

TITLE 179 PUBLIC WATER SYSTEMS

CHAPTER 10 LICENSURE OF WATER OPERATORS

10-001 SCOPE AND AUTHORITY. These regulations govern credentialing of water operators under Neb. Rev. Stat. §§71-5301 to 71-5313, and the Uniform Credentialing Act (UCA).

10-002 DEFINITIONS

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.

Available means that based on system size, number of persons served, system classification, treatment technique and purpose, distribution complexity, and source of water, a licensed operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner.

Community water system means a public water system which serves at least 15 service connections used by year-round residents or regularly serves 25 year-round residents.

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.

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.

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.

Council means the Advisory Council on Public Water Supply.

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 often 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 authorized representative.

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.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization. For Title 179 NAC 10, it means a license to make process control or system integrity decisions about water quality or quantity in public water systems.

Licensed operator means a person who holds a license issued by the Department that authorizes the person to make process control or system integrity decisions about water quality or quantity in public water systems.

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.)

Non-transient, non-community water system means a public water system that is not a community water system and that regularly serves at least 25 of the same individuals over six months per year.

Operating shift means that period of time during which licensed operator decisions that affect public health are necessary for proper operation of the system.

Operator in responsible charge means the person(s) designated by the owner to be the licensed operator(s) who makes decisions regarding the daily operational activities of a public water system, water treatment facility and/or distribution system, that will directly impact the quality and/or quantity of drinking water.

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

Practice means practice as a licensed operator.

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

Provisional license means a non-renewable license that is issued on a case-by-case basis, and is site specific.

Public water system means a system for providing the public with water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days per year. Public water system includes (i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system and (ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Public water system does not include a special irrigation district. A public water system is either a community water system or a non-community water system.

Service connection does not include a connection to a system that delivers water by a constructed conveyance other than a pipe if (i) the water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, cooking, and other similar uses, (ii) the Department determines that alternative water to achieve the equivalent level of public

health protection provided by the Nebraska Safe Drinking Water Act and rules and regulations under the act is provided for residential or similar uses for drinking and cooking, or (iii) the Department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the Nebraska Safe Drinking Water Act and the rules and regulations under the act.

Special irrigation district means an irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use if the system or the residential or similar users of the system comply with exclusion provisions of (ii) or (iii) found in 179 NAC 10-002 definition of a Public Water System;

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

10-003 LICENSED OPERATOR REQUIRED: A public water system must have a licensed operator. The Department will issue a permit only to a public water system that has an operator holding a license equal to or greater than the level of classification of the water system.

10-003.01 The owner of a community or a non-transient non-community water system must place the direct supervision of their water system under the responsible charge of an operator(s) holding a valid license equal to or greater than the classification of the water system.

10-003.02 All operating personnel for community or non-transient non-community water systems that make process control or system integrity decisions about water quality or quantity that affect public health are required to hold a license of at least Grade IV.

10-003.03 For community and non-transient non-community water systems, a designated licensed operator must be available for each operating shift and must hold a license of at least Grade IV.

10-003.04 Two or more public water systems may share or utilize the services of a single licensed operator provided that the conditions in 179 NAC 10-003.04, items 1 to 4 are met. The Department will approve or disapprove each application for a shared operator (Attachment 1 which is incorporated herein by reference) based on the following conditions:

1. The shared operator must hold a license equal to or greater than the highest classification of the systems involved.
2. The systems are located so as to permit reasonable travel time between work areas with sufficient time remaining to perform necessary routine supervisory maintenance and operational activity for each system. As a guide, 40 miles is considered to be an acceptable distance.
3. Each system involved must develop a written plan to coordinate the activities required of the shared operator which must include a local person or persons for contact.

4. Companies or corporations established for the purpose of providing operational service to owners of public water systems must employ one or more persons holding a license appropriate to the highest classification of the systems served.

10-004 CLASSIFICATION OF SYSTEMS: Public water systems are classified as follows. If a system meets the qualifications for more than one classification, the highest classification applies.

1. Class I - All community water systems and non-transient, non-community water systems
 - a. That use any treatment technology involving filtration to remove harmful materials from the raw water source or to improve the aesthetic quality of delivered water, and which serve a population in excess of 15,000 persons; and
 - b. All other community and non-transient non-community water systems that have a distribution system and that serve a population in excess of 50,000 persons.
2. Class II - All community water systems and non-transient, non-community water systems
 - a. That use any treatment technology involving filtration to remove harmful materials from the raw water source or to improve the aesthetic quality of the delivered water, and which serve between 2,000 and 15,000 persons; and
 - b. All other community and non-transient non-community water systems that have a distribution system and that serve a population between 15,000 and 50,000.
3. Class III - All community water systems and non-transient, non-community water systems
 - a. That use any treatment technology involving filtration to remove harmful materials from the raw water source or to improve the aesthetic quality of the delivered water, and which serve fewer than 2,000 persons; and
 - b. All other community and non-transient non-community water systems that have a distribution system and that serve between 2,000 and 15,000 persons; and
 - c. All community water systems which purchase water from one or more systems for the purpose of supplementing or providing service to more than 15,000 persons.
4. Class IV - All community water systems and non-transient, non-community water systems
 - a. That do not use a treatment technology involving filtration and which serve fewer than 2,000 persons; and
 - b. All other community water systems which purchase water from one or more systems for the purpose of supplementing or providing service to fewer than 15,000 persons.
5. Class V - All other public water systems (transient, non-community systems).

10-005 INITIAL CREDENTIAL

10-005.01 Qualifications: To receive a credential to practice as a licensed operator, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States.
3. Education, Experience, and Examination Required: All applicants for licensure, except those for provisional licensure (See 179 NAC 10-005.01 item 7), must meet the following education and experience requirements prior to examination for the appropriate grade requested. The Department offers six grades of licensure: five grades to public water system operators, and one grade of licensure to public water system authorized backflow preventer testing and repair technicians, in accordance with the following criteria. Any individual who tests or repairs backflow preventers with test ports, installed to protect a public water system from backflow, is required to hold a Grade VI license.

NOTE: The Department, with the advice of the Council, may accept a substitution for required experience or education for Grades I, II, III and IV water operators when deemed equivalent to the requirements of 179 NAC 10-005 and when the applicant for licensure requests substitution and submits documentation of appropriate education or experience. Experience that is used to meet the experience requirement for any grade of licensure may not be used to meet the education requirement. Education that is used to meet the education requirement for any grade of licensure may not be used to meet the experience requirement.

a. Grade I Licensure –

- (1) Prior successful completion of a Grade II licensure examination and successful completion of a validated examination on the subject of operation of a public water system recommended by the Advisory Council on Public Water Supply and approved by the Director; and
- (2) A degree of Bachelor of Science (with special courses in sanitary sciences) and three years in responsible charge or operation of a public water system or three years as a regulatory agent of public water systems (e.g., State or Federal Safe Drinking Water Act enforcement experience); or three years as a provider of technical assistance to public water systems; or
- (3) Four years of college and four years of responsible charge of a public water system or four years as a licensed operator of a public water system; or four years as a regulatory agent of public water systems (e.g., State or Federal Safe Drinking Water Act enforcement experience); or four years as a provider of technical assistance to public water systems; or
- (4) High school diploma or equivalent and six years responsible charge of a Class II or III public water system or eight years operation of a system under the supervision of a person possessing a license as a Grade I

operator or eight years as a licensed operator of a public water system or eight years as a regulatory agent of public water systems (e.g., State or Federal Safe Drinking Water Act enforcement experience); or eight years as a provider of technical assistance to public water systems.

b. Grade II Licensure –

- (1) Prior successful completion of a Grade III licensure examination and successful completion of a validated examination recommended by the Advisory Council on Public Water Supply and approved by the Director; and
- (2) Two years of college, plus three years responsible charge of a public water system or three years as a licensed operator of a public water system; or three years as a regulatory agent of public water systems (e.g., State or Federal Safe Drinking Water Act enforcement experience); or three years as a provider of technical assistance to public water systems; or
- (3) High school diploma or equivalent and six years responsible charge of a Class III public water system or six years operation of a system under the supervision of a person possessing a license as a Grade I or Grade II operator or six years as a regulatory agent of public water systems (e.g., State or Federal Safe Drinking Water Act enforcement experience) or six years as a provider of technical assistance to public water systems, or six years as a licensed operator of a public water system.

c. Grade III Licensure –

- (1) Successful completion of a validated examination recommended by the Advisory Council on Public Water Supply and approved by the Director; and
- (2) High school diploma or equivalent and two years responsible charge of a community water system; or
- (3) High school diploma or equivalent, and three years operation of a system under the supervision of a person possessing a license as a Grade I, Grade II, or Grade III operator of a public water system; or four years as a regulatory agent of public water systems (e.g., State or Federal Safe Drinking Water Act enforcement experience); or four years as a provider of technical assistance to public water systems, or four years as a licensed operator of a public water system.

d. Grade IV Licensure –

- (1) High school diploma or equivalent and
- (2) Successful completion of a validated examination following
 - (a) Six months experience as a water operator; or
 - (b) A basic training course for water system operators recommended by the Council and approved by the Director; or

- (c) A correspondence course recommended by the Council and approved by the Director.
- e. Grade V Licensure –
 - (1) Successful completion of an examination that demonstrates ability in the collection of water samples, interpretation of results of biological examination and the maintenance of required records.
- f. Grade VI Licensure –
 - (1) A minimum 32 hour course which includes hands-on instruction, and successful completion of an examination recommended by the Council and approved by the Director on the subject of cross connections, backflow preventer operation, maintenance, testing, and repair. Such examination must include a written test as well as a hands-on portion to test actual testing and repair proficiency.
- 4. In adequate physical condition;
- 5. Able to read and write the English language;
- 6. Able to maintain logs and records of operation and perform maintenance consistent with the grade applied for;
- 7. Compliance with the requirements of 179 NAC 10-005 in regard to the appropriate grade with the exception that the Department may issue a provisional license to any applicant for a Grade I, II, III, or IV license for that period in which experience is being acquired. All education and experience requirements must be met during the provisional period.

10-005.02 Application: To apply for a credential to practice as a licensed operator, 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); 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.
 - (6) The applicant's telephone number including area code;
 - (7) The applicant's e-mail address (optional);

- (8) The applicant's fax number (optional);
 - (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
 - (10) County in which the water system is located;
 - (11) Whether or not the individual has a high school diploma or the equivalent;
 - (12) The number of years of college the applicant has completed or other applicable post-high school education;
 - (13) The number of months of water system operation experience the applicant has and for which system, provider, or regulatory agency; including a description of experience, if applicable, as an operator in responsible charge, a provider of technical assistance to public water systems, or a regulatory agent of public water systems and the location where the experience was obtained;
 - (14) The name of the applicant's supervisor;
 - (15) The current licensure grade held, number, and expiration if applicable;
 - (16) The grade of licensure that is requested.
- b. Practice Before Application: The applicant must state:
- (1) That s/he has not practiced as a licensed water operator in Nebraska before submitting the application; or
 - (2) If s/he has practiced as a licensed water operator 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;
- c. Attestation: The applicant must attest that:
- (1) S/he has read the application;
 - (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 179 NAC 10-008.01. and
 - (5) For the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114, s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.
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 behaviors/actions related to the conviction;
 - (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 Department;
- c. Evidence that the applicant is:
 - (1) A citizen;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
- d. Evidence of citizenship, lawful permanent residence, 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) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green 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#") with visa status; or
 - (14) A Form I-94 (Arrival-Departure Record) with visa status;
- e. Documentation of education, including:
- (1) Name and date of diploma/degree awarded; and
 - (2) Name of school, college, university that awarded the diploma/degree.
and
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

10-005.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

10-005.04 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 179 NAC 10-008, 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.

10-005.05 Withdrawn License 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.

10-005.06 Practice Prior to Credential: An individual who practices as a licensed operator prior to issuance of a credential is subject to assessment of an administrative penalty under 179 NAC 10-011 or such other action as provided in the statutes and regulations governing the credential.

10-005.07 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.

10-005.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

10-005.09 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.

10-006 CONTINUING COMPETENCY REQUIREMENTS: On or before the credential expiration date, each licensed operator must obtain acceptable Department approved continuing education consistent with the licensure grade held. Except as otherwise provided in 179 NAC 10-007.04 and 10-007.05, the Department will not renew the credential of any person who has not complied with these requirements. Each credentialed individual is responsible for maintaining certificates or records of continuing education activities.

10-006.01 Number of Hours Required at Renewal: Grade V licensees are exempt from the continuing education and renewal requirements. All other licensed operators must obtain the number of continuing education hours as follows:

1. The Department waives the continuing education requirement for initial licensees that obtain their initial license in odd-numbered years.
2. Licensees obtaining their initial license after [the effective date of these regulations] must have 5 hours of continuing education at their first renewal, if the license was obtained in an even-numbered year.
3. For licenses that expire on December 31, 2011
 - a. Initial licensees who obtained their license in 2008 must have 15 hours of continuing education,
 - b. Initial licensees who obtained their license in 2009 must have 10 hours of continuing education.
 - c. Initial licensees who obtain their license in 2011 need no hours of continuing education,
 - d. Those licensees who renewed in 2009 must have 10 hours of continuing education,
 - e. Those licensees who renewed in 2010 must have 5 hours of continuing education.
4. After December 31, 2011, all licensees other than initial licensees covered by 179 NAC 10-006.01 item 2, must have 10 hours of continuing education at the time of renewal.

10-007 RENEWAL: An individual who wants to renew his/her water operator license must request renewal as specified in 179 NAC 10-007.03. To qualify for reinstatement, the applicant must first meet the requirements for each renewal period. If a license has expired or been on inactive status, the individual must re-take and re-pass the examination in order to have a license reinstated if:

1. The license has been expired or on inactive status for a period of two or more years; or
2. The individual did not meet the requirements for continuing competency before each renewal period.

10-007.01 Renewal Periods: After December 31, 2011, all licenses will expire on December 31 of odd-numbered years.

10-007.02 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.

10-007.03 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 must attest that all information in the application is truthful and complete, and the applicant, in 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; and
 - (d) Telephone number including area code;
 - (4) Proof of meeting continuing competency requirements if Department records do not indicate the applicant has obtained the required hours at approved continuing competency programs;
 - b. Must state that s/he is one of the following:
 - (1) A citizen of the United States;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
 - c. May provide the following information about him/herself:
 - (1) The applicant's e-mail address; and
 - (2) The applicant's fax number;
 - d. Continuing competency: The individual:
 - (1) Must attest to meeting the continuing competency requirements as specified in 179 NAC 10-006; or
 - (2) May request a waiver of continuing competency requirements as specified in 179 NAC 10-007.04 and 10-007.05; and
 - e. Must indicate that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 179 NAC 10-006 or has requested a waiver if s/he meets the requirements of 179 NAC 10-007.04 and/or 10-007.05

- (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 179 NAC 10-008.01 or if an act(s) was committed, must provide an explanation of all such acts, and
 - (4) Is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request.
 2. Documentation: The applicant must submit the following documentation with the application:
 - a. Alien or Non-immigrant: Evidence of lawful permanent residence, and/or immigration status may include a copy of:
 - (1) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green 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#") with visa status; or
 - (4) A Form I-94 (Arrival-Departure Record) with visa status;
 - 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;
 - (6) Any other information as requested by the Department; and
 3. The renewal fee according to 179 NAC 10-012.

10-007.04 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 179 NAC

10-002, 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.

10-007.05 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 12-month period immediately preceding the renewal date.

10-007.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

10-007.06A 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.

10-007.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

10-007.08 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.

10-007.08A 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.

10-007.08B 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.

10-007.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice as a licensed water operator terminates.

10-007.08D Practice After Expiration: An individual who practices as a licensed operator after expiration of his/her credential is subject to assessment of an administrative penalty under 179 NAC 10-011 or such other action as provided in the statutes and regulations governing the credential.

10-007.08E Reinstatement of an Expired Credential: If a credential holder wants to resume practice as a licensed water operator after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement and meet the requirements specified in 179 NAC 10-007 and 10-010.

10-007.09 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.

10-007.09A 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.

10-007.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in practice as a licensed operator, but may represent him/herself as having an inactive credential.

10-007.09C 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 179 NAC 10-007 and 10-010.

10-008 DISCIPLINARY ACTIONS

10-008.01 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;
- 11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 179 NAC 10-008.05 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, the Nebraska Safe Drinking Water Act, or the rules and regulations adopted under these acts;
- 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; or
- 23. Unprofessional conduct as defined in 179 NAC 10-008.02.

10-008.02 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. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
- 2. Cheating on or attempting to subvert the credentialing examination;
- 3. 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;
- 4. Knowingly disclosing confidential information except as otherwise permitted by law;
- 5. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;

6. Failure to keep and maintain adequate records of service; and
7. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession.

10-008.03 Temporary Suspension or Limitation

10-008.03A 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 179 NAC 10-008.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice 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.

10-008.03B 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.

10-008.03C A temporary suspension or temporary limitation of a credential under 179 NAC 10-008.03 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.

10-008.04 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.

10-008.05 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.

10-008.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 179 NAC 10-008.05, 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 practical or both, 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.

10-009 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. Sign and date the attestation.

10-009.01 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.

10-009.02 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.

10-009.03 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 a 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.

10-009.04 A limitation may be placed on the right of the credential holder to practice as a licensed operator to the extent, for the time, and under the conditions as imposed by the Director.

10-009.05 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.

10-009.06 Reinstatement following voluntary surrender is set out in 179 NAC 10-010.

10-010 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. To qualify for reinstatement, the applicant must first meet the requirements for each renewal period. 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.

10-010.01 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 must attest that all information in the application is truthful and complete, and the applicant, in 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) Telephone number including area code;
 - (6) Proof of meeting continuing competency requirements if Department records do not indicate the applicant has obtained the required hours at approved continuing competency programs;
- b. Must state that s/he is one of the following:
 - (1) A citizen of the United States;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
- c. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful permanent residence and/or immigration status which may include a copy of:
 - (1) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green 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#") with a visa status; or
 - (4) A Form I-94 (Arrival-Departure Record) with a visa status;
- d. May provide the following information about him/herself:
 - (1) E-mail address;
 - (2) Fax number; and
- e. Must indicate that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 179 NAC 10-006 for each renewal period;
 - (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 179 NAC 10-008.01 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) Is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide

his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request; and

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.

10-010.01A If an applicant has practiced as a licensed operator while his/her credential was expired, inactive, or voluntarily surrendered, the Department may 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.

10-010.01B 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; or
3. Reinstatement the credential.

10-010.01C The Department will act within 150 days on all completed applications.

10-010.01D 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.

10-010.02 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 to resolve a pending disciplinary matter may apply for reinstatement according to the order entered by the Director.

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 must attest that all information in the application is truthful and complete, and the applicant, in 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;
 - (6) Telephone number including area code;
 - (7) Proof of meeting continuing competency requirements if Department records do not indicate the applicant has obtained the required hours at approved continuing competency programs;
- b. Must state that s/he is one of the following:
- (1) A citizen of the United States;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
- c. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful permanent residence and/or immigration status which may include a copy of:
- (1) An Alien Registration Receipt Card (Form 551, otherwise know as a "Green 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#") with visa status; or
 - (4) A Form I-94 (Arrival-Departure Record) with visa status;
- d. May provide the following information about him/herself:
- (1) E-mail address;
 - (2) Fax number; and
- e. Must indicate that s/he:
- (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 179 NAC 10-006 for each renewal period;
 - (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 179 NAC 10-008.01 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) Is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien number and agree to provide a copy of his/her USCIS documentation upon request; and

2. Fee: The renewal fee.

10-010.02A The Department will consider an application for reinstatement following suspension, limitation, revocation, or voluntary surrender to resolve a disciplinary matter within 150 days of receipt of the application. The Department may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by 179 NAC 10-008.01;
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 Department. 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;
3. Require the applicant to pass a written and/or practical examination at the expense of the applicant;
4. Require the applicant to complete additional education at the expense of the applicant; or
5. Take any combination of these actions.

10-010.02B On the basis of the information obtained under 179 NAC 10-010.02A, the Department may:

1. Deny the application for reinstatement;
2. Fully reinstate the credential;
3. Modify the suspension or limitation; or
4. Reinstate the credential subject to limitations or subject to probation with terms and conditions.

10-010.02C The Department's decision will be mailed to the applicant by certified mail.

1. The decision of the Department will become final 30 days after the decision is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years prior to filing the current application, the Department may grant or deny the application without another hearing.
3. If the applicant requests a hearing, 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.
4. Following the hearing, the applicant will be notified of the Department's decision by certified mail.
5. The applicant may appeal the Department's decision to District Court in accordance with the Administrative Procedure Act.

10-011 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice as a licensed operator. Practice as a licensed operator 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.

10-011.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

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 by the person;
4. Service records document the provision of service by the person;
5. Appointment records indicate that the person was engaged in practice;
6. The person opens a business and announces or advertises that the business is open to provide service; and
7. Evidence of Making Process Control Or System Integrity Decisions. The Department will consider any of the following conditions as prima facie evidence of making process control or system integrity decisions without a license:
 - a. The person admits to making process control or system integrity decisions;
 - b. Staffing records or other reports from the employer of the person indicate that the person made process control or system integrity decisions; and
 - c. Government records indicate the person made process control or system integrity decisions.

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

10-011.02 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 the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will 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 contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska;
 - 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. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; 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.

10-011.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

10-012 FEES

10-012.01 Schedule of Fees:

1. Initial Licensure Fee: Each applicant must submit a fee of \$115 except that a Grade V operator must submit a fee of \$31.
2. Correspondence Course Fee: Each applicant must submit a fee of \$80 with each application for a correspondence course conducted by the Department.
3. Training Course Fee: Each applicant must submit a fee of \$40 for each day of a scheduled basic training course delivered by the Department with each application for enrollment in a course that terminates with a written examination qualifying the attendee to apply for a license.
4. Examination Fees: Each applicant must submit a fee of \$50 with each request for individual examination without attendance at a scheduled basic training course delivered by or approved by the Department except that there is no charge for the Grade V examination.
5. Renewal Fee: A licensed water operator may renew for the fee of \$115 for two years.

10-012.02 Proration of Credentialing Fees: When a credential will expire within 180 days after its 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. The credential will be valid until the next subsequent renewal date.

10-012.03 Administrative Fees These fees are:

1. \$10 for a duplicate original or reissued credential.
2. \$25 for certification of a water operator license. The certification includes a certified statement that provides information regarding the basis on which a license was issued; the date of issuance; and whether disciplinary action has been taken against the license holder; and whether a credential is valid at the time the request is made.
3. \$5 for verification of a credential.
4. \$35 reinstatement fee (when required) in addition to the renewal fee.

EFFECTIVE DATE
JUNE 21, 2011

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

179 NAC 10

5. \$25 retained by the Department from the credentialing fee when a credential is denied or an application is withdrawn. If the credentialing fee is less than \$25, the fee is forfeited. Exam fees are not returned.

THESE AMENDED RULES AND REGULATIONS Replace Title 179 NAC 10 Operator Certification, effective October 3, 2004.

EFFECTIVE DATE
JUNE 21, 2011

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

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179 NAC 10 Attachment 1

**APPLICATION TO SERVE AS A LICENSED OPERATOR FOR MORE THAN ONE
NEBRASKA PUBLIC WATER SYSTEM**

The operator or water system taking on responsibilities for more than one water system is required to notify the Department by sending this form to the DHHS, Division of Public Health, P.O. Box 95026, Lincoln, NE 68509-5026. When the agreement terminates, the operator or water system is also required to notify the Department.

System 1 is the system with a current licensed operator.

System 2 is the system requesting to share the licensed operator of System 1.

System 1			
Public Water System Name:			
System Address:	Street:		
	City:	State:	Zip:
System Classification:		System ID Number: NE31-	
Business Phone for Operator:		Cell Phone:	
E-mail Address:		Home Phone:	
Licensed Water Operator(s) and Grade(s):			

System 2			
Public Water System Name:			
System Address:	Street:		
	City:	State:	Zip:
System Classification:		System ID Number: NE31-	
Business Phone for Operator:		Cell Phone:	
E-mail Address:		Home Phone:	
Licensed Water Operator(s) and Grade(s):			

Additional Information:
Distance between the two systems:

Duties to be Performed by the Shared Operator at System 2 Include (check all that apply):	
<input type="checkbox"/>	Taking water samples
<input type="checkbox"/>	Receiving kits from the lab
<input type="checkbox"/>	Receiving results from the lab
<input type="checkbox"/>	Making public notification when required
<input type="checkbox"/>	Maintaining records
<input type="checkbox"/>	Maintaining all correspondence from the Department
<input type="checkbox"/>	Routine maintenance of water system components
<input type="checkbox"/>	Other (please specify):

Sample Kits for System 2 are to be sent to:			
Name:			
Address:	Street:		State:
	City:		
E-mail Address:			Home Phone:
Licensed Water Operator(s) and Grade(s):			

Shared Operator

Signature

Date

Printed or Typed Name

System 1

System 2

Signature

Signature

Title

Title

Printed or Typed Name

Printed or Typed Name

Date

Date