

Effective Date  
August 25, 2012

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

172 NAC 168

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 168 CERTIFICATION OF A REGISTERED ENVIRONMENTAL  
HEALTH SPECIALIST

168-001 SCOPE AND AUTHORITY. These regulations govern the credentialing of a registered environmental health specialist under Neb. Rev. Stat. §§ 38-1301 to 38-1315 and the Uniform Credentialing Act (UCA).

168-002 DEFINITIONS.

Accredited College or University means a post-secondary school accredited by a regional accrediting institution.

Act means Neb. Rev. Stat. §§ 38-1301 to 38-1315 known as the Environmental Health Specialists Practice Act.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Attest or attestation means that the individual declares that all statements on the application are true and complete.

Board means the Board of Registered Environmental Health Specialists.

Certificate means an authorization issued by the Department that gives a person the right to use a protected title that only a person who has met specific requirements may use.

Certification Examination means the National Environmental Health Association's Registered Environmental Health Specialist/Registered Sanitarian Examination approved by the Board.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Confidential information means information protected as privileged under applicable law.

Effective Date  
August 25, 2012

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

172 NAC 168

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Continuing Education means the offering of instruction or information to certificate holders for the purpose of maintaining skills necessary for the safe and competent practice as a registered environmental health specialist. The continuing education may be offered under such names as "scientific school", "clinic", "forum", "lecture", "course of study" or "educational seminar.

Continuing Education Hour means 50 minutes.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
  - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
  - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
  - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
  - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Effective Date  
August 25, 2012

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

172 NAC 168

Environmental Health Specialist means a person who by education and experience in the physical, biological, and sanitary sciences is qualified to carry out educational, investigational, and technical duties in the field of environmental sanitation.

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 168.

Official means issued by and under the original seal of the educational institution.

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Provider means an individual or sponsoring organization that presents continuing education programs to certificate holders.

Provisional Environmental Health Specialist means a person who is qualified by education but does not have at least two full years of experience in the field of environmental sanitation and is certified in accordance with the Environmental Health Specialists Practice Act.

Registered Environmental Health Specialist means a person who has the educational requirements and has had experience in the field of environmental sanitation pursuant to Neb. Rev. Stat. § 38-1308 and is certified in accordance with the Environmental Health Specialists Practice Act.

Served in the regular armed forces has the same meaning as “military service” in these regulations.

Title or abbreviation means only a person who holds a valid current certificate for use in this state will have the right and privilege of using the title Registered Environmental Health Specialist and to use the abbreviation R.E.H.S. after his or her name.

168-003 INITIAL CREDENTIAL

168-003.01 Qualifications: To receive a credential to practice as a registered environmental health specialist, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good

- character;
2. Citizenship/ Lawful Presence Information: For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
  3. Education:
    - a. Have a baccalaureate degree from an accredited college or university and satisfactorily completed at least 45 quarter hours or 30 semester hours of academic work in the basic natural sciences; or
    - b. Have a degree higher than a baccalaureate degree from an accredited college or university and satisfactorily completed at least 45 quarter hours or 30 semester hours of academic work in the basic natural sciences.
  4. Experience:
    - a. Employed full time as an environmental health specialist for a period of not less than two years with a baccalaureate degree; or
    - b. Employed full time as an environmental health specialist for a period of not less than one year with a degree higher than a baccalaureate degree; and
  5. Examination:
    - a. Passed the certifying examination with a score of 68% or above.

168-003.01A Passed Certification Examination But Is Not Practicing: An applicant who has met the education, and examination requirements pursuant to 172 NAC 168-003.01, items 3 and 5, who passed the examination more than three years prior to the time of application for certification, and who is not practicing at the time of application for certification must present proof to the Department, within the three years immediately preceding the application for certification, that s/he has completed 24 hours of continuing education, pursuant to section 172 NAC 168-005.

168-003.01B Credentialed in Another Jurisdiction But Is Not Practicing: An applicant who has met the standards for certification pursuant to 172 NAC 168-003.01 based on a credential in another jurisdiction and who is not practicing at the time of application for certification must present proof to the Department, within the three years immediately preceding the application for certification, that s/he has completed 24 hours of continuing education, pursuant to section 172 NAC 168-005.

168-003.01C Provisional Credential: To receive a credential to practice as a provisional environmental health specialist, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Have a baccalaureate degree or higher from an accredited college or university and satisfactorily completed at least 45 quarter hours or 30 semester hours of academic work in the basic natural sciences.

168-003.01C1 The provisional credential will be valid for one year and may be renewed for two additional one-year periods. Certification as a provisional environmental health specialist must not exceed a three-year period.

168-003.02 Application: To apply for a credential to practice as a registered environmental health specialist or as a provisional environmental health specialist the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
  - a. Personal Information:
    - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
    - (2) Date of birth (month, day, and year);
    - (3) Place of birth (city and state or country if not born in the United States);
    - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
    - (5) The applicant's:
      - (a) Social Security Number (SSN);
      - (b) Alien Registration Number ("A#"); or
      - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
    - (6) The applicant's telephone number including area code (optional);
    - (7) The applicant's e-mail address (optional);
    - (8) The applicant's fax number (optional);
  - b. Practice Before Application: The applicant must state:
    - (1) That s/he has not practiced as a registered environmental health specialist or a provisional environmental health

- specialist in Nebraska before submitting the application; or
- (2) If s/he has practiced as a registered environmental health specialist or provisional environmental health specialist in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
- c. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
- (2) All statements on the application are true and complete;
- (3) S/he is of good character;
- (4) S/he has not committed any act that would be grounds for denial under 172 NAC 168-007 or if an act(s) was committed, provide an explanation of all such acts; and
- (5) S/he is:
- (a) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
- (b) For purposes of Neb. Rev. Stat. §38-129:
- (i) A citizen of the United States;
- (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
- (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
- (1) Driver's license;
- (2) Birth certificate;
- (3) Marriage license that provides date of birth;
- (4) Transcript that provides date of birth;
- (5) U.S. State identification card;
- (6) Military identification; or
- (7) Other similar documentation;
- b. Evidence of good character, including:
- (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
- (2) Disciplinary Action: A list of any disciplinary actions taken

- against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
  - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
    - (a) A list of any misdemeanor or felony convictions;
    - (b) A copy of the court record, which includes charges and disposition;
    - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
    - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
    - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
    - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
  - (2) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
  - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
  - (3) An American Indian Card (I-872);
  - (4) A Certificate of Naturalization (N-550 or N-570);
  - (5) A Certificate of Citizenship (N-560 or N-561);
  - (6) Certification of Report of Birth (DS-1350);
  - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
  - (8) Certification of Birth Abroad (FS-545 or DS-1350);

- (9) A United States Citizen Identification Card (I-197 or I-179);
  - (10) A Northern Mariana Card (I-873);
  - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of card;
  - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
  - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
  - (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation that the applicant:
- (1) Requested that the examination rating/grades be sent directly to the Department from the appropriate examination service or State Board Office;
  - (2) Requested that an official college transcript be sent directly to the Department from the accredited college or university; and
  - (3) Submitted any other documentation as requested by the Board/Department.
- f. Documentation of licensure in another jurisdiction, including:
- (1) Certification from the other jurisdiction (s) verifying licensure, including:
    - (a) Date of initial licensure;
    - (b) The name of the examination on which licensure was based;
    - (c) The score received on the examination;
    - (d) Date of the examination;
    - (e) Name of accredited program that the applicant presented a transcript from;
    - (f) The nature of disciplinary actions, if any, taken against the applicant's credential; and
  - (2) The applicant must:
    - (a) State that s/hew has practiced within the three years preceding the application; and
    - (b) Provide the dates and location(s) of practice prior to the date of the application; and
- g. Documentation of licensure in another jurisdiction, including:
- (1) Certification from the other jurisdiction(s) verifying licensure, including:
    - (a) Date of initial licensure;
    - (b) The name of the examination on which licensure was based;
    - (c) The score received on the examination;
    - (d) Date of the examination;
    - (e) Name of accredited program that the applicant presented a transcript from;
    - (f) The nature of disciplinary actions, if any, taken against the applicant's credential.
- h. Documentation of continuing competency if not practicing: Submit

- certificates of attendance verifying the 24 hours of continuing education pursuant to 172 NAC 168-005; or
- i. Documentation of continuing competency if credentialed in another jurisdiction but not practicing: Submit certificates of attendance verifying the 24 hours of continuing education pursuant to 172 NAC 168-005; and
3. Fee: The applicant must submit the required fee along with the application and all required documentation.

168-003.02A Prorated Fee: When a credential will expire within 180 days after it's initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

168-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

168-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 168-007, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

168-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

168-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 168-010 or such other action as provided in the statutes and regulations governing the credential.

168-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

168-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

168-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the

translator. An individual may not translate his/her own documents.

168-004 EXAMINATION ELIGIBILITY:

168-004.01 To be eligible for admission to the National Environmental Health Association (NEHA) certifying examination, an applicant must have met the education and experience requirements pursuant to 172 NAC 168-003.01, items 3 and 4, and any additional requirements established by NEHA,

168-004.02 To schedule the certifying examination, the applicant must contact the National Environmental Health Association.

168-005 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless such requirements are waived in accordance with 172 NAC 168-006.03 and 168-006.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

168-005.01 General Requirements for Certification: On or before December 31 of each even-numbered year, each environmental health specialist who has an active certificate must:

1. Complete 24 hours of continuing education to renew a certificate during the preceding 24 month period.
2. Be responsible for maintaining until the next renewal period:
  - a. Documentation of attendance at, or participation in, continuing education programs/activities. Documentation must include:
    - (1) Signed certificate of attendance; and
    - (2) Program outline and/or objective; and/or
    - (3) Other requested documentation pursuant to 172 NAC 168-005.01C, item 3a.
  - b. If the certificate holder is presenting a program, documentation of the continuing education program. Documentation must include:
    - (1) Course outline;
    - (2) Course brochure; and
    - (3) Statement of instructor's qualifications to teach the course, unless the qualifications are included in the brochure.
3. When applicable, submit an application for waiver of the continuing education requirement pursuant to 172 NAC 168-005.03 and 168-005.04.

168-005.01A Acceptable Continuing Education: The board does not pre-approve continuing education programs in advance, but will accept as continuing education for renewal, continuing education programs specified in 172 NAC 168-005.01B. The Board retains final authority for acceptance of any educational program/activity submitted by the certificate holder to meet the continuing competency requirements. In order for continuing education programs/activities to be accepted for renewal or reinstatement of a certification, the continuing education programs/activities must

relate to environmental health and it may focus on research, documentation, management, or education and must be open to all certificate holders.

168-005.01B A continuing education activity, except formal self-study will be acceptable when:

1. It constitutes a formally organized and planned program of learning which directly contributes to the professional competency of the certificate holder;
2. The objectives of the continuing education activity relates to the practice of environmental health;
3. It has a date, location, course title, number of contact hours, signed certificate or record of attendance and is open to all certificate holders; and
4. The instructor has specialized experience or training to meet the course objectives;

168-005.01C Acceptable Programs/Activities: The following is a list of acceptable continuing education programs/ activities and the required documentation specified for each. One hour of continuing education credit will be awarded for each 50 minutes of attendance. Each program/activity must be at least 50 minutes in length. Credit will not be awarded for breaks or meals.

1. Programs at State and National association meetings (for example, a meeting of the Nebraska or other state environmental health associations and/or the National Environmental Health Association. Documentation must include:
  - a. Certificate of attendance; and
  - b. Program outline and/or objectives.
2. Workshops, seminars, and/or conferences, including monitored videotapes and in-service programs where the content of the continuing education program/activity relates to environmental health. Documentation must include:
  - a. Certificate or record of attendance; and
  - b. Program outline and/or objectives.
3. University or college sponsored courses where the content of the course relates to environmental health. A credential holder must provide documentation of successfully completing the course. One semester hour is equivalent to 15 contact hours. One quarter hour is equivalent to 3.75 contact hours. Documentation must include;
  - a. An official transcript; and
  - b. Program outline and/or objectives.
4. Formal self-study where the content of the self-study activity relates to environmental health whether the subject is research, documentation, education, or management, (for example,

- videotapes, internet courses, correspondence courses). Certificate holders may complete a maximum of 12 hours of continuing education by self-study each renewal period. The self-study program must have a testing mechanism. Documentation must include:
- a. A certificate of completion; and
  - b. Program outline and/or objectives.
5. Management courses that pertain to the practice of environmental health. An environmental health specialist may complete a maximum of six hours of continuing education utilizing management courses each renewal period. Documentation must include;
- a. A certificate of attendance; and
  - b. Program outline and/or objectives.
6. Professional development courses that pertain to the practice of environmental health. The course must include quality improvement and communication. An environmental health specialist may complete a maximum of four hours of continuing education utilizing professional development courses each 24 month renewal period. Documentation must include:
- a. A certificate of attendance; and
  - b. Program outline and/or objectives;
7. Nationally recognized specialty certifications or registration: A credential holder will earn 24 contact hours of continuing education each renewal period for successful completion of a nationally recognized specialty certification. These include Certified Food Safety Professional (CFSP), NEHA Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS), Registered Hazardous Substances Professional (RHSP), and Registered Hazardous Substances Specialist (RHSS). Documentation must include a copy of his/her current certification.
8. Scientific Presentation: A certificate holder acting as an essayist or a lecturer to certified environmental health specialists, will be awarded one hour of continuing education credit for each continuing education hour of scientific presentation at workshops, seminars, in-service training, conferences, or guest lectures which relate to environmental health. A certificate holder may receive continuing education credit for only the initial presentation during a renewal period, with a maximum of four hours of continuing education credit for presentations in a 24 month renewal period. Documentation must include:
- a. Program brochure that includes the certificate holder's name as presenter;
  - b. Continuing competency course outline and/or objectives; and
  - c. Statement of instructor's qualifications to teach the course unless the qualifications are included in the brochure.

168.005.01D Non-acceptable Continuing Education: Continuing education credit will not be awarded for programs where the content does not relate to environmental health, including but not limited to:

1. Stress management;
2. Environmental health on-the-job training; and
3. Environmental health orientation programs, including orientation to new policies, procedures, equipment, forms, responsibilities, services, etc.

168-006 RENEWAL: An individual who wants to renew his/her registered environmental health specialist credential must request renewal as specified in 172 NAC 168-006.02. All registered environmental health specialist credentials issued by the Department will expire on December 31 of each even numbered year. The provisional environmental health specialist credential will expire one year from the date of issuance but may be renewed for two one-year periods. The provisional credential may not exceed a three year period.

168-006.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

168-006.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant on his/her application:
  - a. Must provide the following Information:
    - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
    - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
    - (3) The applicant's:
      - (a) Social Security Number (SSN);
      - (b) Alien Registration Number (A#); or
      - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
  - b. May provide the following information about him/herself:

- (1) The applicant's telephone number including area code;
    - (2) The applicant's e-mail address; and
    - (3) The applicant's fax number;
  - c. Must attest that s/he:
    - (1) Is of good character;
    - (2) Has met the continuing competency requirements specified in 172 NAC 168-005 or has requested a waiver if s/he meets the requirements of 172 NAC 168-006.03 and/or 168-006.04; and
    - (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in 172 NAC 168-007.01, or if an act(s) was committed, provide an explanation of all such acts; and
    - (4) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
    - (5) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
  - a. Alien or Non-Immigrant: Evidence of lawful presence, and/or immigration status may include a copy of:
    - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
    - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
    - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
    - (4) A Form I-94 (Arrival-Departure Record);
  - b. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
  - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
  - d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
  - e. Conviction Information: If the applicant has been convicted of a

felony or misdemeanor, since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:

- (1) A list of any misdemeanor or felony convictions;
- (2) A copy of the court record, which includes charges and disposition;
- (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
- (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
- (6) Any other information as requested by the Board/Department; and

3. The renewal fee according to 172 NAC 2.

168-006.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 168-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

168-006.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

168-006.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include proof that the credential holder was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during

the 24 months immediately preceding the certificate renewal date.

168-006.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

168-006.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

168-006.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

168-006.05C Acceptable documentation that the credential holder has met the continuing competency requirements include documentation as outlined in 172 NAC 168-005.01B. For purposes of these regulations proof of attendance or certificate of completion includes but is not limited to:

1. Copies of certificates of attendance or participation in a continuing education activity; and
2. Course outlines and/or objectives; or
3. Letters documenting attendance from providers; or
4. Copies of transcripts from educational institutions.

168-006.05D The Department will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

168-006.05E The Department will notify the credential holder upon satisfactory completion of the audit.

168-006.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

168-006.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

168-006.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

168-006.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

168-006.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

168-006.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

168-006.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

168-006.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

168-006.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice as an environmental health specialist terminates.

168-006.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 168-010 or such other action as provided in the statutes and regulations governing the credential.

168-006.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice as an environmental health specialist after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 168-009.

168-006.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

168-006.09A Request for Inactive Status: When the Department has received

notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

168-006.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice as an environmental health specialist but may represent him/herself as having an inactive credential.

168-006.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 168-009.

### 168-007 DISCIPLINARY ACTIONS

168-007.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
  - a. A misdemeanor or felony under Nebraska law or federal law, or
  - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
  - a. Fraudulently;
  - b. Beyond its authorized scope;
  - c. With gross incompetence or gross negligence; or
  - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;

Effective Date  
August 25, 2012

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

172 NAC 168

11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 168-007.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty; and/or
23. Unprofessional conduct as defined in 172 NAC 168-007.02.

168-007.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
  - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
  - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts; or
  - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement;
2. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
3. Cheating on or attempting to subvert the credentialing examination;
4. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
5. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on

- stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
6. Knowingly disclosing confidential information except as otherwise permitted by law;
  7. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
  8. Failure to keep and maintain adequate records of treatment or service;
  9. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
  10. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care;
  11. Competence: An environmental health specialist must not provide services for which s/he is not trained or experienced.
  12. Confidentiality: Releasing confidential information without the prior written consent of a client, except in those unusual circumstances in which a failure to do so would result in clear danger to the public or an identifiable individual, or where otherwise required or allowed by law;
  13. Professional Relationships: Safeguarding the welfare of the public and maintaining professional relationships with clients. Commission of any of the following acts constitutes unprofessional conduct:
    - a. Exploiting a client for financial gain or sexual favors;
    - b. Performing or agreeing to perform environmental health services that have been requested when the services are known to be contraindicated or unjustified;
    - c. Performing or agreeing to perform procedures that are outside of the environmental health specialist's scope of practice;
    - d. Verbally or physically abusing clients;
    - e. Falsification or unauthorized destruction of client records;
    - f. Delegating to other personnel, who are not trained or qualified, those services for which the skills and expertise of a registered environmental health specialist are required;
    - g. Encouraging or promoting the practice of environmental health by untrained or unqualified persons;
    - h. Filing a false report or record in the practice of environmental health: This includes but is not limited to collection or billing of a fee or other similar activity to obtain payment;
    - i. Providing services or promoting the sale of devices, appliances, or products to a person who cannot reasonably be expected to benefit from the services, devices, appliances, or products;
  14. Engaging in sexual misconduct. Specifically with regard to clients, the unprofessional conduct includes engaging in sexual harassment of clients. Sexual harassment includes, but is not limited to, making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:
    - a. Providing or denying service to a client;
    - b. Creating an intimidating, hostile, or offensive environment for the client; and/or
    - c. Providing favorable reports or modifying reports for sexual favors;

Effective Date  
August 25, 2012

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

172 NAC 168

15. Failure to follow policies or procedures implemented in the practice to safeguard the public;
16. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a registered environmental health specialist;
17. Failure to report suspected cases of child abuse or vulnerable adult abuse pursuant to Neb. Rev. Stat. §§ 28-717 and 28-384; and/or
18. Failure of a certificate holder, who is the subject of a disciplinary investigation, to furnish the Board or its investigator with requested information or requested documents.

168-007.03 Temporary Suspension or Limitation

168-007.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 168-007.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

168-007.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

168-007.03C A temporary suspension or temporary limitation of a credential under 172 NAC 168-007.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

168-007.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

168-007.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or

6. Revocation.

168-007.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 168-007.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

168-008 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
  - a. First, middle and last name;
  - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
  - c. Telephone number; and
  - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
  - a. List credential(s) and credential number(s) that would be surrendered or limited;
  - b. Indicate the desired time frame for offered surrender or limitation:
    - (1) Permanently;
    - (2) Indefinitely; or
    - (3) Definite period of time (specify);
  - c. Specify reason for offered surrender or limit of credential; and
  - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
  - a. Attest that all the information on the offer is true and complete; and
  - b. Provide credential holder's signature and date.

168-008.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

168-008.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

168-008.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of voluntary surrender will include, but not be limited to:
  - a. Duration of the surrender;
  - b. Whether the credential holder may apply to have the credential reinstated; and
  - c. Any terms and conditions for reinstatement.

168-008.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

168-008.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

168-008.06 Reinstatement following voluntary surrender is set out in 172 NAC 168-009.

168-009 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status,

voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.

2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

168-009.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter: The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant on his/her application:
  - a. Must provide the following information:
    - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
    - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
    - (3) The applicant's:
      - a. Social Security Number (SSN); or
      - b. Alien Registration Number (A#); or
      - c. Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
    - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
  - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence which may include a copy of:
    - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of card;
    - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
    - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable or
    - (4) A Form I-94 (Arrival-Departure Record);
  - c. May provide the following information about him/herself:
    - (1) Telephone number including area code;
    - (2) E-mail address;
    - (3) Fax number; and

- d. Must attest that s/he:
- (1) Is of good character;
  - (2) Has met the continuing competency requirements specified in 172 NAC 168-005 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
  - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
  - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 168-007 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
  - (5) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
  - (6) For purposes of Neb. Rev. Stat. §38-129:
    - (a) A citizen of the United States;
    - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
    - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Fee(s): The following fee(s):
- a. If the credential is expired or inactive, the reinstatement and renewal fees; or
  - b. If the credential was voluntarily surrendered, the renewal fee.

168-009.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstatement the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstatement the credential.

168-009.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstatement the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstatement the credential.

168-009.01C The Department will act within 150 days on all completed applications.

168-009.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

168-009.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 168-009.01.

168-009.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant on his/her application:
  - a. Must provide the following information:
    - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
    - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
    - (3) The applicant's:
      - (a) Social Security Number (SSN); or
      - (b) Alien Registration Number (A#); or
      - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
    - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
    - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
  - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence and/or immigration status which may include a copy of:
    - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of card;
    - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
    - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
    - (4) A Form I-94 (Arrival-Departure Record);

- c. May provide the following information about him/herself:
  - (1) Telephone number including area code;
  - (2) E-mail address;
  - (3) Fax number; and
- d. Must attest that s/he:
  - (1) Is of good character;
  - (2) Has met the continuing competency requirements specified in 172 NAC 168-005 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
  - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced; and
  - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 168-007 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
  - (5) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
  - (6) For purposes of Neb. Rev. Stat. §38-129:
    - (a) A citizen of the United States;
    - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
    - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Fee: The renewal fee.

168-009.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

168-009.03B The Department, with the recommendation of the Board, may:

- 1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
- 2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;

3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

168-009.03C On the basis of the written application, materials submitted by the applicant and the information obtained under 172 NAC 168-009.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
  - a. Full reinstatement of the credential;
  - b. Modification of the suspension or limitation; or
  - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 168-010, in which case a separate notice of opportunity for hearing will be sent to the applicant.

168-009.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

168-009.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

168-009.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final

30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.

- a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
  - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

168-009.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

168-009.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

168-009.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
  - a. In excess of statutory authority;

Effective Date  
August 25, 2012

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

172 NAC 168

- b. Made upon unlawful procedure;
- c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
- d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

168-010 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

168-010.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Other government records that indicate that the person was engaged in practice; and
7. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

168-010.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
  - a. The total amount of the administrative penalty;
  - b. The evidence on which the administrative penalty is based;
  - c. That the person may request, in writing, a hearing to

Effective Date  
August 25, 2012

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

172 NAC 168

- contest the assessment of an administrative penalty;
- d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
  - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property; and
  - f. Failure to pay an administrative penalty may result in disciplinary action.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

168-010.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

168-011 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

168-012 METHOD OF IDENTIFICATION: Every person credentialed as a registered environmental health specialist must be able to identify himself/herself to the consumer by either showing the certification card issued by the Department or a photographic identification issued by his/her employer. All signs, announcements, stationery, and advertisements of registered environmental health specialists shall identify the profession.

These amended rules and regulations replace Title 172 NAC 168 Regulations Governing the Practice of Environmental Health Specialists, effective October 30, 2004.

Approved by Attorney General:	July 23, 2012
Approved by Governor:	August 20, 2012
Filed with Secretary of State:	August 20, 2012
Effective Date:	August 25, 2012

Forms may be obtained by contacting the Licensure Unit or by accessing the website at:  
[http://dhhs.ne.gov/publichealth/Pages/crl\\_profindex1.aspx](http://dhhs.ne.gov/publichealth/Pages/crl_profindex1.aspx)

Nebraska Department of Health and Human Services  
Division of Public Health  
Licensure Unit  
PO Box 94986  
Lincoln NE 68509-4986

(402)471-2299