) that issued a degree to the applicant. The Board will retain the official documentation. The Board, at its discretion, may require the applicant to furnish additional documentation pertaining to the application.

(3) Review of Applications. The Board will consider each application separately. The Board will review each application, including the evidence of education and other required documentation, to determine the completeness of the application and the eligibility of the applicant for examination. In reviewing each application, the Board may also obtain information about the applicant from the Department, current and former employers, supervisors, and others. For total professional experience and relevant professional experience, the Board will review each position separately to determine if each position meets the requirements of total professional experience or relevant professional experience.

(4) Interviews. The Board, in its discretion, may require an applicant to appear for a personal interview for the purpose of answering questions pertaining to an application. However, the Board is under no obligation to require or hold such an interview. If an applicant twice fails to appear for a personal interview scheduled with the Board, the application shall be denied and the applicant shall be deemed ineligible to take an examination until a subsequent application is approved, unless the Board finds that such failure to appear was due to circumstances reasonably beyond the applicant's control.

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(5) Notification of Applicants. Each applicant deemed eligible for examination by the Board will be notified promptly of the location(s) where the examination will be held, the materials the applicant is permitted to bring to the examination, and other necessary information. Each applicant found ineligible for examination by the Board will promptly be sent a written decision explaining the reasons the Board has found the applicant ineligible. An individual whose application is denied may be barred from reapplying for a period of not more than five years.

(6) Reapplication. Each applicant found ineligible to take an examination may reapply at any time, unless the Board has barred the individual from reapplying for a period of not more than five years. Applicants who reapply within six months of the date the Board issued its notice of the denial of a prior application may utilize the references submitted with the prior application. Applicants who reapply need not submit transcripts or other educational documentation that were previously submitted. An application fee and a new set of application forms must be submitted with each reapplication.

3.04: Examination

(1) Frequency and Scheduling. The Board shall administer a licensing examination at least once per year. Examinations shall be held at places and times set by the Board or its designee as directed by the Board.

(2) Examination Format/Content. Examinations shall be comprised of multiple choice questions and shall test the applicant's overall regulatory understanding and overall technical understanding. Overall technical understanding means an understanding of basic concepts and methods in those scientific and technical fields related to assessment, containment and removal actions sufficient to render competent waste site cleanup activity opinions. Overall regulatory understanding means an understanding of 309 CMR, 310 CMR 40.0000: *Massachusetts Contingency Plan*, and related written policies and other environmental regulations sufficient to render competent waste site cleanup activity opinions.

(3) Initial Eligibility. An applicant may not take an examination unless the applicant has been deemed eligible for the examination pursuant to 309 CMR 3.03.

(4) Examination Fee. An applicant may take an examination only if the applicable examination fee established by the Secretary of Administration and Finance pursuant to M.G.L. c. 7, § 3B, and published in 801 CMR 4.00: *Rates* has been paid. Payment shall be made in full by electronic payment, check or money order payable to the Commonwealth of Massachusetts or to the Board's designated examination contractor, as specified by the Board. The examination fee is nonrefundable, except in the following circumstances: An applicant whose failure to appear for the examination is found by the Board to be due to circumstances beyond the applicant's reasonable control shall receive a refund or may request that the application be held open until the applicant can take a subsequent examination that occurs within two years of the date the Board voted to approve the applicant's written application.

(5) Examination Procedures and Rules.

(a) The Board will require each examinee to present some form of identification containing a photograph of the applicant. The examinee may present:

1. a current motor vehicle operator's license or other government-issued identification document;
2. a passport; or
3. any other form of official identification that has been approved by the Board at the applicant's request prior to the examination.

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(b) Unless the Board specifically permits examinees to bring equipment and materials to a given examination, examinees shall not be allowed to bring any books, notes, memoranda, scratch paper, computers or other equipment or materials into the examination room with the following exceptions:

1. Examinees may bring and utilize non-programmable calculators.
2. Examinees with disabilities shall be permitted to bring and utilize other equipment and/or materials when the use of said equipment and/or materials is either required by law or specifically permitted by the Board at the request of the examinees.

(c) The following examination rules shall be in effect during the examination, and violation of any rule shall be considered grounds for disqualification of the applicant:

1. Examinees shall not copy examination questions or make notes relative thereto.
2. Examinees shall not discuss the examination with anyone other than a proctor.
3. Examinees shall not read or copy the answers of any other examinee and shall not permit their own answers to be read or copied.
4. Examinees shall not remove copies of the examination from the examination room before, during or after the examination.
5. Upon completing the examination, examinees shall not leave the examination room with anything except those items they brought into the room. All notes, scratch paper, and calculation sheets must be turned in to the proctors along with the examination and answer sheets.

(6) Passing Score. Each time the examination is administered, the Board will establish the passing score. The Board shall establish that score based on its determination of the score that should be obtained by an individual who has the level of technical and regulatory knowledge that would reasonably be expected by an otherwise qualified applicant with five years of relevant professional experience.

(7) Examination Results. The examinations shall be graded by the Board or its designees. The results of the examination shall be sent by regular or electronic mail to each applicant. Examination papers will not be returned to the applicant.

(8) Reapplication for Examination. Applicants who fail to achieve a passing score on the examination may take a subsequent examination subject to the following procedures.

(a) Upon receipt by the Board of the following items, an applicant shall be allowed to take a subsequent examination that is scheduled to occur on a date not less than 90 days after the applicant last took an examination and not more than two years after the date the Board voted to approve that applicant's written application:

1. a written notice stating the applicant's intention to take the subsequent examination; and
2. the examination fee described in 309 CMR 3.04(4).

(b) Applicants who seek to take a subsequent examination that is scheduled for a date that is greater than two years after the date the Board last voted to approve that applicant's written application must reapply to be deemed eligible to take the examination by submitting the following:

1. a limited licensure application in a form approved by the Board; and
2. the full application fee described in 309 CMR 2.08: *Application Fee*.
3. Each of these applicants must meet the eligibility requirements existing at that time for initial applicants. Each shall demonstrate in the limited licensure application that at least three years of the applicant's relevant professional experience occurred within five years prior to submission of the limited licensure application.

3.05: License Denial

The Board will deny a license to an applicant who fails to meet any of the requirements for licensing set forth in 309 CMR 3.00. The Board will inform the applicant in writing of the reason(s) why the applicant was denied a license.

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3.06: License Renewal

- (1) A licensed site professional must renew the LSP's license every three years to maintain that license. Each license issued by the Board shall expire at the close of business on the expiration date assigned on the date of issuance unless it is renewed or extended by the Board. The initial expiration date assigned shall be the 30th of the month of January, April, July, or October three years from the date of issuance, whichever of said dates is or occurs soonest after three years from the date of issuance. As of June 30, 2002, the next license expiration date for each LSP whose existing license expiration date does not fall on a 30th of January, April, July, or October shall be extended to the 30th of January, April, July, or October, whichever date occurs soonest after each LSP's existing license expiration date.
- (2) To apply to renew a license, a licensed site professional shall:
- (a) submit for approval to the Board prior to the date of expiration of the license a completed renewal application form setting forth such information as the Board may direct, including whether the licensee has since the licensee's last LSP license renewal been disciplined by other professional licensing or professional certifying authorities and, if so, an explanation of the circumstances;
 - (b) pay in full the nonrefundable license renewal processing fee established by the Secretary of Administration and Finance pursuant to M.G.L. c. 7, § 3B, and published in 801 CMR 4.00: *Rates*, via electronic payment, a check or money order made payable to the Commonwealth of Massachusetts; and
 - (c) demonstrate to the Board's satisfaction that the licensee has fulfilled the continuing education requirements set forth in 309 CMR 3.09 or obtained a waiver of those requirements in accordance with 309 CMR 2.12: *Petitions for Waivers*.
- (3) A licensed site professional whose license has been suspended shall be subject to the following additional license renewal requirements:
- (a) If the licensee's license expiration date has not been reached when the suspension period ends, the license expiration date does not change. The license renewal requirements remain as described in 309 CMR 3.06(2), except that the Board may, when issuing the suspension, require the licensee to obtain additional continuing education credits as a condition of license renewal.
 - (b) If the licensee's license expiration date would be reached before the suspension period ends, the license expiration date shall be extended to the end of the suspension period. The LSP must renew the license as a condition of having the license reinstated at the end of the suspension period. The Board shall not reinstate the license unless and until the licensee's license has been renewed. The license renewal requirements remain as described in 309 CMR 3.06(2), with the following exceptions:
 - 1. The Board may, when issuing the suspension, require the licensee to obtain additional continuing education credits as a condition of license renewal;
 - 2. For each full year that the suspension extends beyond the LSP's nominal renewal date, the minimum number of credits required in each credit category shall be increased automatically by $\frac{1}{3}$ of the number specified in 309 CMR 3.09(3);
 - 3. If the LSP renews a license and it is reinstated, the LSP's next license expiration date shall be the 30th of January, April, July, or October three years thereafter, whichever of said dates occurs soonest after three years from the date the license was reinstated; and
 - 4. If the LSP fails to renew a license within 90 days after the date the term of suspension was scheduled to end, the license shall lapse and may not be renewed thereafter. In such instances, the individual may reapply in the manner specified in 309 CMR 3.06(4)(b).
- (4) If a licensed site professional whose license is not suspended fails to renew the license in accordance with 309 CMR 3.06(2), the license shall lapse at the close of business on the date of expiration of the license. A person whose license has lapsed and not been renewed by the Board shall not act as, advertise as, hold themselves out to be, or represent themselves as being, a licensed site professional. A person whose license has lapsed may re-obtain a license to practice in the following manner:

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(a) A person whose license has lapsed may renew the license at any time during the following year by meeting all the renewal requirements set forth in 309 CMR 3.06(2), including the payment of the applicable license renewal processing fee. A license that is renewed during the year after it has lapsed shall run for three years from the 30th of January, April, July, or October, whichever date is or occurs soonest after the date the Board approves the license renewal.

(b) A person who fails to renew a license within one year of the date of expiration of the license may thereafter reapply by submitting the following:

1. a limited licensure application in a form approved by the Board, and
2. the full application fee described in 309 CMR 2.08: *Application Fee*.

If the application is approved, the applicant must pay a full examination fee and pass a licensing examination within the following two years to obtain a full license, and the applicant may not act as, advertise as, hold themselves out to be, or represent themselves as being, a licensed site professional until the applicant has passed an examination.

(5) Notwithstanding 309 CMR 3.06(4), if at the time a licensed site professional must submit a renewal application form, the licensed site professional has obtained all but nine or fewer of the continuing education credits required to renew a license, the licensed site professional may apply to the Board for a 90-day extension of the license expiration date for the purpose of obtaining the additional required continuing education credits.

(a) To apply for this 90-day extension, a licensed site professional must do both of the following prior to the date of expiration of the license:

1. submit a completed renewal application form demonstrating that the licensed site professional has earned all but nine or fewer of the continuing education credits required to renew the license, and
2. remit the required applicable license renewal processing fee.

(b) After verifying that the licensed site professional has earned all but nine or fewer of the continuing education credits needed to renew the license and that the license renewal processing fee has been paid, the Board will notify the licensed site professional that the 90-day extension has been allowed and how to submit documentation of the additional required credits once obtained. At the time the licensed site professional submits documentation of having earned the additional required credits, the applicant must again pay a license renewal processing fee. A license that is renewed during the 90-day extension period shall be assigned the expiration date that would have been assigned if the applicant had renewed the license without requesting a 90-day extension.

(c) Only one extension will be granted to each LSP at the end of each three-year licensure period.

(d) If a licensed site professional who has been granted a 90-day extension fails to earn the additional required credits or fails to submit documentation thereof by the end of the extension period, the license shall lapse at the close of business on the last day of the extension period, and the late renewal and reapplication provisions of 309 CMR 3.06(4) shall apply; provided however, the one-year period for renewing the license without reapplying shall be deemed to have commenced on the original license expiration date and not at the end of the 90-day extension period.

(e) No portion of the credits for a continuing education course required to fulfill the requirements of one renewal period may be carried over into the subsequent renewal period.

(6) Notwithstanding 309 CMR 3.06(4), a licensed site professional who has submitted to the Board prior to the expiration of a license either a complete license renewal application or a complete application for a 90-day extension, has included the required documentation demonstrating that the applicant has fulfilled the applicable continuing education requirements, and has paid the proper renewal processing fee may continue to render waste site cleanup activity opinions until either:

- (a) the Board renews the license; or
- (b) the Board notifies such LSP that the application for license renewal or for a 90-day extension does not conform with the requirements set forth in 309 CMR 3.06 or, if a licensed site professional has a right to and requests an adjudicatory hearing, until the date the Board issues a final decision pursuant to that request.

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(7) The Board in its discretion may renew a license provisionally or subject to such conditions as the Board deems appropriate.

3.07: Right to Adjudicatory Hearing

(1) An applicant determined by the Board to be ineligible for examination or for license renewal, or whose license has been renewed provisionally or subject to conditions by the Board, may request an adjudicatory hearing by filing a written Notice of Claim for Adjudicatory Proceeding. The Notice shall state clearly and concisely the facts that are grounds for the proceedings and the relief sought. The Notice shall be filed with the Board within 21 days from the date that the applicant receives notice of the Board's determination.

(2) A Notice shall be deemed to be filed with the Board as set forth herein:

- (a) If submitted by electronic mail during regular business hours, it shall be deemed filed on the day received by the Board.
- (b) If submitted by electronic mail during non-business hours, it shall be deemed filed on the next regular business day.
- (c) If hand-delivered during regular business hours, it shall be deemed filed on the day delivered.
- (d) If hand-delivered during non-business hours, it shall be deemed filed on the next regular business day.
- (e) If mailed by placing in U.S. mail, it shall be deemed filed on the date so post-marked.
- (f) A delivery by a bonded delivery service shall be treated as a hand delivery.

3.08: Waiver of Right to Adjudicatory Hearing

An applicant will be deemed to have waived the right to an adjudicatory hearing unless the Board receives a written request for an adjudicatory hearing by the deadline set forth in 309 CMR 3.07.

3.09: Continuing Education Requirements

(1) Definitions. As used in 309 CMR 3.09, the following terms shall have the following meanings unless the context clearly indicates otherwise:

Approved Conference Workshop means a Board-approved workshop, short course, or similar training session that occurs at a conference approved by the Board.

Assessment of Learning means a diagnostic tool that measures whether an attendee met set learning goals.

Continuing Education means Board-approved courses of learning that are reasonably likely to either maintain or enhance the licensee's ability to competently perform, supervise and/or coordinate the scientific and/or technical components of response actions (*i.e.*, assessments, containments, and/or removals) in Massachusetts or to competently perform, supervise, and/or coordinate such response actions in Massachusetts in compliance with applicable regulatory requirements. OSHA-required health and safety training courses shall not be considered acceptable for the purposes of meeting the continuing education requirements.

Continuing Education Credit and Credit each mean:

- (a) For Board-approved courses which are offered as part of a university or college curriculum, the units of continuing education that, pursuant to 309 CMR 3.09(8), are granted by the Board for each approved course completed by a licensee; and
- (b) For all other Board-approved courses, including Internet courses, the units of continuing education that are granted by the Board, generally on the basis of one credit for each hour of approved course instruction actually attended by a licensee.

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(c) For Board-approved conferences and conference workshops, the units of continuing education that, pursuant to 309 CMR 3.09(9), are earned by licensees by attending approved conferences and conference workshops.

Courses Offered as Part of a University or College Curriculum mean courses offered by an institution accredited to issue associates, bachelors and/or graduate degrees, provided that the course:

- (a) meets on a regular weekly schedule on a semester or quarterly basis, and
- (b) the course may be taken for a grade.

DEP Course means a continuing education course that meets the requirements of 309 CMR 3.09, is taught in whole or in substantial part by Department of Environmental Protection personnel, and for which the Department has demonstrated, to the Board's satisfaction, that the course subject matter is directly focused on regulatory and/or technical topics that are reasonably likely to maintain or enhance the ability of LSPs to perform, supervise and/or coordinate response actions (*i.e.*, assessments, containments and/or removals) in Massachusetts in compliance with applicable regulatory requirements. To be designated as a "DEP Course," a course must be taught in whole or in substantial part by Department personnel, must be proposed as a "DEP Course" by the Department, and must be approved as a "DEP Course" by the Board. The Board, in its discretion, may also classify as a "DEP Course" a course taught in whole or in substantial part by Board personnel.

Licensee(s) and LSP(s) each mean individuals holding an LSP license that is in full force and effect.

Live Webinar means a course or conference workshop offered on the internet in real time that includes live instruction, transmitted in person or otherwise, during which an attendee may communicate and interact with the instructor and other attendees.

On-demand Course means a prerecorded course or conference workshop offered on the internet that does not include live instruction, transmitted in person or otherwise, during which the attendee may communicate or interact with the instructor or other attendees.

(2) Basic Requirements.

- (a) Every three years following issuance of a license, each LSP shall demonstrate to the Board's satisfaction that the LSP has earned a minimum of 36 continuing education credits. These credits can be earned only by attending Board-approved courses, conferences, or conference workshops. Subject to the attendance and other requirements set forth in 309 CMR 3.09, continuing education credits are considered to be earned at the completion of each Board-approved course or at the end of each Board-approved conference or conference workshop.
- (b) An LSP may apply up to six continuing education credits earned during the last six months of a license renewal period toward their next license renewal, provided those credits were not applied toward the previous renewal.
- (c) Applicants who have been approved to take the examination may take Board-approved courses and utilize up to 12 credits earned up to six months prior to passing the LSP examination at their first license renewal.
- (d) LSPs who renew their licenses pursuant to 309 CMR 3.06(4)(a) after their licenses have lapsed may utilize at their next license renewal up to 12 credits earned during their lapse period so long as the credits were not used for the renewal that ended the lapse period.
- (e) LSPs who have qualified for a 90-day extension pursuant to 309 CMR 3.06(5) may apply credits earned during their 90-day extension period to their next license renewal so long as those credits were not used toward the renewal period for which they received the 90-day extension.
- (f) Consistent with 309 CMR 3.06(5)(e), credits from any course may not be split between an earlier and later license renewal.

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(g) All continuing education credits submitted by an LSP in fulfillment of the requirements of 309 CMR 3.09(2)(a) shall be earned by attending Board-approved courses, conferences, or conference workshops that are reasonably likely to maintain or enhance that LSP's ability to render competent professional services.

(h) An LSP may not repeat a course or conference workshop for credit during the same three-year license renewal period or during the following three-year license renewal period.

(3) Credit Minimums.

(a) The 36 continuing education credits earned every three years, as required in 309 CMR 3.09(2)(a), shall include not fewer than nine credits from a Board-approved DEP Course or Courses. The balance of the 36 required credits may be earned by attending any Board-approved course, conference, or conference workshop. No credits may be applied more than once toward the overall 36-credit requirement.

(b) The continuing education requirements set forth in 309 CMR 3.09(3)(a) are summarized for convenience in the following table.

	Minimum Number of Credits Required
Total Credits	36
DEP Course(s)	9
Non-DEP Courses	no minimum requirement

(4) Board-required Courses. The Board may from time to time require all LSPs to take a specific course. The Board will allow such a course to be counted toward the requirements of 309 CMR 3.09(2) and (3).

(5) General Course Requirements. To be considered by the Board for approval as a continuing education course, the licensee or course provider must demonstrate that:

(a) attendance will be adequately documented and attendance records will be maintained for a minimum of five years;

(b) for courses not offered as part of a university or college curriculum, at least one contiguous hour of instruction time will be provided;

(c) for on-demand courses, the course provider will conduct an assessment of learning, will provide certification that the attendee successfully completed the assessment by achieving a score of at least 70% and will allow the attendee to retake the assessment until the attendee achieves a score of at least 70%;

(d) for live webinars, the course provider will include polling questions at periodic intervals appropriate to the length of the course, with a minimum of two questions for a one-hour course and at least one additional question per hour for classes longer than one hour in length, and will provide certification that the attendee has completed the polling questions that were presented while the attendee was in attendance;

(e) for on-demand courses, documentation that the attendee successfully completed the assessment of learning will be maintained for a minimum of five years;

(f) for live webinars, documentation that the attendee completed the polling questions, will be maintained for a minimum of five years;

(g) the course will be taught by competent instructors knowledgeable in the subject matter to be presented; and

(h) a written outline or syllabus will be followed.

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(6) Requests for Approval of Continuing Education Courses.

(a) Either an LSP or the provider of a potentially qualifying course may seek Board approval for the course. The Board shall attempt to act upon a complete request within two months of receipt; however, the Board's failure to act within two months shall not constitute approval of the course. Requests for retroactive approval of continuing education courses (*i.e.*, courses already commenced or completed by the time the Board meets to review the requests for their approval) are disfavored but may be approved, at the Board's discretion, if the provider has adequately documented and maintained a record of attendance and the other requirements for course approval are met.

(b) A complete request for approval of a continuing education course must include the following information:

1. the date(s), time(s) and location(s) of the course, and the number of hours of continuing education credits requested;
2. a written course outline or syllabus;
3. a written statement describing the course and establishing its relevance to oil or hazardous materials assessment, containment or removal activities at disposal sites in Massachusetts;
4. the credentials of the instructors;
5. a statement that the sponsoring organization will adequately document attendance and will maintain a record of attendance for a minimum of five years, and will follow the course outline or syllabus;
6. the different credit options (if any) attending LSPs will have for earning continuing education credits;
7. for all courses, including conference workshops, a statement that the sponsoring organization will, at the completion of the course, conduct, and retain for the Board's inspection for a period of a year, an evaluation of the course and the course instructor(s) using, at a minimum, evaluations prepared confidentially by the course attendees and maintained in such a manner that the identity of each evaluator is not disclosed to the course instructor or provider;
8. for on-demand courses, a statement that the sponsoring organization will conduct an assessment of learning, will provide certification that the attendee has achieved a score of at least 70%, will allow the attendee to retake the assessment until the attendee has achieved a score of at least 70%, and will maintain a record of the attendee's score for a minimum of five years;
9. for live webinars, a statement that the sponsoring organization will include polling questions at periodic intervals appropriate to the length of the course, with a minimum of two questions for a one-hour course and at least one additional question per hour for classes longer than one hour in length, will provide certification that the attendee has completed the questions presented while the attendee was in attendance, and will maintain a record that the attendee completed the questions for a minimum of five years; and
10. any other information which the Board requests of the licensee or course provider to demonstrate compliance with 309 CMR 3.09.

(c) Once a course has been approved by the Board, if there are any substantive changes in the course outline or syllabus, or a change of instructor(s), the course will require separate, additional Board approval before LSPs can be given continuing education credit for taking the revised course.

(d) In submitting a course for Board approval as continuing education, the licensee or course provider may suggest a division of the course into DEP Course and non-DEP Course components. Based on the information submitted, the Board may determine, in its discretion, whether to approve an allocation of continuing education credits based on the suggested division or decide upon a more appropriate allocation of credits.

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(e) In selecting Board-approved courses for continuing education credit, each licensee must also consider the criterion of 309 CMR 3.09(2)(g) as it applies to that individual licensee. While the Board will not routinely investigate whether an otherwise approved course meets the requirements of 309 CMR 3.09(2)(g) for a given individual, the Board reserves the right to do so. If the Board finds that this criterion has not been met, the Board may, without waiving any other remedy available to it, deny a licensee all or a portion of the credit sought and may take any other appropriate action including, but not limited to, requiring the licensee to obtain additional continuing education credits in the subsequent license period.

(7) Attendance Requirements. For continuing education credit to be granted for attendance at Board-approved courses, the following attendance requirements must be met. These requirements are also summarized for convenience in the table in 309 CMR 3.00: *Appendix B*.

(a) To receive continuing education credit for attendance at an approved course, other than an on-demand course, that is more than four hours in length, the licensee must attend a minimum of 75% of the course; however, in no event may attendance be less than four hours. In the event that an LSP attends at least 75% but less than 100% of a course that is more than four hours in length, the LSP will receive credit on a *pro rata* basis.

(b) To receive continuing education credit for attendance at an approved course that is one to four hours in length, the licensee must attend 100% of the course to receive any credit.

(c) To receive continuing education credit for attendance at a live webinar, in addition to meeting the requirements in 309 CMR 3.09(7)(a) or (b), the licensee must complete the polling questions presented during the portion of the course they attend;

(d) To receive continuing education credit for attendance at an on-demand course of any length, the licensee must attend 100% of the course and achieve a score of at least 70% on the assessment of learning presented during the course;

(e) The attendance requirements for conference workshops are set forth below in 309 CMR 3.09(9)(d).

(f) Course instructors who are licensees may receive continuing education credit for a course once if they either teach the entire course or teach part of the course and attend, subject to the attendance requirements noted above, the remainder of the course.

(8) Maximum Credit for University or College Courses. Courses offered as part of a university or college curriculum may be approved by the Board for credit equivalent to 70% of the total number of hours of classroom instruction if the course is taken for a grade and the licensee passes, or 50% of the total number of hours of classroom instruction if the course is not taken for a grade by the licensee. If an LSP takes the course for a score or grade, the LSP must pass the course in order to receive continuing education credit. In determining whether the LSP has passed the course, the score or grade assigned by the course provider will ordinarily govern. Those LSPs who are taking an approved university or college course for a grade are not subject to the attendance requirements in 309 CMR 3.09(7).

(9) Conferences.

(a) LSPs may obtain credit on a one-for-two basis (*i.e.*, one credit for every two hours of attendance) for attending Board-approved conferences, and they may obtain credit on a one-for-one basis (*i.e.*, one credit for each hour of attendance) for attending approved conference workshops, subject to the requirements set forth below.

(b) Prior to the conference, the sponsor must submit a request for approval to the Board enclosing the following:

1. a full description of the conference, including a description and schedule for each of its sessions, workshops, short courses, and similar training sessions;
2. the date, time, and location of the conference;
3. a statement that the sponsor will comply with all the requirements in 309 CMR 3.09(9)(c) and 3.09(9)(e); and
4. if the provider is seeking one-for-one credit for any workshops, short courses, or similar sessions, all the information required in 309 CMR 3.09(6) must be submitted for each such session. To be approved as an approved conference workshop, a workshop, short course, or similar training session must be at least one hour in length.

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(c) A sponsor must comply with the following verification requirements when conducting an approved conference:

1. maintain a sign-in/sign-out log for each LSP to sign in and out each time the LSP arrives at or leaves the conference premises;
2. maintain a separate sign-in/sign-out log for each approved conference workshop; and
3. check each LSP's photo I.D. and also enter the time of day next to the LSP's signature in the log on each occasion when an LSP signs a sign-in/sign-out log.

(d) The attendance requirements for obtaining one-for-one credit at approved conference workshops are as follows:

1. For approved conference workshops, other than on-demand conference workshops, that are more than four hours in length, the LSP must attend at least 75% of the session; however, in no event may the attendance be less than four hours.
2. For approved conference workshops, other than on-demand conference workshops, that are at least one but no more than four hours in length, the LSP must attend 100% of the session.
3. For approved conference workshops offered as live webinars, the LSP must complete all polling questions presented during the portion of the session they attend.
4. An LSP who attends an approved conference workshop, other than an on-demand conference workshop, but does not meet the foregoing attendance requirements shall obtain credit on a one-for-two basis based on the time attended.
5. For on-demand conference workshops of any length, the LSP must attend 100% of the session and achieve a score of at least 70% on the assessment of learning presented during the session.
6. Instructors for approved conference workshops who are LSPs may receive one-for-one credit for the session once if they either teach the entire session or teach part of the session and attend, subject to the attendance requirements noted above, the remainder of the session.
7. These attendance requirements are also summarized for convenience in the table in 309 CMR 3.00: *Appendix B*.

(e) After an approved conference has concluded, a sponsor must comply with the following requirements for calculating and awarding continuing education credits to those LSPs who were in attendance:

1. Tally up separately the total number of hours each LSP attended:
 - a. approved conference workshops for which the LSP met the attendance requirements; and
 - b. the remainder of the conference, not counting time spent in approved conference workshops for which the LSP met the attendance requirements. In calculating these hours, the sponsor shall count only those hours between the time the LSP signed in and the time the LSP signed out. An LSP must sign both in and out to receive attendance hours.
2. After tallying the hours, award each LSP who has attended the conference an LSP Board Continuing Education Certificate showing how many credits the LSP has earned, based on the rules for calculating credits set forth above.

(10) Internet Courses. Notwithstanding the specific requirements set forth in 309 CMR 3.09(1) through (9), the Board may, as it sees fit and on a course-by-course basis, impose special requirements and/or conditions on Internet courses (including live webinars and on-demand courses), course providers and/or LSPs taking said courses.

(11) The Board may conduct an audit or request information from any course provider or sponsoring organization to ensure that the course provider or sponsoring organization is meeting the standards set forth in 309 CMR 3.00. Such provider or sponsoring organization shall fully cooperate with the Board in accommodating such audit or providing such information in a timely manner. A determination by the Board that a course provider or sponsoring organization is not meeting the standards set forth in 309 CMR 3.00 may result in the Board not approving existing and future courses offered by that course provider or sponsoring organization.

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APPENDIX A

STANDARD TRACK DEGREES

Degrees meeting the Standard Track curriculum requirement (309 CMR 3.02(1)(a)) include a bachelor's or advanced degree from an accredited college or university with a major or concentration in the following fields:

- Biochemistry
- Biology (including toxicology, microbiology, ecology, botany, zoology)
- Chemical Engineering
- Chemistry
- Civil Engineering
- Earth Science
- Environmental Engineering
- Environmental Sciences
- Epidemiology
- Forestry
- Geology
- Geotechnical Engineering
- Hazardous Waste Management
- Hydrogeology
- Hydrology
- Industrial Hygiene
- Medicine
- Physical Geography
- Public Health (if technical in nature)
- Risk Assessment
- Soil Science
- Water Resources
- Wetland Science

If the applicant's degree is not in a field listed above, the Board shall consider whether sufficient course work has been completed in one or more of the fields listed above. The applicant has the burden of proof; the Board shall base its decision in part on official transcripts.

APPENDIX B

MINIMUM LENGTH AND MINIMUM ATTENDANCE REQUIREMENTS
FOR APPROVED COURSES

Pursuant to 309 CMR 3.09, the Board may approve four different types of courses for continuing education credit for LSPs: DEP Courses, other courses, conference workshops, and college/university courses.

To be approved by the Board for continuing education credit for LSPs, 309 CMR 3.09 requires that each of these courses must meet a certain minimum length requirement. Courses that do not meet the applicable minimum length requirement cannot be approved for any LSP continuing education credit. In addition, an LSP must satisfy specific minimum attendance requirements for each type of course in order to obtain any continuing education credit for that course.

Minimum course length and LSP attendance requirements are summarized in 309 CMR Appendix B: *TABLE A*. 309 CMR Appendix B: *TABLE A* is for convenience only; in the event of a discrepancy between the table and the provisions of 309 CMR 3.00, the language will govern.

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TABLE A.

Type of Course	Minimum Course Length	Minimum Attendance Requirements
DEP Course	One hour	<ul style="list-style-type: none"> ● For one to four-hour course: 100% ● For course longer than four hours: four hours or 75% of the course, whichever is greater [If attendance requirement is not met, LSP receives no credit.]
Approved Conference Workshop other than On-Demand Course	One hour	<ul style="list-style-type: none"> ● For one to four-hour workshop: 100% ● For workshop longer than four hours: four hours or 75% of the workshop, whichever is greater [If attendance requirement is not met, LSP receives 1:2 credit.]
College/Univ. Course	Meets at least weekly for one quarter/term/semester	<ul style="list-style-type: none"> ● If taken for grade: None ● If not taken for grade: 75%
On-Demand Course	One hour	100% [If attendance requirement is not met, LSP receives no credit.]

If an LSP attends for the minimum portion required but less than 100% of a course, other than an on-demand course, the LSP will receive continuing education credit on a *pro rata* basis. For example, if the LSP Board has approved an eight-hour DEP Course for eight "DEP Course" credits, an LSP who attends 7½ hours of the course will receive 7.5 credits. In addition, in order to obtain any credit for an on-demand course, an LSP must also pass the assessment of learning offered during the course with a score of at least 70%, and, in order to obtain any credit for a live webinar, an LSP must complete the polling questions presented during the portion of the course the LSP attends.

REGULATORY AUTHORITY

309 CMR 3.00: M.G.L. c. 21A, §§ 16 and 19 through 19J.