

## TITLE 178 - NEBRASKA DEPARTMENT OF HEALTH

### CHAPTER 1 - RULES AND REGULATIONS RELATING TO RECREATION CAMPS

001 CAMP SITE. The camp site shall be clean, well drained and not subject to flooding. Adequate area shall be available for the development of the camp to include satisfactory water supply and waste disposal systems. The camp shall be so located, maintained and operated so as to be free of nuisances and hazards detrimental to the health and safety of the camper.

002 BUILDINGS AND SHELTER. All buildings shall be structurally sound, in good repair, and of adequate size for their intended use.

All outside openings of permanent structures, except maintenance buildings, shall be effectively screened, including outward-opening, self-closing doors equipped with screens, unless other effective means are provided to prevent the entrance of insects and rodents. This provision also applies to all permanent structures and shelters used for sleeping quarters which facilities must be protected against the elements.

Lighting and ventilation shall be adequate for the purpose intended.

Walls, floors, and ceilings shall be of smooth, durable, non-absorbent, and easily cleanable construction and kept clean and in good repair.

003 WATER SUPPLY. The water supply shall be obtained from a source which is properly located, constructed, and operated to protect it from contamination and pollution. The water supply shall be obtained from a public or other water supply system in compliance with the provisions of the Nebraska Safe Drinking Water Act, Nebraska Revised Statutes, Chapter 71, Article 53 (Reissue 1981 , and of the Regulations Governing Public Water Supply Systems, Title 179, Nebraska Administrative Code, Chapter 2; but this is not required if the water supply system has less than fifteen service connections and regularly serves less than twenty-five individuals. If such a water supply system is not required, the water supply system must be constructed, maintained, and operated in accordance with the provisions of the Rules and Regulations Governing A Private Water Well, Title 178, Nebraska Administrative Code, Chapter 9.

An adequate supply of water shall be provided for camp purposes.

Sanitary drinking fountains or individual drinking utensils, separate from toilet rooms, shall be provided. Multiple use drinking utensils shall not be used except when they can be properly washed and sanitized between usage. Common drinking utensils shall not be used.

004 PLUMBING. No plumbing fixture or other device which provides a connection between a drinking water supply and a drainage, soil, waste or other sewer pipe so as to make possible the backflow of sewage or wastewater into the water system, shall be installed or be permitted to remain installed. Water which has been used for cooling or for any other purpose shall not be returned to the system. All plumbing shall conform to the local plumbing code. Where no local plumbing code is in effect, plumbing shall conform to the Standard Plumbing Code, ASA A40-8 1955. Drains and overflows from food and drink equipment shall not be connected directly to a sewer.

005 TOILET FACILITIES. Toilet facilities shall be provided at the ratio of not less than one seat for every ten (10) campers. In camps occupied by males and where urinals are used, one toilet seat shall be provided for every fifteen (15) male occupants, and one urinal for every thirty (30) male occupants. Toilet buildings or rooms shall be conveniently located, well lighted and ventilated, kept in good repair, and, when in use, kept in a clean and sanitary condition. Toilet rooms shall not open directly into any room in which food, drink, or utensils are handled or stored. The entrance of all toilet facilities shall be designed to permit privacy. Toilet facilities located adjacent to food-related operations shall be fully enclosed.

006 LAVATORY AND BATHING FACILITIES. Adequate handwashing facilities shall be provided in proximity to toilets and urinals.

Hot water temperature at lavatories and bathing facilities shall not exceed 120°F.

The use of a common towel and washcloth is prohibited.

Sanitary dispensing and disposal units shall be provided for paper towels.

Bathing facilities shall be provided at the ratio of not less than one bathing facility for every, twenty (20) persons. The walls, floors and ceilings of shower rooms and shower stalls shall be of smooth, durable, non-absorbent, and easily cleanable construction, impervious to moisture and maintained in a clean, sanitary condition when in use. Floor drains properly trapped shall be provided in all bathing facilities.

007 SEWAGE AND LIQUID WASTE DISPOSAL. Sewage and all liquid wastes shall be discharged into a municipal sewage system where such a system is available; otherwise, the sewage shall be collected, treated and disposed of in an independent sewage system which complies with the practice recommended or required by local ordinances. Where such do exist, they shall comply with state

standards. Drains and overflows from food and drink equipment shall not be connected directly to a sewer. Pit-type privies may be approved in decentralized camping areas. Pit-type privies shall conform to the standards of construction and maintenance set up by the State Department of Health.

008 GARBAGE AND REFUSE STORAGE AND DISPOSAL. All garbage and refuse shall be collected, stored, and disposed of in a manner that will not create a nuisance, provide a breeding place for flies, or a harborage for rodents. All containers for garbage and refuse shall be water-tight, have tightfitting covers and shall be fly and rodent proof. Garbage containers shall be kept clean.

009 VECTOR CONTROL. Rodents and insects shall be controlled within the camp premises by measures involving both sanitary practices and the use of rodenticides and insecticides currently recommended by the State Department of Health.

010 SWIMMING POOLS. Swimming pools shall be constructed, operated and maintained in compliance with the rules and regulations of the State Department of Health on the subject.

011 FOOD. All aspects of the food operation in the camp, including source, storage, preparation, and service, shall conform to the standards set forth in the 1976 United States Public Health Service "Food Service Sanitation Manual."

The principal camp area in which food is prepared and served and where sleeping quarters are located shall be at least five hundred (500) feet from any area in which livestock are kept.

012 HEALTH OF CAMPERS AND STAFF. The camp operator shall designate and place on record the name or names of one or more duly licensed practitioners of the healing arts to be called in case of emergency.

No camp operator shall employ a person who is affected with any disease in a communicable form or is a carrier of such disease in any camp establishment.

The camp operator shall provide a place for the reception and first aid treatment of sick or injured campers. First-aid equipment and supplies shall be available. When the existence of a communicable disease is suspected, the operator shall isolate the individual immediately and promptly arrange for medical attention.

A health record of every camper and staff member shall be kept by the camp operator. It shall include each individual's illnesses and injuries occurring, and the first aid treatments given, during the period of attendance at camp. The camp operator shall report all occurrences of poisonings or communicable diseases (excluding the common cold) immediately to the State Department of Health. This shall include all food- and water-borne related illnesses.

013 PERSONAL HYGIENE - SLEEPING FACILITIES. The common use of personal items such as combs, brushes, and toothbrushes is prohibited.

Every camper shall have an individual bed. Beds in permanent structures shall be placed so that heads of campers are at least six (6) feet apart. There shall be forty (40) or more square feet of floor space per camper in sleeping areas in permanent structures.

Beds shall be arranged to provide for adequate cleaning. Mattresses and mattress covers, if provided, shall be in good repair and maintained in a clean and sanitary manner.

014 SAFETY. Firearms and other potentially hazardous equipment shall be kept in locked compartments and shall be used only under proper supervision.

Drugs, insecticides, strong caustics, acids, and any poisons shall be stored away from food in locked cabinets, and used under the sole control of the supervisory staff.

Water recreation shall be permitted only under the supervision of a qualified member of the camp staff.

Reference is made on fire safety in recreation camps to the requirements of the office of the State Fire Marshal.

Transportation shall be available at all times for use in case of emergency.

015 LEASING RECREATION CAMP GROUPS. It shall be the responsibility of the licensee to inform the State Department of Health of all leasing camp groups providing their own camp staff.

016 PLAN SUBMITTAL. Written notification and designation of plans and specifications as "APPROVED - STATE OF NEBRASKA - DEPARTMENT OF HEALTH -DIVISION OF HOUSING AND ENVIRONMENTAL HEALTH" shall constitute a permit for construction, provided construction is begun within six months. When construction is delayed beyond this period it will be necessary for the owner to obtain an extension in writing from the State Department of Health. Plans shall be submitted in duplicate. Failure to submit plans shall constitute cause for the denial, refusal of renewal, suspension or revocation of a recreation camp permit.

017 PERMIT FEE. The annual application for a valid permit for the operation of a recreation camp shall be accompanied by an annual fee of twenty-five dollars.

SOURCE: Sections 1-3102 and 71-3105

Check One  
\_\_\_ Initial Permit  
\_\_\_ Renewal Permit

NEBRASKA STATE HEALTH DEPARTMENT  
DIVISION OF HOUSING AND ENVIRONMENTAL HEALTH  
APPLICATION FOR PERMIT FOR OPERATION  
OF A RECREATION CAMP  
PERMANENT CAMPING FACILITIES

1. Name and address of permanent camp site for which application for a permit as a recreation camp is made or issued

\_\_\_\_\_.

2. Location of Camp Site \_\_\_\_\_  
(for example: 4 mi. south of Jct. 281 & 30) County

3. Name of Individual or Corporation having legal ownership of the recreation camp and the camp facilities

\_\_\_\_\_.

4. Mailing Address of Individual or Corporation having legal ownership of the recreation camp and the camp facilities

\_\_\_\_\_.

5. If the applicant for permit is a corporation, list each officer's name and address:

	<u>Name</u>	<u>Address</u>
<u>President</u>		
<u>Vice President</u>		
<u>Secretary</u>		
<u>Treasurer</u>		

6. If the applicant for permit is a corporation, state the name, title and business address of the officer or other individual in the corporation actually responsible for the operation of the recreation camp

\_\_\_\_\_  
Telephone Number

7. Location of private water well on the premises of the recreation camp, if there is such a well:

\_\_\_\_\_.

8. Is (are) the private water well(s) on the premises of the recreation camp, if any, in compliance with the requirements of the Department of Health Rules and Regulations Governing a Private Water Well, 178NAC9,

\_\_\_ YES or \_\_\_ NO ?

9. The holder of a Permit to Operate a Recreation Camp has the responsibility of completing a SAN 301 Form, if applicable. A "leasing camp group" constitutes a separate camp operation and must obtain a separate recreation .c-camp permit. In order for the Department of Health to act upon the recreation camp application received, the permanent camp application form, SAN 300 and the leasing camp group" form, SAN 301 must be submitted together as soon as possible.

10. I have read the Rules and Regulations Relating To Recreation Camps, Title 178, Nebraska Administrative Code, Chapter 1, and the Rules and Regulations Governing A Private Water Well, Title 178, Nebraska Administrative Code, Chapter 9, adopted and promulgated by the Nebraska Department of Health and I state that the premises of the recreation camp for which application is made are currently in compliance with the preceding regulations. I further state that I understand that compliance with the preceding regulations will be verified by onsite inspection by Departmental inspectors. I also state that I understand that a recreation camp permit may be temporarily suspended or permanently revoked for failure to protect the health or safety of the occupants of the recreation camp or for a violation of state law or of the preceding regulations adopted pursuant thereto. Finally, I certify that to the best of my knowledge all of the statements on this application are true and correct and that this application is being made to obtain a permit to operate a recreation camp.

Signature \_\_\_\_\_

Date of Application Title

Address

Telephone:   Business  
                  Home

Upon completion of this application, mail to the Nebraska State Health Department, Division of Housing and Environmental Health, 301 Centennial Mall South, P.O. Box 95007, Lincoln, Nebraska 68509. This application must be accompanied by the permit fee of twenty-five dollars (\$25.00).

For Official Use Only

Permit No. \_\_\_\_\_

Date Issued

Receipt No. \_\_\_\_\_

Date Mailed

Signature of Nebraska Department of Health Official

## RECREATION CAMP - LEASING GROUPS

Please complete the following for a listing of leasing groups:

Name and Address of Permanent Camp Site

Definitions of a Leasing Camp Group:

A leasing camp group means a group utilizing a permanent camp's physical facilities for a period of more than forty-eight (48) hours for the purposes described in the statutory definition of a recreation camp BUT which furnishes its own operational staff for such recreation camp. The operational staff of a camp includes, but is not limited to, the camp operator, persons directly responsible for food preparation and service, the operators and maintenance personnel of the physical facilities, utilities and recreational facilities, including swimming pools, of such recreation camp, and those otherwise responsible for the health and safety of campers.

Name of Organization:

Address of Organization:

Name of Camp Director:

Date of Operation:

If a corporation, list each officer's name and address:

	<u>Name</u>	<u>Address</u>
<u>President</u>		
<u>Vice President</u>		
<u>Secretary</u>		
<u>Treasurer</u>		

Name of Organization:

Address of Organization:

Name of Camp Director:

Dates of Operation:

If a corporation, list each officer's name and address:

	<u>Name</u>	<u>Address</u>
<u>President</u>		
<u>Vice President</u>		
<u>Secretary</u>		
<u>Treasurer</u>		

Name of Organization:

Address of Organization:

Name of Camp Director:

Dates of Operation:

If a corporation, list each officer's name and address:

	<u>Name</u>	<u>Address</u>
<u>President</u>		
<u>Vice President</u>		
<u>Secretary</u>		
<u>Treasurer</u>		

Name of Organization:

Address of Organization:

Name of Camp Director:

Dates of Operation:

If a corporation, list each officer's name and address:

	<u>Name</u>	<u>Address</u>
<u>President</u>		
<u>Vice President</u>		
<u>Secretary</u>		
<u>Treasurer</u>		

Please submit this form not later than May 1 of this year. If the previously requested information is not applicable to your recreation camp's operation, indicate the same on this form and return it with form SAN 300 to the Nebraska State Health Department, Division of Housing and Environmental Health, 301 Centennial Mall South, P.O. Box 95007, Lincoln, Nebraska 68509.

Additional Leasing Camp Grounds may be listed on additional sheets of paper if needed.



I have read the Rules and Regulations Relating To Recreation Camps, Title 178, Nebraska Administrative Code, Chapter 1, and the Rules and Regulations Governing A Private Water Well, Title 178, Nebraska Administrative Code, Chapter 9, adopted and promulgated by the Nebraska Department of Health and I state that the premises of the recreation camp for which application is made are currently in compliance with the preceding regulations. I further state that I understand that compliance with the preceding regulations will be verified by onsite inspection by Departmental inspectors. I also state that I understand that a recreation camp permit may be temporarily suspended or permanently revoked for failure to protect the health or safety of the occupants of the recreation camp or for a violation of state law or of the preceding regulations adopted pursuant thereto. Finally, I certify that to the best of my knowledge all of the statements on this application are true and correct and that this application is being made to obtain a permit to operate a recreation camp.

Signature

Date of Application Title

Address

Telephone: Business  
Home

Upon completion of this application, mail to the Nebraska State Health Department, Division of Housing and Environmental Health, 301 Centennial Mall South, P.O. Box 95007, Lincoln, Nebraska 68509. This application must be accompanied by the permit fee of twenty-five dollars (\$25.00).

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For Official Use Only

Permit No. \_\_\_\_\_

Date Issued

Receipt No. \_\_\_\_\_

Date Mailed

Signature of Nebraska Department of Health Official

Check One  
 Initial Permit  
 Renewal Permit

NEBRASKA STATE HEALTH DEPARTMENT  
DIVISION OF HOUSING AND ENVIRONMENTAL HEALTH  
APPLICATION FOR PERMIT FOR OPERATION  
OF A RECREATION CAMP  
BY A LEASING CAMP GROUP

Name and Address of Permanent Campsite Leased

\_\_\_\_\_.  
Street City State Zip

Definition of a Leasing Camp Group:

A leasing camp group means a group utilizing a permanent camp's physical facilities for a period of more than forty-eight (48) hours for the purposes described in the statutory definition of a recreation camp BUT which furnishes its own operational staff for such recreation camp. The operational staff of a camp includes, but is not limited to, the camp operator, persons directly responsible for food preparation and service, the operators and maintenance personnel of the physical facilities, utilities and recreational facilities, including swimming pools, of such recreation camp, and those otherwise responsible for the health and safety of campers.

Name of Leasing Group or Organization

\_\_\_\_\_.

Address of Leasing Group or Organization

\_\_\_\_\_.  
City State Zip

Name of Camp Director

Address of Camp Director

Street City State Zip

Date(s) of Operation

If the applicant for permit is a corporation, list each officer's name and address:

Name Address  
President  
Vice President  
Secretary  
Treasurer

I have read the Rules and Regulations Relating To Recreation Camps, Title 178, Nebraska Administrative Code, Chapter 1, and the Rules and Regulations Governing A Private Water Well, Title 178, Nebraska Administrative Code, Chapter 9, adopted and promulgated by the Nebraska Department of Health and I state that the premises of the recreation camp for which application is made are currently in compliance with the preceding regulations. I further state that I understand that compliance with the preceding regulations will be verified by onsite inspection by Departmental inspectors. I also state that I understand that a recreation camp permit may be temporarily suspended or permanently revoked for failure to protect the health or safety of the occupants of the recreation camp or for a violation of state law or of the preceding regulations adopted pursuant thereto. Finally, I certify that to the best of my knowledge all of the statements on this application are true and correct and that this application is being made to obtain a permit to operate a recreation camp.

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For Official Use Only

Permit No. \_\_\_\_\_

Date Issued

Receipt No. \_\_\_\_\_

Date Mailed

Signature of Nebraska Department of Health Official

## TITLE 178 NAC 2 OPERATION AND MANAGEMENT OF PUBLIC SWIMMING POOLS

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TITLE 178 ENVIRONMENTAL HEALTH

CHAPTER 2 OPERATION AND MANAGEMENT OF PUBLIC SWIMMING POOLS

2-001 SCOPE AND AUTHORITY: These regulations establish requirements for the operation and management of public swimming pools, including spas, wading pools, and special purpose pools. These regulations apply to all classes of pools unless there is a specific exemption. Authority for these regulations is found in Neb. Rev. Stat. §§ 71-4301 to 71-4307, known as the Swimming Pool Act.

2-001.01 Persons operating swimming pools may want to consult with other local and state regulatory agencies regarding pool operation. These agencies include but are not limited to the State Fire Marshal and local Building and Safety offices. If conflicts with other applicable state or local regulations occur, the most restrictive regulation governs.

2-001.02 Design professionals designing swimming pools must comply with 178 NAC 4, Public Swimming Pool Design and Construction Standards. Under 178 NAC 4, plans, specifications, and data must be submitted to the Department before the start of construction or installation of any swimming pool or any substantial modifications or improvements to existing swimming pools. Construction or installation may begin only after the Department issues a construction permit.

2-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 71-4301 to 71-4307, known as the Swimming Pool Act.

Additional inspections means inspections required to determine if violations discovered in previous inspections have been corrected.

Available means a Nebraska swimming pool operator must be on site or able to be on site within 60 minutes.

Bathhouse means any building adjacent to the swimming pool used by the swimmers and bathers for changing clothes. The term "bathhouse" includes accompanying bather preparation facilities.

Boundary line means a line between the shallow and deep areas marked in contrasting color and at least four inches wide on the floor and walls of the pool, and by a safety rope and floats equipped with float keepers.

Certificate of competency means a certificate obtained as a result of attendance and successful completion, as shown by passing a test, of a Nebraska swimming pool operator's training clinic approved by the Department.

Class A pool means a pool operated by a municipality, political subdivision, or governmental agency; or a pool intended for use for accredited competitive aquatic events such as Federation Internationale de Natation, U.S. Swimming, U.S. Diving, National Collegiate Athletic Association, National Federation of State High School Associations, etc.

Class B pool means a swimming pool operated at a facility including, but not limited to, an apartment, a condominium, a property owner association, a child care facility, and lodgings such as hotels and motels.

Class C pool means a spa.

Class D pool means a wading pool.

Class E pool means a spray park.

Class F pool means a swimming pool at a health club, fitness center, or community fitness center.

Deck means the area surrounding a pool, which is specifically constructed or installed for use by bathers.

Deep area means those areas of a swimming pool where the water is more than 5 feet deep.

Department means the Department of Health and Human Services.

Design professional means a professional engineer or professional architect registered by the Nebraska Board of Engineers and Architects to practice in the State of Nebraska.

Drop slide means a slide that discharges to a pool with a drop more than two inches to the water surface.

Main drain means a submerged suction outlet typically located at the bottom of a pool or spa to conduct water to a recirculating pump.

Nebraska swimming pool operator means an individual (1) who has a current certificate of competency or (2) who has successfully completed the pool operator training course by the National Swimming Pool Foundation, the Aquatic Facility Operator course approved by the National Recreation and Park Association, or an equivalent course approved by the Department, and who maintains certification as required by the certifying organization.

Owner means the owner or the owner's representative.

Patron means a person using a public swimming pool. Patron also means a bather or swimmer.

Patron load means the maximum number of persons that may use the pool at one time.

Person, for 178 NAC 2-001.01, 2-003 and 2-008.02 means any individual, firm, partnership, association, corporation, company, municipality, political subdivision, community, government agency, club, organization, or other entity owning or operating a swimming pool as defined in Neb. Rev. Stat. § 71-4301. In all other instances, person means individual.

Spa means a specific type of swimming pool, such as a hot tub or whirlpool designed for recreational use which is not intended to be drained, cleaned, and refilled after each individual use. It may include, but is not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction systems, or any combination thereof.

Special purpose pool means a swimming pool that is operated for special purposes and incorporates features distinguishing it from a traditional swimming pool. Special purpose pools include, but are not limited to, wave pools, zero depth pools, water slide splash pools, lazy river rides, and fountains and/or other interactive water features.

Spray park means a pool providing recirculated water to spray features with no permanent standing water accessible to pool patrons.

Substantial modification or improvement means construction that changes the depth, shape, piping, pumping, or other basic design features of a public swimming pool in a manner that affects pool patron safety or recirculation system design, changes a pool's deck, changes the basic design of a diving board, or adds a special feature. Work not considered a substantial modification or improvement includes maintenance and repairs.

Suction outlet means a fitting, fitting assembly, cover/grate, and related components that provide a localized low pressure area for the transfer of water from a swimming pool. This also includes the transfer of water for slides, spray features, skimmer equalizer lines, etc.

Swimming pool (pool) means any artificial basin of water modified, improved, constructed, or installed solely for the purpose of public swimming, wading, diving, recreation, or instruction. Swimming pool includes, but is not limited to, a pool serving a community, a subdivision, an apartment complex, a condominium, a club, a camp, a school, an institution, a park, a manufactured home park, a hotel, a motel, a recreational area, or a water park. Swimming pool includes a spa, hot tub or whirlpool or similar device which (1) is designed for recreational use and not to be drained, cleaned and refilled after each individual use and (2) may consist of elements, including, but not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction systems, or any combination thereof. Swimming pool does not include an artificial lake, a pool at a private residence intended only for the use of the owner and guests, or a pool operated exclusively for medical treatment, physical therapy, water rescue training, or training of divers.

Variance means written approval from the Department for a change in pool management or operation that does not conform to the requirements in 178 NAC 2. A variance will not be given for any change in pool management or operation that endangers the health or safety of the patrons.

Wading pool means a pool that is no more than 24 inches deep that is primarily intended for use by young children.

Wave pool means a special-purpose pool with wave generating equipment and a design which provides for control of the waves within the side walls and dissipation of the waves at a zero depth shallow end.

Zero-depth pool means a swimming pool where the pool floor intersects the water surface along a portion of its perimeter.

2-003 PERMIT REQUIREMENTS AND PROCEDURES: Before operating or maintaining a swimming pool, a person must apply for and obtain an operating permit from the Department. The permit is not transferable and must be renewed annually. The permit expires at midnight of March 31 of each year unless otherwise suspended or revoked. The permit must be conspicuously posted on the pool premises.

#### 2-003.01 Applications

2-003.01A The owner or Nebraska swimming pool operator of a pool facility must apply for an operating permit on Attachment 1 which is incorporated herein by reference.

2-003.01B An individual wanting to obtain a certificate of competency from the Department must attend a Nebraska swimming pool operator clinic, take an exam provided by the Department, and obtain a passing score of 70%. The individual must apply for a Nebraska swimming pool operator certificate of competency on Attachment 2, which is incorporated herein by reference.

#### 2-003.02 Schedule of Fees

2-003.02A Permit Fee: A fee of \$40 to obtain an annual operating permit must be paid by the owner of the pool.

2-003.02B Operational Inspection Fees: Operational inspection fees are separate from and in addition to the engineering inspection fee found in 178 NAC 4. Pools owned by a municipal corporation are exempt from inspection fees.

2-003.02B1 A fee of \$60 for each initial inspection conducted by the Department must be paid by the owner or Nebraska swimming pool operator of any Class A B, C, D, E, or F swimming pool.

2-003.02B2 A fee of \$60 for each additional inspection conducted by the Department must be paid by the owner or Nebraska swimming pool operator of any Class A, B, C, D, E, or F swimming pool.

2-003.02C Examination and Certificate of Competency Fee: Individuals and Nebraska swimming pool operators who are tested at Nebraska swimming pool operator clinics conducted by the Department must pay an examination and



certificate of competency fee of \$40. The certificate is valid for 2 years from date of issuance.

2-003.02D Certification of Permit/Certificate of Competency Fee: A fee of \$25 must be paid to the Department for issuance of a certification of an operating permit or a Department issued Nebraska swimming pool operator certificate of competency.

2-003.02E Verification of Permit/Certificate of Competency Fee: A fee of \$5 must be paid to the Department for verification of an operating permit or a Department issued Nebraska swimming pool operator certificate of competency. The verification includes written confirmation as to whether a permit or certificate of competency was valid at the time the request was made.

2-003.02F Duplicate Permit/Certificate of Competency Fee: A fee of \$10 must be paid to the Department for a duplicate operating permit or Department issued Nebraska swimming pool operator certificate of competency.

2-003.02G Time of Payment

1. The permit and initial inspection fees must be paid at the time the application is submitted.
2. Fees for additional inspections must be paid within 30 days of inspection.
3. Nebraska swimming pool operator certificate of competency fees must be paid before issuance of the certificate.

2-003.02H Method of Payment: The Department will accept payment by personal or certified check, cashier's check, money order, or currency. Checks must be made payable to the "Department of Health and Human Services". Payments made in currency, until properly receipted, are not the responsibility of the Department. The Department will not accept payments made in stamps, foreign currency, or third party endorsed checks.

2-003.02I Refunds: The Department will not refund any fee paid for which the applicable service has been performed except in cases of mistake or fraud.

2-003.02J Penalties: Failure to pay the specified fees for the permit and/or inspection of a swimming pool constitutes cause for the denial, suspension, revocation or refusal of renewal of the operating permit. Failure to pay the fee for obtaining a Nebraska swimming pool operator certificate of competency will result in the denial of the certificate.

2-004 GENERAL REQUIREMENTS

2-004.01 Inspections: The Department is required by Neb. Rev. Stat. § 71-4305 to conduct annual inspections of every swimming pool. The Department will conduct any inspections it deems necessary to insure compliance with all provisions of 178 NAC 2.

The Department has the right of entry at any reasonable time to the swimming pool and accompanying facilities for this purpose. The owner or Nebraska swimming pool operator of any swimming pool must submit operation and analytical records as requested at any time by the Department to determine the sanitary and safety condition of the pool.

2-004.02 Variances: A variance must be requested in writing to the Department 30 working days before the operational item is implemented. The Department may grant a variance from any requirement in 178 NAC 2 upon demonstration that the pool's operation and management meet the intent of the Act and do not pose an increased health or safety risk. Requests for a variance will be approved or disapproved on a case-by-case basis.

## 2-005 POOL OPERATING STANDARDS

2-005.01 Safety Requirements: The following safety requirements must be met at all pools unless otherwise indicated:

1. Water in unbreakable containers is permitted in the swimming pool. Food and beverages are permitted in designated areas of the pool deck if they are in unbreakable containers.
2. In Class A, B and F pools, the boundary line between the shallow (less than 5 feet) and deep (greater than 5 feet) areas of the pool must be clearly marked by a line of contrasting color at least 4 inches wide on the floor and walls of the pool, and by a safety rope and floats equipped with float keepers. During swimming lessons, lap swims, and swim meets, ropes and floats may be moved to enable those purposes to be accomplished if the pool is under the direct supervision of an individual responsible for supervising the group.
3. Water Depth must be plainly marked at or above the water surface on the vertical pool wall and on the edge of the deck at maximum and minimum points of break between the deep and shallow portions and at intermediate increments of depth, spaced at no more than 25-foot intervals. Depth markings must be in numerals at least 4 inches high and in a color contrasting with the background. Where depth markings cannot be placed on the vertical walls above the water level, or space does not allow 4-inch letters, other means must be used so that markings are plainly visible to persons in the pool.
4. Each lifeguard on duty must have within arm's reach a rescue tube equipped with a 6-foot long strap or tow rope. Class B and Class F pools must provide either a rescue tube or a ring buoy, United States Coast Guard approved, or its equivalent, with an attached rope at least as long as the width of the pool;
5. Class B pools must provide a shepherd's crook type of pole having blunted ends with a minimum length of 12 feet;
6. Class A pools must have a backboard equipped with at least three straps.
7. First Aid Kit
  - a. Each Class A pool must have a first aid kit which contains the following materials –
    - (1) 3 units triangular bandage;
    - (2) 2 units 1" tape;
    - (3) 6 units 3" x 3" plain gauze pad;
    - (4) 2 units 2" x 6 yds. gauze roller bandage;

- (5) 1 unit tweezer, bandage scissor;
  - (6) 1 unit Red Cross First Aid Book or an equivalent substitute;
  - (7) 1 unit assorted bandages, such as Band-aids;
  - (8) 1 unit latex-free gloves (or equivalent);
  - (9) 1 unit rescue breathing face shield or mask; and
  - (10) 1 unit emergency response pack for cleaning up blood.
- b. All other pools must have a first aid kit.
- 8. Lifesaving equipment must be mounted in conspicuous places, accessible, its function plainly marked, and kept in repair and ready condition. Bathers or others must not be permitted to tamper with, use for any purpose other than its intended use, or remove such equipment from its established location.
  - 9. Swimming pools must have an accessible working telephone with emergency telephone numbers prominently posted.
  - 10. All Class A swimming pools must conduct drills in handling emergencies at appropriate intervals.
  - 11. The pool owner or the Nebraska swimming pool operator must immediately notify the Department of any drowning or near drowning. Any accident occurring on the pool premises requiring hospitalization or medical treatment must be reported within 24 hours on Attachment 5 which is incorporated herein by reference, or on a form that contains the same information.
  - 12. Footbaths are prohibited.
  - 13. Ladders, ladder rungs, ramps and handrails must be securely anchored.
  - 14. During hours of operation, unsupervised entrance areas and gates for fences separating wading pools, spas and swimming pools within the perimeter fence must not be locked but must be self-closing and self-latching.
  - 15. A thermometer must be available for each Class C pool.
  - 16. Decks must be clear of bags and personal items in an area large enough to allow emergency personnel to reach a victim.
  - 17. A properly operating carbon monoxide detector is required in the pool enclosure for indoor pools where gas or propane is used for heating and in enclosed mechanical rooms where there is a gas or propane fueled water heater.
  - 18. Water temperature in a pool must not exceed 104 ° F.
  - 19. An emergency shutoff switch must be located within sight of the spa, at least 5 feet horizontally from the inside walls of the spa, and must be clearly labeled. This control must disable all spa circulation, agitation, air induction systems, as well as other associated mechanical, chemical feed and electrical devices, not including lighting.
  - 20. Skimmers and drain covers must be kept clean and operational.
  - 21. The chemical feed system must be maintained and operational.
  - 22. All gauges associated with the operation and maintenance of the pool must be properly maintained.
  - 23. Covers on outlets that create suction must be properly maintained.
  - 24. The bottom and sides of a pool must be white or a light color, with a smooth and easily cleanable surface.
  - 25. Pool lighting must be secure and in good operating condition.
  - 26. The barrier surrounding the pool must be maintained so that any openings will not allow a 4-inch sphere to pass through.
  - 27. Backflow/cross connection devices must be in place where required and must

- be properly maintained.
28. All pools must have main drain systems, suction outlets and/or anti-entrapment devices or systems that comply with 178 NAC 4-006.14H and 4-006.14I.
  29. Chemical safety
    - a. Chemicals that are toxic or irritating to humans must not be added to a swimming pool from the deck of the pool while the pool is in use. This includes, but is not limited to, disinfectant chemical, pH control chemical, algaecide, and shock treatment chemical. When chemical additions are made from the deck, the Nebraska swimming pool operator must follow the manufacturer's instructions for proper use of the product. The Nebraska swimming pool operator must test the water as appropriate before allowing use of the swimming pool. The chemical addition and the test results must be recorded in the swimming pool records.
    - b. Chemical storage containers must be clearly labeled and treatment chemicals must be stored and handled in accordance with the manufacturer's recommendations.
    - c. Material safety data sheets (MSDS) for the chemicals used at the pool must be at the facility in a location known and readily accessible to the facility staff.
    - e. A warning sign stating "AUTHORIZED PERSONNEL ONLY" must be placed on the door of rooms where chemicals are used or stored, or where bulk containers are located. Rooms must be kept locked at all times except when occupied by authorized personnel.
    - f. Where chlorine gas is used, chlorine cylinders and proportioning equipment must be housed in a separate, well-ventilated enclosure. All full and empty chlorine cylinders must be secured to the scale or to the walls to prevent accidental tipping; The enclosure must have a vent at floor level which terminates out-of-doors and must contain:
      - (1) An approved scale for weighing the chlorine cylinders to determine the amount of chlorine fed over any period and to permit the Nebraska swimming pool operator to know when the supply of chlorine in the cylinder is nearing exhaustion;
      - (2) An ammonia fume dispenser bottle to be used to check for chlorine leaks;
      - (3) An approved chlorine cylinder valve stem wrench. This wrench must be maintained on the valve stem of the cylinder(s) in use so that the chlorine supply can be shut off quickly in the case of an emergency; and
      - (4) Valve protection hoods kept in place on all cylinders except those attached to the chlorinator.

2-005.02 Water Quality: Failure to meet any standard in 178 NAC 2-005.02A-F is grounds for immediate closing of the swimming pool.

2-005.02A The water must be sufficiently clear at all times so the main drain cover or grate is readily visible in the deepest portion of the swimming pool.

2-005.02B The water must be free from all scum and floating matter on the surface and from dirt and other materials or objects in the swimming pool.

2-005.02C If a chlorine chemical is used for disinfection, the water must be tested for combined chlorine at least once each week the swimming pool is open for use. The combined chlorine must not exceed 0.5 parts per million (ppm).

2-005.02D Disinfectants

2-005.02D1 Spas using chlorine as a disinfectant must maintain a free chlorine residual of at least 3.0 ppm. All other swimming pools using chlorine as a disinfectant must maintain a free chlorine residual of at least 2.0 ppm in all parts of the pool.

2-005.02D2 Spas using bromine as a disinfectant must maintain a total bromine residual of at least 4.0 ppm. All other swimming pools using bromine as a disinfectant must maintain a total bromine residual of at least 2.0 ppm in all parts of the pool.

2-005.02D3 A spa, must be closed until minimum levels are met if the free chlorine residual is less than 3.0 ppm or the total bromine residual is less than 4.0 ppm. All other pools must be closed if the minimum level of free chlorine residual is less than 2.0 ppm or the total bromine residual is less than 2.0 ppm.

2-005.02D4 All swimming pools must be closed if the free chlorine residual exceeds 10.0 ppm or the total bromine residual exceeds 18 ppm.

2-005.02D5 The Department will accept other disinfecting materials or methods when it has been adequately demonstrated that they provide a satisfactory residual which is easily measured and that they are otherwise equally effective under conditions of use as is the chlorine concentration specified in 178 NAC 2-005.02D, create no objectionable physiological effects, are not dangerous to public health, and do not impart toxic properties to the water.

2-005.02E In pools where cyanurates are used, the cyanuric acid levels must be below 50 ppm.

2-005.02F The water must be maintained in an alkaline condition as indicated by a pH of not less than 7.2 and not over 7.8.

2-005.02G The total alkalinity of the water must be maintained at a minimum of 80 ppm.

2-005.03 Required Testing and Recordkeeping: The following records must be kept on Attachment 3 (Pool Water Quality Log Sheet) or Attachment 4 (Spa Water Quality Log Sheet) which are incorporated herein by reference or on a form that contains all the same information for at least one year.

2-005.03A Daily Records and Tests: Daily records must document patron load totals, amounts of chemicals used, and maintenance or any malfunction of equipment. Daily records must also document the following tests, which must be performed every day:

1. The disinfectant residual must be tested before opening and then at intervals not longer than four hours until closing time. If the swimming pool, wading pool, or spa is equipped with an automatic controller with a readout or printout of the disinfectant residual, the Nebraska swimming pool operator may make visible readings of the disinfectant residual and record them. The swimming pool water must be tested manually by means of a FAS-DPD test at least once per day before opening. The Nebraska swimming pool operator must specify in the pool records which test is from the automatic controller and which is done manually.
2. The pH of the water must be tested each day by means of a phenol red test or equivalent before opening and then at least every four hours until closing time. If the swimming pool, wading pool, or spa is equipped with an automatic controller with a readout or printout of pH, the Nebraska swimming pool operator may make visible readings of the pH and record them. The swimming pool water must be tested manually at least once per day before opening. The Nebraska swimming pool operator must specify in the pool records which test is from the automatic controller and which is done manually. The pH instrumentation must be calibrated periodically according to the manufacturer's instructions if the readout is to be used to supplement manual pH readings.
3. Spa temperature must be taken before opening and then at intervals not longer than four hours until closing time.

2-005.03B Weekly Records and Tests: Records must document the following tests, which must be performed every week:

1. Total alkalinity;
2. Combined chlorine, if chlorine is used as a disinfectant; and/or
3. Cyanuric acid level (where applicable).

2-005.04 Testing Equipment: Each swimming pool must maintain in its possession at least the following testing equipment:

2-005.04A Chlorine/Bromine Test Kit or FAS-DPD (Ferrous Ammonium Sulfate-Diethyl-P-Phenylene Diamine) Test Kit: Electronic residual monitoring devices may be used in addition to the test kit.

2-005.04B pH Test Kit: A pH test kit with a range from 7.0 to 8.0, accurate to the nearest 0.2 pH unit.

2-005.04C Alkalinity Test Kit: The alkalinity test range must be at least 60 to 400 parts per million (mg/L) as CaCO<sub>3</sub>.

2-005.04D Cyanuric Acid Test Kit: Where cyanurates are used, a test kit to measure the cyanuric acid concentration must be provided. It must permit readings to at least 100 parts per million (mg/L) with maximum increments of 25 parts per million (mg/L).

## 2-006 POOL STAFF AND SUPERVISION STANDARDS

2-006.01 Every Class A swimming pool must be under the direct and immediate supervision of a Nebraska swimming pool operator whenever the pool is open.

2-006.02 Every Class B and Class F swimming pool must have a Nebraska swimming pool operator available.

2-006.03 Proof of certificate of competency must be available in the office of the facility.

### 2-006.04 Lifeguards:

2-006.04A Certification: Lifeguards must be currently certified by:

1. The American Red Cross, the National Pool and Water Park Lifeguard Training Program, the YMCA, the Boy Scouts of America, or another lifeguard certifying organization with an equivalent lifeguard certification program, as determined by the Department. If a certification was issued with restrictions, the certification must be appropriate for the duty to which the lifeguard is assigned; and
2. The American Heart Association, the National Safety Council, the American Red Cross, or another nationally recognized organization. The certification course must include infant, child, and adult cardiopulmonary resuscitation (CPR), two-person CPR, and the use of a bag valve mask and a rescue breathing mask. Certification must be renewed annually.

2-006.04B Every Class A swimming pool must have on duty whenever the pool is open, 1 lifeguard per each 1-100 bathers or 2,000 square feet of water surface area, whichever is the lesser number. The number of lifeguards on duty must be sufficient to permit periodic relief or rest periods.

2-006.04C A lifeguard must not simultaneously guard more than one pool unless the area under surveillance can be continuously monitored with a clear unobstructed view and immediate assistance can be rendered if needed.

2-006.04D A lifeguard must be in position to view all areas of the pool that s/he is responsible for watching.

2-006.04E A lifeguard must wear a distinguishing swim suit or emblem while on duty.

2-006.04F At water slides, drop slides, or water features where the discharge area of the slide is not clearly visible by the patron about to ride the feature, one lifeguard

is required within 50 feet of the discharge point of the slide. This lifeguard must be responsible for guarding the plunge area for the feature and no other areas and must be in voice or visual communication with the attendant or lifeguard at the top of the slide or feature. One lifeguard may monitor up to three slides and no other areas if they are adjacent to and discharge to the same plunge area.

2-006.04G At water slides, drop slides or water features where the discharge area of the slide is clearly visible by the patron about to ride the feature, one lifeguard is required to monitor the discharge area and must be in voice or visual communication with the patron.

2-006.04H Class A pools where swimming classes or swimming meets are conducted are exempt from the lifeguard requirement during classes or meets, if the class or meet in session is under the direct supervision of an individual responsible for supervising the group and capable of taking the necessary actions in the case of an emergency.

## 2-007 PHYSICAL PLANT STANDARDS

### 2-007.01 Lifeguard Chairs

2-007.01A All Class A swimming pools, and those Class B and F swimming pools which elect to have a lifeguard on duty, must provide a lifeguard chair for each 2,000 square feet of water surface area.

<u>Water Surface Area in Sq. Ft. (meters)</u>	<u>Minimum Number of Chairs</u>
Less than 2,000 (<186)	0
2,000 to 3,999 (187-372)	1
4,000 to 5,999 (373-557)	2
6,000 to 7,999 (558-743)	3

2-007.01B At least one chair must be located so the lifeguard is able to maintain surveillance of all pool floor area having a depth of 5 feet or greater.

2-007.01C All lifeguard chairs must be:

1. Located so the guard is not required to protect a segment greater than 180°;
2. Placed at waterside in locations to minimize the effect of glare on the water; and
3. Placed to give complete coverage of the pool(s).

2-007.02 Signs: All pool regulations must be stated on signs with clear, legible print.



2-007.02A At Class B, C, D, E, and F swimming pools, where lifeguard service is not continuously provided, a warning sign must be placed in plain view of the user and must state: "WARNING – NO LIFEGUARD ON DUTY" in letters at least four inches high, and "CHILDREN UNDER THE AGE OF 16 MUST NOT USE POOL WITHOUT AN ADULT IN ATTENDANCE" in letters at least two inches high.

2-007.02B Pool regulations must be conspicuously posted in the swimming pool area, or in the dressing rooms at all swimming pools, including wading pools. Signs must have the title "Pool Regulations" in letters at least four inches high and must list the following regulations:

- § No person is permitted to use the pool without first having taken a warm water shower, using soap.
- § No person having an obvious communicable disease, skin eruption, cut, sore or lesion, eye, ear, nose, or throat infection, is permitted to use any public swimming pool.
- § Spitting or spouting of water, blowing the nose, or any other similar activities in the swimming pool is strictly prohibited.
- § No running, boisterous or rough play, except supervised water sports, is permitted in the pool, or on the runways, diving boards, floats, platforms, or in the dressing rooms.
- § Maximum patron load is \_\_\_ persons.

2-007.02C Spa regulations must be conspicuously posted in the spa area. Signs must have the title "Spa Regulations" in letters at least four inches high and must list the following regulations:

- § No person is permitted to use the spa without first having taken a warm water shower, using soap.
- § Pregnant women, elderly persons, and persons suffering from heart disease, diabetes, or high or low blood pressure should not enter the spa/hot tub without prior medical consultation and permission from their doctor.
- § Do not use the spa/hot tub while under the influence of alcohol, tranquilizers, or other drugs that cause drowsiness or that raise or lower blood pressure.
- § Do not use at water temperatures greater than 104° Fahrenheit (40°C).
- § Do not use alone.
- § Unsupervised use by children under the age of 16 is prohibited.
- § Enter and exit slowly.
- § Observe reasonable time limits (that is, 10-15 minutes), then leave the water and cool down before returning for another brief stay.
- § Long exposure may result in nausea, dizziness, or fainting.
- § Keep all breakable objects out of the area.
- § Maximum patron load is \_\_\_ persons.

"No one under the age of 5 years is permitted in spa" must be on the same sign or on a separate sign.

2-007.03 Bathhouses: All Class A pools must have a bathhouse.

2-007.03A Bathhouses must be kept in good repair and kept free from dirt and algae. They must be kept clean at all times and disinfected at least once each day.

2-007.03B Liquid or powdered soap dispensers and soap must be provided. Glass soap dispensers and bar soap are not acceptable. Each handwashing sink or shower or group of two adjacent handwashing sinks or showers must be provided with a dispenser.

2-007.03C All bathing suits and towels furnished to bathers must be thoroughly washed with detergent and water, thoroughly rinsed, completely dried, and stored in a clean place after each use.

2-007.03D Showers must supply water at a temperature of at least 90° Fahrenheit (32° C.) and no more than 115° Fahrenheit (46° C.). Sinks must supply water at a temperature of at least 90° Fahrenheit and no more than 115° Fahrenheit (46° C.). Single temperature fixtures must supply water at a temperature of at least 90° Fahrenheit (32° C.) and no more than 105° Fahrenheit (41° C.).

2-008 POOL CLOSING

2-008.01 The owner or Nebraska swimming pool operator of a pool must prohibit any person from using a swimming pool if any of the conditions in 178 NAC 2-008.02 items 1-8 exist. The pool may be re-opened when the pool is in compliance with 178 NAC 2, 178 NAC 4 and Neb. Rev. Stat. §§ 71-4301 to 71-4307.

2-008.02 If the Department, upon inspection and investigation of a swimming pool, finds any condition that poses a serious health risk to patrons that warrants prompt closing of the pool, the Department will notify the owner or Nebraska swimming pool operator that the pool must be closed. The Department may also provide written notice to the sheriff and the county attorney of the county in which the pool is located. It is the duty of the sheriff and county attorney to enforce the notice from the Department. If and when the owner or Nebraska swimming pool operator of the pool has, in the opinion of the Department, met the provisions of the Act and its related regulations, the Department may authorize in writing the re-opening of the pool. Conditions that warrant prompt closing of a pool include, but are not limited to the following:

1. Water quality that fails to meet the standards in 178 NAC 2-005.02A-F,
2. Not meeting the requirements of 178 NAC 2-005.01 item 28,
3. No telephone accessible,
4. For class A pools, or other pools where lifeguards are provided, insufficient number of or unqualified lifeguards,
5. No backboards with 3 straps/rescue tubes for Class A pools,
6. No shepherd's crook, and no ring buoys or rescue tubes accessible at Class B or F pools,
7. No Nebraska swimming pool operator at Class A pool,
8. No Nebraska swimming pool operator available for Class B or F pools.

2-009 DENIAL, SUSPENSION, OR REVOCATION OF PERMIT

2-009.01 The Department may deny, suspend, or revoke any permit for operation of a swimming pool for:

1. Failure to comply with any provisions of the Act or its related regulations (178 NAC 2 and 178 NAC 4); or
2. Nondisclosure, misrepresentation, or deliberate misstatement of a material fact in the application for permit.

2-009.02 Before a permit is denied, suspended, or revoked, the Department will send a written notice to the applicant or permit holder enumerating instances of failure to comply with the Act or its related regulations, or of the nature of the invalidity of the original application for a permit. If the permit is denied, suspended, or revoked, the person may request a hearing before the Department within 30 days of receipt of notice of denial, suspension, or revocation. On the basis of the hearing, the Department will affirm or revoke its previous action.

2-009.03 The denial, suspension, or revocation of the permit will terminate and the permit will be issued or reissued, as the case may be, upon proper application and upon the presentation of evidence sufficient to show that the deficiencies and the unsafe or unsanitary conditions causing the denial, suspension, or revocation have been corrected.

2-009.04 Whenever the Department finds that a swimming pool is being constructed, improved, altered, equipped, operated, or maintained in violation of any of the provisions of the Act or its related regulations, the Department may grant a reasonable amount of time, in its opinion, to change or modify the construction or provide for the proper equipment, operation, and maintenance needed to bring the pool into compliance with the Act and its related regulations.

**178 NAC 2 ATTACHMENT 1  
APPLICATION TO OPERATE A SWIMMING POOL**

<u>Pool Name:</u>			
<u>Pool Physical Address:</u>	<u>Street:</u>		
	<u>City:</u>	<u>State:</u>	<u>Zip Code:</u>
<u>Pool Telephone:</u>		<u>County:</u>	

<u>Owner's Name:</u>			
<u>Owner's Mailing Address:</u>	<u>Street:</u>		
	<u>City:</u>	<u>State:</u>	<u>Zip Code:</u>
<u>Owner's Telephone:</u>	<u>Owner's E-mail Address:</u>		

<u>Directions to Pool:</u>
----------------------------

<b><u>Please check the appropriate box(s) below.</u></b>		
<input type="checkbox"/> <u>Municipally/Governmentally Owned</u>		
<input type="checkbox"/> <u>Apartments/Condominiums/Hotels/Motels</u>		
<input type="checkbox"/> <u>Health Club/Fitness Center/Community Fitness Center</u>		
<b><u>Facility Type:</u></b>	<input type="checkbox"/> <u>Pool</u>	<input type="checkbox"/> <u>Spa</u>
<input type="checkbox"/> <u>Wading Pool</u>	<input type="checkbox"/> <u>Spray Park</u>	<input type="checkbox"/> <u>Special Purpose Pool</u>
<b><u>Facility Location:</u></b>	<input type="checkbox"/> <u>Indoor</u>	<input type="checkbox"/> <u>Outdoor</u>

Contact the Department at 402/471-0903 for appropriate permit fee.

**Class A pools must have a Nebraska swimming pool operator on-site. Class B and Class F pools must have a Nebraska swimming pool operator available within 60 minutes (see rules and regulations).**

I have read Title 178 NAC 2 and will comply with these regulations.

**Sign Here** \_\_\_\_\_ **Title** \_\_\_\_\_ **Date** \_\_\_\_\_

If the pool is not owned by an individual, please list the owner.

\_\_\_\_\_

\_\_\_\_\_

If the pool is owned by an individual, complete the Attestation Form on the back of this form.

Return with the appropriate fee to DHHS, Division of Public Health, P.O. Box 95026, Lincoln, NE 68509-5026.

**178 NAC 2 ATTACHMENT 1  
APPLICATION TO OPERATE A SWIMMING POOL**

**UNITED STATES CITIZENSHIP ATTESTATION FORM**

For the purpose of complying with Neb. Rev. Stat. §§4-108 through 4-114, I attest as follows:

I am a citizen of the United States.

**— OR —**

I am a qualified alien under the federal Immigration and Nationality Act, my immigration status and alien number are as follows: \_\_\_\_\_, and I am providing a copy of my USCIS documentation.

**I hereby attest that my response and the information provided on this form and any related application for public benefits are true, complete, and accurate and I understand that this information may be used to verify my lawful presence in the United States.**

**PRINT NAME** \_\_\_\_\_  
(first, middle, last)

**SIGNATURE** \_\_\_\_\_ **DATE** \_\_\_\_\_

EFFECTIVE DATE  
SEPTEMBER 14, 2010

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 2

**178 NAC 2 ATTACHMENT 2  
APPLICATION FOR SWIMMING POOL OPERATOR CERTIFICATE OF COMPETENCY**

**Directions.** Please print legibly in the spaces provided.

You must provide your name (exactly as you want it printed on the certificate of competency), complete address, birth date, age, social security number, clinic location with date, and signature to receive a certificate.

**Have you previously been issued a Nebraska swimming pool operator certificate of competency?**  Yes  No

Name:	_____		
Home Mailing Address:	Street/PO/Route: _____		
	City: _____	State: _____	Zip: _____
Address where certificate of competency will be sent:			
Mailing Address:	Street/PO/Route: _____		
	City: _____	State: _____	Zip: _____
Social Security Number: _____		Telephone: _____	
<small>Social Security Numbers obtained 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.</small>		Email Address: _____	
Birth Date: _____		Age: _____	
Clinic/Test Location:	City: _____	Date: _____	

Signature: \_\_\_\_\_

178 NAC 2 Attachment 3 - Pool Water Quality Log Sheet							
Pool Name:		City:					
Operator Name:		Month:					
Record Before Opening and Every 4 Hours							
Pool Residual Cl: 2.0-10.0 ppm Br: 2.0-18.0 ppm	Date						
	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
	pH (7.2-7.8)	Time					
Level							
Time							
Level							
Time							
Level							
Time							
Level							
Time							
Level							
Time							
Level							
Amount of Chemicals Added, Equipment Maintenance (filters backwashed, etc.)							
Sampler's Initials							
<b>Record Weekly</b>	<b>Date</b>						
Combined Chlorine (≤ 0.5 ppm)	Time						
	Level						
Cyanuric Acid (≤ 100 ppm)	Time						
	Level						
Total Alkalinity (> 80 ppm)	Time						
	Level						

\_\_\_\_\_  
Nebraska Swimming Pool Operator's Signature

178 NAC 2 Attachment 4 - Spa Water Quality Log Sheet							
Spa Name:		City:					
Operator Name:		Month:					
Record Before Opening and Every 4 Hours							
Spa Residual Cl: 3.0-10.0 ppm Br: 4.0-18.0 ppm	Date						
	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
	Time						
Level							
pH (7.2-7.8)	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
Spa Temperature (≤ 104° F)	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
	Time						
	Level						
Amount of Chemicals Added, Equipment Maintenance (filters backwashed, etc.)	-----	-----	-----	-----	-----	-----	-----
Sampler's Initials							
Record Weekly	Date						
Combined Chlorine (≤ 0.5 ppm)	Time						
	Level						
Cyanuric Acid (≤ 100 ppm)	Time						
	Level						
Total Alkalinity (> 80 ppm)	Time						
	Level						
_____ Nebraska Swimming Pool Operator's Signature							





DHHS DIVISION OF PUBLIC HEALTH  
 Drinking Water and Environmental Health-3<sup>rd</sup> Floor  
 PO Box 95026, Lincoln, NE 68509-5026  
 Phone: 402/471-0903 – FAX: 402/471-6436  
 24-Hour Emergency Contact #402/499-6922

**178 NAC 2 ATTACHMENT 5  
 SWIMMING POOL ACCIDENT REPORT**

The pool owner or the Nebraska swimming pool operator must immediately notify the Department at 402/499-6922 of any drowning or near drowning. This report must then be completed and return to the Department.

Any accident occurring on the pool premises requiring hospitalization or medical treatment must be reported within 24 hours by completing and faxing this form to the Department.

*Please Print Clearly*

Date of Accident:		Time of Accident: _____ AM / PM (circle one)	
Name of Victim(s):			
Name of Pool/Spa:		Permit Number:	
Pool/Spa Address:	Street/PO/Route:		
	City:	State:	Zip:
Area of Pool Where Accident Occurred:			
Nebraska Swimming Pool Operator(s) on Duty			Certificate of Competency Number
Lifeguards on Duty (if applicable)			
Description of Accident (use additional pages if necessary):			

Report Made By (Print Name): \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

# TITLE 178 NAC 4 PUBLIC SWIMMING POOL DESIGN AND CONSTRUCTION STANDARDS

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EFFECTIVE DATE  
SEPTEMBER 14, 2010

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 4

TITLE 178 ENVIRONMENTAL HEALTH

CHAPTER 4 PUBLIC SWIMMING POOL DESIGN AND CONSTRUCTION STANDARDS

4-001 SCOPE AND AUTHORITY: These regulations establish standards for swimming pool design, review, construction, approval, and related requirements. The authority for these regulations is found in Neb. Rev. Stat. §§71-4301 through 71-4307.

4-001.01 Related Regulations: Persons designing and/or constructing swimming pools may want to consult other regulations and/or codes which may apply, such as standards for special types of swimming pools, electrical codes, plumbing codes, water and wastewater regulations. It is the responsibility of the design professional to insure that the requirements of all other applicable codes (i.e., boilers, electrical, building, plumbing, fire, ventilation, etc.) are met. The construction approval by the Department does not supersede any other approvals which may also be required. If conflicts with other applicable local, state, or federal regulations occur, the most restrictive regulation governs.

#### 4-002 DEFINITIONS

Additional inspections means inspections required to determine if violations discovered in previous inspections have been corrected.

Bathhouse means any building adjacent to the swimming pool used by the swimmers and bathers for changing clothes. The term "bathhouse" includes accompanying bather preparation facilities.

Beginning Construction or similar terms in these regulations means the start of work on items that are specifically mentioned in these regulations.

Boundary line means a line between the shallow and deep areas marked in contrasting color and at least 4 inches wide on the floor and walls of the pool, and by a safety rope and floats equipped with float keepers.

Certificate of competency means a certificate obtained as a result of attendance and successful completion, as shown by passing a test, of a Nebraska swimming pool operator's training clinic approved by the Department.

Class A Pool means a pool operated by a municipality, political subdivision, or governmental agency; or a pool intended for use for accredited competitive aquatic events such as Federation Internationale de Natation, U.S. Swimming, U.S. Diving, National Collegiate Athletic Association, National Federation of State High School Associations, etc.

Class B pool means a swimming pool operated at a facility including, but not limited to, an apartment, a condominium, a property owner association, a child care facility, and lodgings such as hotels and motels.

Class C pool means a spa.

Class D pool means a wading pool.

Class E pool means a spray park.

Class F pool means a swimming pool at a health club, fitness center, or community fitness center.

Deck means the area surrounding a pool, which is specifically constructed or installed for use by bathers.

Deep area means those areas of a swimming pool where the water is more than 5 feet deep.

Department means the Department of Health and Human Services.

Design Professional means a professional engineer or professional architect registered by the Nebraska Board of Engineers and Architects to practice in the State of Nebraska.

Drop slide means a slide that discharges to a pool with a drop more than 2 inches to the water surface.

Lazy River Ride means a water recreation attraction designed to convey patrons around a relatively flat course using an artificially created current.

Main drain means a submerged suction outlet typically located at the bottom of a pool or spa to conduct water to a recirculating pump.

Nebraska swimming pool operator means an individual (1) who has a current certificate of competency or (2) who has successfully completed the pool operator training course by the National Swimming Pool Foundation, the Aquatic Facility Operator course approved by the National Recreation and Park Association, or an equivalent course approved by the Department, and who maintains certification as required by the certifying organization.

Owner means the owner or the owner's representative.

Patron means a person using a public swimming pool. Patron also means a bather or swimmer.

Person, in 178 NAC 4-003.12 and 4-005 means any individual, firm, partnership, association, corporation, company, municipality, political subdivision, community government agency, club, organization, or other entity owning or operating a swimming pool as defined in Neb. Rev. Stat. § 71-4301. In all other instances, person means individual.

Spa means a specific type of swimming pool, such as a hot tub or whirlpool designed for recreational use which is not intended to be drained, cleaned, and refilled after each individual use. It may include, but is not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction systems, or any combination thereof.

Special Purpose Pool means a swimming pool that is operated for special purposes and incorporates features distinguishing it from a traditional swimming pool. Special purpose pools include, but are not limited to wave pools, zero depth pools, water slide splash pools, lazy river rides, and pools with fountains and/or other interactive water features.

Spray Park means a pool providing recirculated water to spray features with no permanent standing water accessible to pool patrons.

Substantial Modification or Improvement means construction that changes the depth, shape, piping, pumping, or other basic design features of a public swimming pool in a manner that affects pool patron safety or recirculation system design; changes a pool's deck; changes the basic design of a diving board; or adds a special feature. Work not considered a substantial modification or improvement includes maintenance and repairs. Maintenance does not include total shell replacement.

Suction Outlet means a fitting, fitting assembly, cover/grate, and related components that provide a localized low pressure area for the transfer of water from a swimming pool. This may also include the transfer of water for slides, spray features, skimmer equalizer lines, etc.

Swimming Pool (pool) means any artificial basin of water modified, improved, constructed, or installed solely for the purpose of public swimming, wading, diving, recreation, or instruction. Swimming pool includes, but is not limited to, a pool serving a community, a subdivision, an apartment complex, a condominium, a club, a camp, a school, an institution, a park, a manufactured home park, a hotel, a motel, a recreational area, or a water park. Swimming pool includes a spa, hot tub, or whirlpool or similar device which (1) is designed for recreational use and not to be drained, cleaned, and refilled after each individual use and (2) may consist of elements, including, but not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction systems, or any combination thereof. Swimming pool does not include an artificial lake, a pool at a private residence intended only for the use of the owner and guests, or a pool operated exclusively for medical treatment, physical therapy, water rescue training, or training of divers.

Unblockable Drain means a drain that has minimum dimensions of 18 inches by 23 inches or 29 inches diagonally.

Variance means written approval from the Department to allow a design, or substantial modification or improvement that does not conform to the requirements in 178 NAC 4. A variance will not be given for any design, modification or improvement that endangers the health or safety of the patrons.

Virginia Graeme Baker Act (VGB) means 15 USC Sec. 8001 et seq.

Wading Pool means a pool that is no more than 24 inches deep that is intended for use by young children.

Wave pool means a special purpose pool with wave generating equipment and a design which provides for control of the waves within the side walls and dissipation of the waves at a zero depth shallow end.

Zero Depth Pool means a swimming pool where the pool floor intersects the water surface along a portion of its perimeter.

4-003 PLANS AND SPECIFICATIONS: Plans, specifications, and a swimming pool data sheet (Attachment 2 which is incorporated herein by reference) for new swimming pools or substantial modifications or improvements to existing pools must be prepared by a design professional. All plans and specifications must be submitted to the Department in triplicate for review and written approval prior to beginning construction, with plans laid out on sheets having a minimum size of 11 by 17 inches. Additional sets may be submitted for formal designation as approved copies if desired. Plans and specifications for substantial modifications or improvements must include all applicable portions of the swimming pool. The owner of a pool may submit plans and specifications for changes to existing pools for erosion type feeders and solution type feeders instead of a design professional.

4-003.01 Content: Plans, specifications, and attachments submitted for formal approval must be an accurate record of the proposed construction and contain sufficient information to demonstrate to the Department that the proposed swimming pool or substantial modifications or improvements will meet the standards contained herein and must include, at a minimum, the following documentation and information: (If the information submitted is not sufficient for the Department to determine if the project meets the standards, the Department may require additional information.)

1. Location and Owner: Name and address of the proposed, modified or improved public swimming pool facility; and the name, address, and phone number of the owner.
2. Scale and Northpoint.
3. Designer Information: Name, date, address, phone number, professional seal and signature of the design professional.

4. Plot Plan: A plot plan of the property to be used, indicating the location of proposed and existing structures; as well as the location of the proposed swimming pool, pool enclosure, and deck.
5. Detailed Plans: All detailed plans for a swimming pool must be legible and must be drawn to a suitable scale. The detailed plans for facilities must show:
  - a. Construction Details: Complete construction details for the swimming pool, deck and pool enclosure, including dimensions, elevations, and appropriate cross sections for the swimming pool.
  - b. Recirculation System: Schematic diagrams and plan view of the pool water treatment and recirculation systems, pool equipment room or enclosure.
  - c. Piping: Size and location of all piping.
  - d. Specifications: Complete, detailed specifications for the construction of the swimming pool, bathhouse, recirculation system, filtration system, disinfection equipment and all other appurtenances.
6. Fees
  - a. Initial Fee: When the design professional's plans and specifications are submitted, an initial review fee of \$100 plus 0.5% of his/her estimate of the cost of the project described in the documents to be reviewed up to a maximum of \$7,600 must be included.
  - b. Final Fee: Upon completion of the project, the owner must submit documentation of the contract or actual cost of the project in the form of the actual contract or invoice(s) to the Department for the purpose of determining the final fee amount. Payment of the final fee amount must be made prior to final inspection, except that amounts of \$25 or less are not required to be paid or refunded;
  - c. Variance Fee: A \$300 fee must accompany each variance request.
  - d. Engineering Inspection Fee: The final inspection conducted by the Department review engineers is included in the review fee. A fee of \$400 for each additional inspection conducted by the Department must be paid prior to the date of the additional inspection. The engineering inspection fee is separate from and in addition to the operational inspection fees required in 178 NAC 2. Pools owned by a municipal corporation are exempt from inspection fees.

- e. There is a fee of \$1000 in addition to the plan review fee if construction is begun or completed on items specifically outlined in these regulations prior to obtaining approval from the Department.
7. Operation and Maintenance Manual: The design professional must provide 2 copies of a manual for operation of the pool to the owner or owner's representative.

4-003.02 Data Sheet: The design professional or owner (See 178 NAC 4-003) must submit a swimming pool data sheet (Attachment 2) for each swimming pool with the plans and specifications.

4-003.03 Preliminary Plans: The design professional may submit preliminary plans, specifications, or concepts to the Department for review prior to preparation of construction documents, allowing 30 working days for comment by the Department. An initial fee for review of preliminary plans must be submitted with the plans as required in 178 NAC 4-003.01 item 6.a. This fee will be credited toward the review fee required when final plans and specifications are submitted for review. Any comments or agreements made regarding preliminary plans do not constitute approval to construct the project. If preliminary plans are submitted for a project, reference to any correspondence must be included in the final plan submittal.

4-003.04 Final Plans: All swimming pool data sheets, the initial fee, and construction documents for formal approval of a public swimming pool must be submitted for review and comment or approval at least 30 working days prior to planned construction or installation. Time must be allowed for the incorporation of changes if required.

4-003.05 Construction Approval: The Department must approve final plans, specifications, a swimming pool data sheet, and other relevant data before construction or installation of any new swimming pool or substantial modification or improvement to any swimming pool may begin. Upon approval of the plans and specifications, the Department will issue a construction permit. A construction permit is valid for a period of 2 years from the date of issuance. If construction is not started within 2 years from the issuance of the permit, the owner or the design professional must request a time extension in writing prior to the expiration of the construction permit and the Department must approve it with an expiration date in order for it to continue to be valid.

4-003.06 Review of Plans and Specifications: The Department will issue a comment letter to the design professional when review of the plans and specifications does not indicate compliance with Title 178 NAC 4 or inadequate information is provided for a complete review. The design professional must address issues identified in the Department's comment letter within 60 calendar days from the date of issuance of the comment letter unless the owner and/or design professional request in writing and the Department approves an extension of time. If the design professional does not respond in writing to the Department's comment letter within 60 days from issuance of the comment letter, the Department will deny the construction permit for the project. When a project is



denied for construction, new sets of plans and specifications, along with a new review fee as specified in 178 NAC 4-003.01 item 6.a., must be submitted to the Department for review and written approval prior to construction.

4-003.07 Construction: All new swimming pools and substantial modifications or improvements must be completed in accordance with approved plans and specifications or approved change orders.

4-003.08 Certification: The design professional or the owner (see 178 NAC 4-003), as appropriate, must certify in writing to the Department on Attachment 3 which is incorporated herein by reference that the pool and all appurtenances have been constructed in accordance with approved plans and specifications, prior to a final inspection.

4-003.09 Final Inspection: The Department will conduct a final inspection and note any deficiencies, which must be resolved, before the Department will issue a permit to operate the pool. The Department has the right of entry at any reasonable time to the swimming pool and accompanying facilities for this purpose.

4-003.10 Final Approval: If no deficiencies are found when the Department conducts the final inspection or when any deficiencies that were found in the Department's final inspection have been corrected, the Department may issue a permit to operate the pool.

4-003.11 Denial: The Department may refuse to issue a construction permit for failure to comply with any of the provisions of Neb. Rev. Stat. §§ 71-4301 to 71-4307 or 178 NAC 4. The Department will inform the engineer and the swimming pool owner, in writing, of the factual basis of the denial and the statutory or regulatory provisions supporting the decision. The denial will become final 30 days after the mailing of the notice, unless the swimming pool owner, within the 30-day period, requests a hearing in writing. The hearing shall be conducted in accordance with the Nebraska Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative hearings.

4-003.12 Record Drawings: Pools that are already constructed or on which construction has begun without prior plan review and approval will not be issued a permit to operate until after the record drawing plans and specifications have been reviewed and approved by the Department. If the pool is being operated without appropriate approval, the permit may be suspended or revoked after the applicant or the person to whom the permit has been issued is given notice in writing of the failure to comply with Neb. Rev. Stat. §§71-4301 through 71-4307 or the rules and regulations developed under those statutes. If the permit is suspended or revoked, the person to whom the permit has been issued may request a hearing before the Department within 30 days of mailing of notice of the suspension or denial. On the basis of evidence presented at the hearing, the Department will affirm or revoke its previous action. In addition, whenever any work for which a construction permit is required has been started before an operating permit has been issued the following will apply:

1. All construction work must cease until the record drawings have been reviewed and approved by the Department;
2. 45 working days must be allowed for review after receipt of the swimming pool data sheets, the initial fee, and record documents;
3. The Department may require that construction not done in accordance with the regulations be corrected before a facility is used.

#### 4-004 VARIANCES

4-004.01 General: A variance request must be prepared by a design professional (or owner if 178 NAC 4-003 applies) in writing a minimum of 30 working days before construction begins. A variance must be requested on Attachment 1 to 178 NAC 4, which is incorporated herein by reference. A variance may not pose an increased public health or safety risk.

4-004.02 New Projects: A request for a variance may be made for a new project where the design professional believes that a variation in the standards does not endanger the health or safety of the patrons.

4-004.03 Existing Projects: A variance request for a modification to existing swimming pools may be made where space and/or other circumstances prevent the project from meeting the current requirements and where the Department determines that a variation in the standards does not endanger the health or safety of the patrons.

4-004.04 The Department will review and approve or disapprove requests for a variance on a case-by-case basis.

#### 4-005 DENIAL, SUSPENSION, OR REVOCATION OF PERMIT; POOL CLOSING

4-005.01 The Department may deny, suspend, or revoke any permit for construction of a swimming pool for failure to comply with any provisions of Neb. Rev. Stat. §§ 71-4301 to 71-4307 or 178 NAC 2 or 4.

4-005.02 Before a permit is denied, suspended, or revoked, the Department will send a written notice to the owner or the Nebraska swimming pool operator enumerating instances of failure to comply with Neb. Rev. Stat. §§ 71-4301 to 71-4307 or 178 NAC 2 or 4. If the permit is denied, suspended, or revoked, the owner may request a hearing before the Department within 30 days of mailing of notice of denial, suspension, or revocation. On the basis of the evidence presented at the hearing, the Department will affirm or revoke its previous action.

4-005.03 The denial, suspension, or revocation of the permit will terminate and the permit will be issued or reissued, as the case may be, upon proper application and upon the presentation of evidence sufficient to show that the deficiencies causing the denial, suspension, or revocation have been corrected.

4-005.04 Whenever the Department finds that a swimming pool is being constructed, improved, altered, or equipped, in violation of any of the provisions of Neb. Rev. Stat. §§ 71-4301 to 71-4307 or 178 NAC 2 or 4, the Department may grant a reasonable amount of time, in its opinion, to change or modify the construction or provide for the proper equipment needed to bring the pool into compliance with Neb. Rev. Stat. §§ 71-4301 to 71-4307 or 178 NAC 2 or 4.

If the Department, upon inspection and investigation of a swimming pool, finds conditions that warrant prompt closing of the pool, the Department must notify the owner or the Nebraska swimming pool operator that the pool must be closed. The Department may also provide written notice to the sheriff and the county attorney of the county in which the pool is located. It is the duty of the sheriff and county attorney to enforce the notice from the Department. If and when the owner or Nebraska swimming pool operator of the pool has, in the opinion of the Department, complied with the provisions of Neb. Rev. Stat. §§ 71-4301 to 71-4307 or Title 178 NAC 2 or 4, the Department may authorize in writing the re-opening of the pool.

4-006 DESIGN STANDARDS: The following standards are adapted from the *Recommended Standards for Swimming Pool Design and Operation*, 1996 , by the Great Lakes – Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers. Copies are available from Health Education Services, A Division of Health Research Inc., P.O. Box 7126, Albany, New York 12224, Phone: 518-439-7286. 178 NAC 4-006.09 and 4-006.12A are used with permission from ANSI/NSPI-1, 2003, American National Standards for Public Swimming Pools, ANSI/NSPI, 2111 Eisenhower Ave., Alexandria VA 22314. Phone: 703-838-0083.

4-006.01 Existing licensed swimming pools constructed or under construction prior to September 14, 2010 which do not fully comply with the design and construction requirements of these regulations may be continued in use as long as the swimming pool meets the current operating requirements in 178 NAC 2, poses no significant health or safety risks in the opinion of the Department, and is operated and maintained as designed.

4-006.02 Safety Requirements: The following safety requirements must be met at all pools unless otherwise specified in these regulations.

1. Water Depth must be plainly marked at or above the water surface on the vertical pool wall and on the edge of the deck at maximum and minimum points of break between the deep and shallow portions and at intermediate increments of depth, spaced at no more than 25-foot intervals. Depth markings must be in numerals at least 4 inches high and in a color contrasting with the background. Where depth markings cannot be placed on the vertical walls above the water level, or space does not allow 4-inch letters, other means must be used so that markings are plainly visible to persons in the pool.

2. Each lifeguard on duty must have within arm's reach a rescue tube equipped with a 6-foot long strap or tow rope. Class B and Class F pools must provide either a rescue tube or a ring buoy, United States Coast Guard approved, or its equivalent, with an attached rope at least as long as the width of the pool;
3. Class B and Class F pools must provide a shepherd's crook type of pole having blunted ends with a minimum length of 12 feet;
4. Class A pools must have a backboard equipped with at least 3 straps.
5. First aid kit
  - a. Each Class A pool must have a first aid kit which contains the following materials –
    - (1) 3 units triangular bandage,
    - (2) 2 units 1" tape,
    - (3) 6 units 3" x 3" plain gauze pad,
    - (4) 2 units 2" x 6 yds. gauze roller bandage,
    - (5) 1 unit tweezer, bandage scissor,
    - (6) 1 unit Red Cross First Aid Book or an equivalent substitute,
    - (7) 1 unit assorted bandages, such as Band-aids,
    - (8) 1 unit latex-free gloves (or equivalent),
    - (9) 1 unit rescue breathing face shield or mask, and
    - (10) 1 unit emergency response pack for cleaning up blood.
  - b. All other pools must have a first aid kit.
6. Swimming pools must have an accessible working telephone with emergency telephone numbers prominently posted.
7. A properly operating carbon monoxide detector is required in the pool enclosure for indoor pools where gas or propane is used for heating and in enclosed mechanical rooms where there is a gas or propane fueled water heater.
8. Chemical safety
  - a. Chemical storage containers must be clearly labeled and treatment chemicals must be stored and handled in accordance with the manufacturer's recommendations.
  - b. A warning sign stating "AUTHORIZED PERSONNEL ONLY" must be placed on the door of rooms where chemicals are used or stored, or where bulk containers are located.

4-006.03 Signs: All pool regulations must be stated on signs with clear, legible print.

4-006.03A At swimming pools where lifeguard service is not continuously provided, a warning sign must be placed in plain view of the user and must state: "WARNING – NO LIFEGUARD ON DUTY", in letters at least 4 inches high, and "CHILDREN UNDER THE AGE OF 16 MUST NOT USE POOL WITHOUT AN ADULT IN ATTENDANCE" in letters at least 2 inches high.

4-006.03B Pool regulations must be conspicuously posted in the swimming pool area, or in the dressing rooms at all swimming pools, including wading pools. Signs

must have the title "Pool Regulations" in letters at least 4 inches high and must list the following regulations:

- No person is permitted to use the pool without first having taken a warm water shower, using soap.
- No person having an obvious communicable disease, skin eruption, cut, sore or lesion, eye, ear, nose, or throat infection, is permitted to use any public swimming pool.
- Spitting or spouting of water, blowing the nose, or any other similar activity in the swimming pool is strictly prohibited.
- No running, boisterous or rough play, except supervised water sports, is permitted in the pool, or on the runways, diving boards, floats, platforms, or in the dressing rooms.
- Maximum patron load is \_\_\_\_ individuals.

4-006.03C Spa regulations must be conspicuously posted in the spa area. Signs must have the title "Spa Regulations" in letters at least 4 inches high and must list the following regulations –

- No individual is permitted to use the spa without first having taken a warm water shower, using soap.
- Pregnant women, elderly individuals, and individuals suffering from heart disease, diabetes, or high or low blood pressure should not enter the spa/hot tub without prior medical consultation and permission from their doctor.
- Do not use the spa/hot tub while under the influence of alcohol, tranquilizers, or other drugs that cause drowsiness or that raise or lower blood pressure.
- Do not use at water temperatures greater than 104 degrees Fahrenheit (40°C).
- Do not use alone.
- Unsupervised use by children under the age of 16 is prohibited.
- Enter and exit slowly.
- Observe reasonable time limits (that is, 10-15 minutes), then leave the water and cool down before returning for another brief stay.
- Long exposure may result in nausea, dizziness, or fainting.
- Keep all breakable objects out of the area.
- Maximum patron load is \_\_\_\_ individuals.

On the same or on a separate sign there must also be a sign stating "No one under the age of 5 years is permitted in spa."

#### 4-006.04 Maximum Swimming Pool Patron Loading

4-006.04A Designation of Areas: For purposes of computing patron load, those portions of the swimming pool 5 feet or less in depth are designated the "shallow

area.” Those portions of the swimming pool over 5 feet in depth are designated the “deep area.”

4-006.04B Area Loading

4-006.04B1 Shallow Area: 15 square feet of pool water surface area must be provided for each patron. This also applies to spray parks without standing water.

4-006.04B2 Deep Area: 25 square feet of pool surface area must be provided for each patron.

4-006.04C Diving or Slide Area: Where a separate designated diving or slide area is provided, and other swimmers are not allowed in this area, it may be excluded from the surface area used for computing patron load; however, 10 patrons must be included for each board, platform or slide.

4-006.04D Additional Area Allowance: Additional allowance will be made on the basis of 1 additional patron per each 50 square feet of pool deck in excess of the minimum area of deck required, and 1 additional patron per each 100 square feet of picnic and play area within the enclosure.

4-006.05 Lifeguard Chairs

4-006.05A All Class A swimming pools, and those swimming pools which elect to have a lifeguard on duty, must provide a lifeguard chair for each 2,000 square feet of water surface area.

<u>Water Surface Area in Sq. Ft. (meters)</u>	<u>Minimum Number of Chairs</u>
Less than 2,000 (<186)	0
2,000 to 3,999 (187-372)	1
4,000 to 5,999 (373-557)	2
6,000 to 7,999 (558-743)	3

4-006.05B At least 1 chair must be located so the lifeguard is able to maintain surveillance of all pool floor areas having a depth of 5 feet or greater,

4-006.05C All lifeguard chairs must be –

1. Located so the guard is not required to protect a segment greater than 180 degrees;
2. Placed at waterside locations to minimize the effect of glare on the water; and
3. Placed to give complete coverage of the pool(s).

4-006.06 Construction Material

4-006.06A Materials: Swimming pools must be constructed of materials which are inert, stable, non-toxic, watertight and enduring. Sand or earth bottoms are not permitted.

4-006.06B Finish: Bottom and sides must be white or a light color, with a smooth and easily cleanable surface. The finish surface of the bottom in shallow areas [5 feet or less in depth] must be slip-resistant.

4-006.07 Design, Detail and Structural Stability: All swimming pools and appurtenances must be designed and constructed to withstand all anticipated loading. A hydrostatic relief valve and/or a suitable underdrain system must be provided for in-ground pools. The design professional is responsible for ensuring the stability of the pool design for both full and empty conditions.

4-006.07A Shape: The shape of any swimming pool must be such that the circulation of pool water and control of swimmers' safety are not impaired. There may not be any underwater projections or obstructions which would endanger patron safety or interfere with proper pool operation.

4-006.07B Bottom Slope: The bottom of the pool must slope toward the main drain. Where the water depth is less than 5 feet, the bottom slope must not exceed 1 foot vertical in 12 feet horizontal (1:12). Where the water depth exceeds 5 feet, the bottom slope must not exceed 1 foot vertical in 3 feet horizontal (1:3).

4-006.07C Area Marked: The boundary line between the shallow and deep areas must be marked by a line of contrasting color at least 4 inches wide on the floor and walls of the pool, and by a safety rope and floats equipped with float keepers. Safety rope anchors must be recessed.

4-006.07D Pool Walls: Walls of a swimming pool must be either:

1. Vertical for water depths of at least 6 feet, or
2. Vertical for a distance of at least 3 feet below the water level, below which the wall may be curved to the bottom with a radius not greater than the difference between the depth at that point and 3 feet, provided that the vertical is interpreted to permit slopes not greater than 1 foot horizontally for each 5 feet of depth of sidewall (11 degrees from vertical), or
3. At water depths of 3 feet or less a transitional radius must not exceed 8 inches and must be tangent to the wall and floor.

4-006.07E Ledges: Ledges must not extend into the pool unless they are essential for support of the upper wall construction.

4-006.07F Pools Without Gutters: Coping or cantilevered deck may project from a swimming pool or spa wall to provide a handhold for users. The coping or deck must be rounded, have a slip-resistant surface finish, and must not exceed 3-1/2 inches in thickness. The overhang of the coping or deck must not exceed 2 inches or be less than 1 inch. All corners created by coping or cantilevered deck must be rounded in both the vertical and horizontal dimensions to eliminate sharp corners. The handgrip must not be more than 9 inches above the minimum skimmer operating level.

4-006.07G Diving Areas: The minimum dimensions of the swimming pool and appurtenances in the diving area must conform to 178 NAC 4 Table 1. (Note: These diving area dimensions may not meet the requirements of NCAA, US Diving, FINA, NF of SHSA, or AAU. Where competitive diving or competitive-type diving boards are used, compliance with NCAA, U.S. Diving, FINA, NF of SHSA, or AAU requirements is recommended.)

4-006.07G1 Head Room: There must be a completely unobstructed clear distance of 16 feet above the diving board measured from the center of the front end of the board. This area must extend at least 8 feet behind, 8 feet to each side, and 16 feet ahead of the measuring point.

4-006.07G2 Diving Boards and Platforms: Diving boards and platforms in excess of 3 meters in height are prohibited except where special design considerations and control of use are provided.

4-006.07G3 Steps and Guard Rails for Diving Boards: Supports, platforms and steps for diving boards must be designed and constructed to safely carry the maximum anticipated loads. Steps must be of corrosion-resistant material, easily cleanable and of non-slip design. Handrails must be provided at all steps and ladders leading to diving boards more than 1 meter above the water. Platforms and diving boards which are more than 1 meter high must be protected with guard rails at least 36 inches high, extending at least to the edge of the water. Boards or platforms 3 meters (9.8 ft.) or higher, when permitted, must have an effective side barrier.



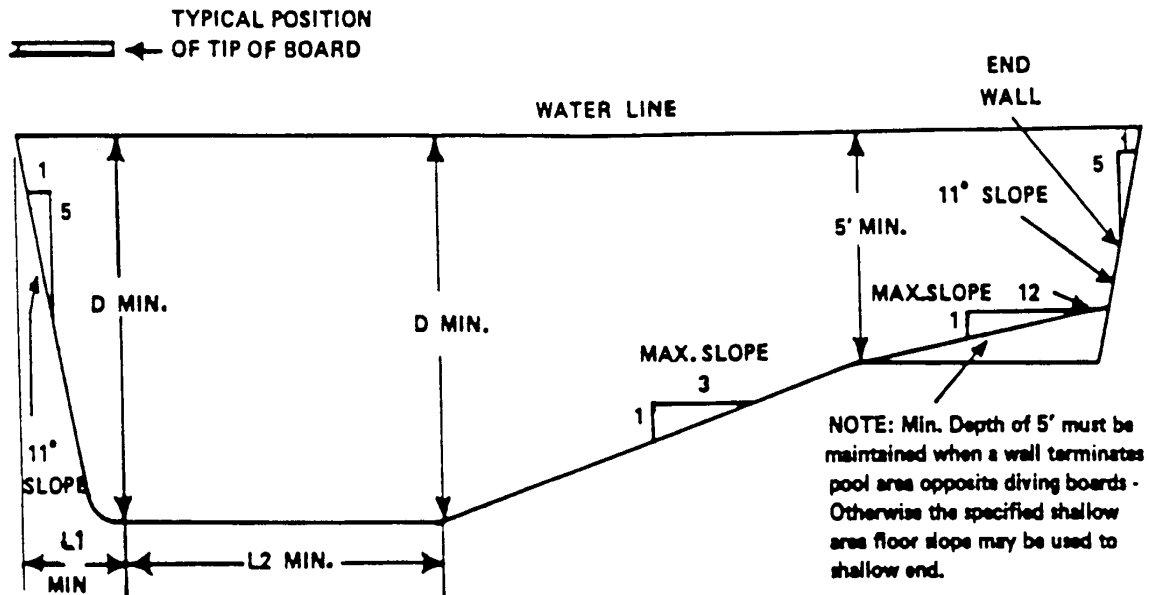


TABLE 1  
MINIMUM DIMENSIONS FOR  
POOLS WITH DIVING EQUIPMENT

Maximum Board Height Over Water	Maximum Diving Board Length	MINIMUM DIMENSIONS			
		D	L <sub>1</sub>	L <sub>2</sub>	POOL WIDTH
26" (2/3 meter)	10'	8' - 6"	2' - 6"	10' - 0"	20' - 0"
30" (3/4 meter)	12'	9' - 0"	3' - 0"	10' - 0"	20' - 0"
1 meter	16'	10' - 0"	4' - 0"	12' - 0"	20' - 0"
3 meter	16'	12' - 0"	6' - 0"	12' - 0"	24' - 0"

4-006.07G4 Placement of boards must observe the following minimum dimensions. With multiple board installations minimum pool widths must be increased accordingly. For diving boards or platforms greater than 20 inches in width, add ½ of the width over 20 inches to the following dimensions.

Center line of 1 meter or less board to pool side	10' - 0"
Center line of 3 meter board to pool side	12' - 0"
Center line distance between adjacent boards	10' - 0"

4-006.08 Ladders, Recessed Steps, Stairs

4-006.08A Location: Recessed steps, ladders, or stairs must be provided at the shallow end. Ladders or recessed steps must be provided at the deep end. If the pool is over 30 feet wide, the steps, ladders, or stairs must be installed on each side.

4-006.08B Ladders: Pool ladders must be corrosion-resistant and must be equipped with slip-resistant treads. All ladders must be designed to provide a handhold. There must be a clearance of not more than 6 inches or less than 3 inches between any ladder and pool wall. Treads must be no more than 12 inches apart.

4-006.08C Recessed Steps: Recessed steps must be readily cleanable, slip-resistant, and must be arranged to drain into the pool. Recessed steps must have a minimum tread of 5 inches and a minimum width of 14 inches. Steps must be no more than 12 inches apart.

4-006.08D Handrails: Where recessed steps or ladders are provided, there must be a handrail at the top of each side thereof, extending over the coping or edge of the deck.

4-006.08E Stairs and Stair Handrails: Where stairs are provided, they must be located in a corner of the pool or be recessed. All stair areas must have a handrail within reach. Stairs must have slip-resistant finish, a minimum tread of 12 inches, and a maximum rise of 12 inches.

4-006.09 Underwater Seats, Benches, and Swimouts:

4-006.09A Swimouts

1. Must be designed to be located completely outside of the perimeter shape of the pool.
2. The horizontal surface must be 20 inches maximum below water line.
3. A minimum unobstructed surface of 240 square inches must be provided.
4. When used as an entry/exit access, swimouts must be provided with a step to meet the pool stair requirements.
5. The leading edge must be visibly set apart.
6. Swimouts are allowed in the deep or shallow area of the pool.

4-006.09B Underwater seats and benches must conform to the following:

1. Must be located completely inside of the perimeter shape of the pool.
2. The horizontal surface must be 20 inches maximum below water line.
3. An unobstructed surface must be provided that is a minimum of 10 inches deep and a minimum of 24 inches wide.
4. Must not be used as the required entry/exit access.
5. Underwater seats may be located in deep areas of the pool where diving equipment (manufactured or constructed) is installed, provided they are located outside of the minimum water envelope for diving equipment.
6. Are allowed in conjunction with pool stairs.
7. Leading edge must be visually set apart.

4-006.10 Decks: An unobstructed deck at least 5 feet wide must entirely surround the pool. Infringements or variations are allowed only when specifically permitted by the Department. The deck must be of a uniform, easily cleaned, impervious material with a slip-resistant finish. Wood decks are expressly prohibited within 5 feet of the pool. The deck must be protected from surface runoff.

4-006.10A Slope: The deck must be sloped away from the pool unless drains are provided to intercept water on the way back to the pool, and must be sloped to provide positive drainage of all deck areas.

4-006.10B Drainage: Deck drains, when used, must be no more than 25 feet apart, and no single drain can serve more than 400 square feet of area. Continuous trench-style drains may be designed to handle areas greater than 400 square feet. There must be no direct connection between the pool deck drains and the storm or sanitary sewer or plumbing drainage systems unless there is a means that is acceptable to the Department. They must not drain to the pool gutter or recirculation systems.

4-006.10C Roll-Out Gutters: If the pool is equipped with roll-out, deck-level gutters, not more than 5 feet of deck may be sloped toward the gutters.

4-006.10D Carpeting: Carpeting is not permitted on pool decks.

4-006.10E Hose Bibs: At least 1 hose bib with an appropriate backflow preventer must be provided to facilitate cleaning the deck areas.

4-006.10F Pool Concessions: Where concessions are provided, an area or areas separate from the pool deck must be designated for serving and consuming food or drink.

4-006.10G Drinking Fountain: A minimum of 1 drinking fountain must be located in the swimming pool area for Class A swimming pools. Each drinking fountain must be connected to a water system that meets the requirements of 178 NAC 4-006.13A.

4-006.11 Barriers: The pool area must be completely surrounded by an effective barrier not less than 6 feet high. Any special purpose areas inside the barrier must be fenced or constructed to control traffic. These areas must be designed so they will not drain onto the deck. Any entrance to the pool area must be provided with a self-closing and latching gate/door capable of being locked unless another means of controlling access is provided. The operating controls for the self-latching device must be located at least 48" above the exterior ground surface or pool deck. Barrier openings must be small enough that a 4-inch sphere is not able to pass through.

4-006.12 Lighting, Electrical and Ventilation Requirements

4-006.12A Lighting: During periods of operation sufficient illumination must be provided to allow visibility of all portions of the pools, including the bottom. Illumination must be provided by natural and/or artificial means.

4-006.12A1 Overhead lighting must provide a minimum of 3 foot candles of illumination at the pool water surface and the adjacent deck area.

4-006.12A2 Underwater lighting must provide a minimum of 1/2 watt per square foot of pool water surface.

4-006.12A3 Underwater lighting requirements may be waived when the overhead lighting provides a minimum of 15 foot candles of illumination at the pool water surface.

4-006.12B Electrical: All electrical installations must conform to the requirements of the State Electrical Act, Neb. Rev. Stat. §§ 81-2101 through 81-2143.

4-006.12C Heating and Ventilation

4-006.12C1 Room Ventilation: Bathhouses, mechanical equipment rooms, storage areas and indoor swimming pool enclosures must be heated and ventilated. Room ventilation must prevent direct drafts on swimmers and must minimize condensation damage. Dehumidifier, air conditioner, and heat exchanger installations must comply with 178 NAC 4-006.13E and 4-006.13F.

A fuel-burning heating unit must be provided with air for combustion and vented to the outdoors.

4-006.13 Water Supply and Waste Water Disposal

4-006.13A Water Supply: Water supplied to a public swimming pool and all related plumbing fixtures, including drinking fountains, sinks and showers, must use water from a public water system (PWS). If a PWS is not available, ground water quality must meet the requirements for coliform bacteria and nitrates that apply to a transient public water system (See 179 NAC 2-002 and 179 NAC 3).

4-006.13B Cross-Connection Control: All portions of the water distribution system serving a public swimming pool and related facilities must be protected against backflow and back siphonage. Water introduced into the pool, either directly or to the recirculation system, must be through an air gap or an appropriate approved backflow preventer as required by the Department.

4-006.13C Sanitary Wastes: An approved method for disposing of sanitary sewage must be provided at a public swimming pool. Where available, a municipal sanitary sewage system must be used. If an individual treatment system must be used, approval of the system must be obtained from the Nebraska Department of Environmental Quality.

4-006.13D Backflow Prevention: In a public swimming pool, the recirculation system and pool deck drains must be protected against the backflow of waste water in a manner approved by the Department.

4-006.13E Condensate: Condensate must not be introduced to the pool water or any part of the recirculation system.

4-006.13F Heat Exchangers: Any heating, dehumidification or cooling system which is connected in any way with the pool recirculation system must contain only nontoxic heat transfer media.

4-006.14 Recirculation System: Each swimming pool must be provided with a separate recirculation system, which will convey, clarify, chemically balance and disinfect the swimming pool water. The recirculation system must include pumps, piping, filters, chemical feed equipment, and associated controls and monitoring devices.

4-006.14A Components: Recirculation system components must be certified to ANSI/NSF Standard 50 by an organization accredited by the American National Standards Institute.

4-006.14B Recirculation Rate: A swimming pool recirculation system must be capable of processing 1 pool volume of water within a given period of time based on

depth of water. The following table must be used as minimum design standards for recirculation rate.

**Pool Turnover Rate Table**

<b>Type or Depth of Pool</b>	<b>Required Turnover Rate</b>
Spray parks with no standing water	1 system volume of water every 30 minutes or less for a water treatment tank
Pool areas less than or equal to 2 feet in water depth	1 pool volume of water every 1 hour or less
Pool areas greater than 2 feet but less than or equal to 3 feet in water depth	1 pool volume of water every 2 hours or less
Pool areas greater than 3 feet but less than or equal to 5 feet in water depth	1 pool volume of water every 4 hours or less
Pool areas greater than 5 feet in water depth	1 pool volume of water every 6 hours or less
Plunge Pool for Flume Slide	1 pool volume of water every 1 hour or less

For a single pool with varying water depths, the total pool recirculation rate may be obtained by summing the recirculation rates required for each depth portion in accordance with the above table.

4-006.14C Materials: Recirculation system components in contact with the swimming pool water must be of non-toxic material, resistant to corrosion, and able to withstand operating pressures. Acceptable materials are copper, stainless steel, cast iron, ductile iron, plastics approved for potable water contact or other materials suitable for potable water contact.

4-006.14D Pipe Sizing: Swimming pool recirculation system piping must be designed so that the water velocity does not exceed 10 feet per second on the discharge side of the recirculation pump, and 6 feet per second in suction piping. Gravity piping must be sized in accordance with accepted engineering practice with consideration of available head.

4-006.14E Drainage and Installation: All equipment and piping must be designed and fabricated to drain completely by use of drain plugs, drain valves or other means. All piping must be supported continuously or at sufficiently close intervals to prevent sagging. All suction piping must be sloped in 1 direction, preferably toward the pump. All supply and return pipelines to the pool must be provided with insertable plugs or valves to allow the piping to be drained to a point below the frost line. Provision must be made for expansion and contraction of pipes.

4-006.14F Pipe and Valve Identification: All exposed piping must be clearly marked to indicate function. All valves must be marked to indicate use.

4-006.14G Overflow Systems: All pools must be designed to provide continuous skimming (removal of surface water). Makeup water supply equipment must be provided to maintain continuous skimming.

4-006.14G1 Gutters (Perimeter Overflow Systems): The gutter must extend around the full perimeter of the swimming pool except at stairways and ramps (6 feet or less in width) entering the swimming pool. It must be level within a tolerance of plus or minus 1/8 inch. Piping connections must be provided to permit water to flow from overflows to the recirculation system.

4-006.14G1a Size and Shape: The gutter system must be designed to allow continuous removal of water from the pool's upper surface at a rate of at least 125 percent of the recirculation rate. The gutter must be designed to serve as a handgrip and to prevent entrapment of arms or legs. It must permit ready inspection, cleaning and repair.

4-006.14G1b Outlets: Drop boxes, converters, return piping or flumes used to convey water from the gutter must be designed to handle at least 125 percent of the recirculation rate. Drainage must be sufficient to minimize flooding and prevent backflow of skimmed water into the pool.

4-006.14G1c Surge Capacity: All overflow systems must be designed with an effective surge capacity of not less than 1 gallon for each square foot of pool surface area. Surge must be provided within a surge tank, in the gutter or filter above the normal flow line, or elsewhere in the system. Surge tanks, gutters, and filter tanks must have overflow pipes to convey excess water to waste. Surge tanks must be provided with means for complete draining. In-pool surge is allowed only with an engineered perimeter gutter system which includes an integral surge weir for each 500 square feet of water surface, and a tank to allow balancing of main drain and gutter flows.

4-006.14G2 Skimmers: The use of skimmers is limited to pools with widths of 30 feet or less.

4-006.14G2a Construction: Skimmers must be installed in the pool walls, be sturdy, and be constructed of corrosion-resistant materials. Surface skimmers must bear the ANSI/NSF 50 certification mark or be certified to ANSI/NSF Standard 50 by an organization accredited by the American National Standards Institute.

4-006.14G2b Number: At least 1 surface skimmer must be provided for each 500 square feet of surface or fraction thereof. Additional skimmers may be required to achieve effective skimming. At least 2 skimmers must be provided.

4-006.14G2c Location: Skimmers must be so located as to provide effective skimming of the entire water surface with minimum interference and short-circuiting.

4-006.14G2d Flow Rate: Skimmers must provide for a flow-through rate of 30 gallons per minute or 3.75 gallons per minute per lineal inch of weir, whichever is greater. Skimmer piping must be designed to handle a minimum of 100% of the pool turnover rate.

4-006.14G2e Control: Skimmers must have weirs that adjust automatically and operate freely and continuously with variations of at least 4 inches in water level. All skimmed water must pass through an easily removable and cleanable basket or screen before encountering control valves or entering the pump suction line. Each skimmer must be equipped with a device to control flow. If a skimmer is connected directly to the recirculation pump suction pipe, it must include a device to prevent an airlock in the suction line. If equalizer pipes are used, they must pass an adequate amount of water to meet pump suction requirements should the water in the pool drop below the weir level. The equalizer pipes must be located at least 1 foot below the lowest overflow level of the skimmer. A valve or equivalent device that will remain tightly closed under normal operating conditions, but automatically opens when the water level drops below the minimum operating level of the skimmer, must be provided on each equalizer pipe. Equalizer lines must have covers that comply with the ASME/ANSI A112.19.8-2007 or -2008 or other standard approved under the federal Virginia Graeme Baker (VGB) Act.

4-006.14G3 Balancing: The recirculation system must be balanced to provide for optimum and uniform skimming.

4-006.14H Main Drain System and Suction Outlets: Main drains of the pool must be installed in the pool floor at the deepest point, and must comply with ASME/ANSI A112.19.8-2007 or -2008 or other standard approved under the federal VGB Act.

4-006.14H1 Number: 2 or more main drains or suction outlets, or a single unblockable main drain or suction outlet must be installed. Dual main drains or suction outlets must be connected in parallel, and must not permit any drain to be individually valved off.

4-006.14H2 Spacing: Dual main drains or suction outlets must be at least 3 feet apart but not greater than 20 feet on centers, and main drains must be provided not more than 15 feet from each side wall.



4-006.14H3 Field Fabricated Main Drains or Suction Outlets: Must be certified by a design professional per ASME/ANSI A112.19.8-2007 or -2008 or other standard approved under the federal VGB Act. The open area of the grate must be large enough so the flow velocity does not exceed 1.5 feet per second through the openings. Openings in grates must not be over 1/2-inch wide. Gratings or drain covers must not be removable without the use of tools.

4-006.14H4 Piping: The main drains and associated piping must be designed to carry 100 percent of the recirculation rate, and must be equipped with a valve.

4-006.14I Anti-entrapment for Existing Pools

4-006.14I(1) All pools must be equipped with anti-entrapment devices or systems that comply with the ASME/ANSI A112.19.8-2007 or -2008 performance standard, or any other standard approved under the federal VGB Act; and

4-006.14I(2) All pools with a single main drain other than an unblockable drain must be equipped, at a minimum, with 1 or more of the following devices or systems designed to prevent entrapment by pool or spa drains that meets the safety requirements of any ASME/ANSI or ASTM performance standard if there is such a standard for such device or system, or any applicable consumer product safety standard:

1. Safety Vacuum Release System: A safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected, that has been tested by an independent third party and found to conform to ASME/ANSI standard A112.19.17-2007 or ASTM standard F2387.
2. Suction-Limiting Vent System: A suction-limiting vent system with a tamper-resistant atmospheric opening.
3. Gravity Drainage System: A gravity drainage system that utilizes a collector tank.
4. Automatic Pump Shut-Off System: An automatic pump shut-off system.
5. Drain Disablement: A device or system that disables the drain may be allowed per a design professional's certification and Department review and approval.
6. Other Systems: Any other system determined by the Department to be at least as effective as the systems described in items 1 through 5 above at preventing or eliminating the risk of injury or death associated with pool drainage systems.

4-006.14J Pumps and Strainers

4-006.14J1 Strainers: A cleanable strainer or screen must be provided to remove solids, debris, hair, and lint on all pressure filter systems before entering the pump. The strainer must have a quick-opening cover. At least 1 spare strainer basket must be provided. In systems where the filter is located on the suction side of the pump, strainers are not required.

4-006.14J2 Pumping Equipment: A pump and motor must be provided for the recirculation of the swimming pool water. The pump must provide the recirculation flow rate, and the filter backwash rate unless a separate backwash pump is provided against the total dynamic head generated in the recirculation system. The pump must be self-priming or must be installed so that there is a net positive suction head on the pump inlet whenever the pump is operating. The Department may permit multiple pumps. A gauge which indicates pressure and/or vacuum, as appropriate, must be installed on the pump suction header, and a pressure gauge must be installed on the discharge side of the pump.

4-006.14J3 Pumps and motors must be readily accessible for inspection and service.

#### 4-006.14K Flow Measurement and Control

4-006.14K1 Flow Measurement: A flow meter or other device which gives a continuous indication of the flow rate in gallons per minute in the recirculation system must be provided. Flow meters must have a measurement capacity of at least 1.5 times the design recirculation flow rate, and must be accurate within 10% of the actual flow rate. The indicator must have a range of readings appropriate for the anticipated flow rates, and be installed where it is readily accessible for reading and maintenance, and with straight pipe upstream and downstream of any fitting or restriction in accordance with the manufacturer's recommendation.

4-006.14K2 Flow Regulation: A device for regulating the rate of flow must be provided in the recirculation pump discharge piping.

4-006.14L Inlets: The recirculation system must have inlets adequate in design, number and location to insure effective distribution of treated water and maintenance of uniform disinfectant residual throughout the swimming pool.

4-006.14L1 Number: The number of return inlets must be based on a minimum of 1 return inlet per 300 square feet of pool surface area or fraction thereof. Wall inlets must be spaced not over 20 feet apart, with 1 inlet within 5 feet of each corner of the pool and 1 in each recessed step area.

4-006.14L2 Location: Wall inlets must be located at least 12 inches below the design water surface, or not less than 6 inches if designed to provide downward flow. Bottom inlets must be uniformly spaced, with a separating distance of no greater than 20 feet.

4-006.14L3 Type: Inlet fittings must be of the adjustable rate-of-flow type. Directional flow inlets must be used with skimmer-type pools. Floor inlets must not project from the pool floor. Wall inlets must not extend from the wall more than 2 inches.

4-006.15 Filtration (General): A swimming pool water treatment system must have 1 or more filters. Filters must bear the NSF/ANSI Standard 50 certification mark or be certified to ANSI/NSF Standard 50 by an organization accredited by the American National Standards Institute. They must be installed with adequate clearance and facilities for ready and safe inspection, maintenance, disassembly and repair.

#### 4-006.15A Sand Filters

4-006.15A1 Filter Rate: The design filtration rate of rapid sand filters must not exceed 3 gallons per minute per square foot of filter area. High-rate sand filters must not exceed a filtration rate of 15 gallons per minute per square foot. Higher rates may be used if the filter has been successfully tested against NSF/ANSI Standard 50 at the higher rate. The sand filter system must be equipped to backwash each filter at a rate of 15 gallons per minute per square foot of filter bed area, or as recommended by the manufacturer. A flow meter or other device which gives a continuous indication of the flow rate in gallons per minute to indicate the backwash rate for rapid sand filters must be provided. The backwash water must be discharged to waste through a suitable air gap.

4-006.15A2 Filter Media: Sand or other media must be carefully graded and meet the manufacturer's recommendation for pool use.

4-006.15A3 Accessories: Accessories must include both an influent pressure gauge and an effluent pressure gauge or a differential pressure gauge, a backwash sight glass, and an air relief valve. The filter system must have valving and piping to allow isolation, drainage, and backwashing of individual filters, if needed for proper operation.

#### 4-006.15B Diatomaceous Earth- (DE) Type Filters

4-006.15B1 Filter Rate: The design filtration rate for pressure or vacuum filters must be not greater than 1.5 gallons per minute per square foot of effective filter area, except that a maximum filtration rate of 2 gallons per minute per square foot may be allowed for vacuum DE filters only where continuous "body feed" is provided.

4-006.15B2 Precoating: The filter piping must be designed to refilter or waste the effluent until a uniform body coat is applied.

4-006.15B3 Regenerative-Type Filters: Regenerative-type filters must meet the same standards as other pressure filters. Bumping (or agitating) by air or manual means must be provided for, and provision for inspection of elements must be provided.

4-006.15B4 Accessories: Accessories for vacuum filters must include a vacuum gauge and a vacuum limit switch interconnected with the pump. Pressure filters require a backwash sight glass, effluent pressure gauge, influent pressure gauge and air relief valve. Valving and piping must be provided to allow isolation, drainage, and backwashing of individual filters, if needed for proper operation.

#### 4-006.15C Cartridge-Type Filters

4-006.15C1 Filter Rate: The design filtration rate for surface-type cartridge filters must not exceed 0.375 gallons per minute per square foot.

4-006.15C2 Cleaning and Disinfection: Equipment and facilities must be provided for cleaning and disinfection of filter elements.

4-006.15C3 Accessories: Accessories must include both an influent and an effluent pressure gauge or a differential pressure gauge and an air relief valve.

4-006.15C4 Spare Cartridges: An extra set of cartridges, with at least 100% filter area, must be provided.

#### 4-006.16 Disinfection and Chemical Application Equipment

4-006.16A Chemical Feed Equipment: Feeders must be of sturdy construction and materials which will withstand wear, corrosion or attack by the chemical to be used therein, and which are not adversely affected by repeated, regular adjustments or other normal use conditions. The design must minimize potential for blockage.

4-006.16A1 Maintenance: Feeders must be capable of being easily disassembled for cleaning and maintenance.

4-006.16A2 Intended Use: The chemical feeder must be used only for chemicals recommended for use by the feeder manufacturer.

4-006.16A3 Safeguards: The feeders must incorporate antisiphon safeguards so that the chemical cannot continue to feed into the swimming pool, the pool piping system, or the swimming pool enclosure if any type of

failure of the pool equipment occurs. Chemical feed systems must be designed to prevent chemical feed when water is not flowing from the recirculation system to the pool.

4-006.16A4 Cyanuric Acid and Indoor Pools

1. Cyanuric acid will not be allowed in new indoor pools.
2. When replaced, a chemical feed system must not use cyanuric acid or stabilized chlorine.

4-006.16B Disinfection: Swimming pools must be designed to provide for continuous disinfection of the pool water with a chemical which is an effective disinfectant, and which imparts an easily measured, active residual.

4-006.16B1 Disinfectant Feeders: An automatic feeder which is easily adjustable must be provided for the continuous application of disinfectant.

4-006.16B2 Capacity: Feeders must be capable of supplying disinfectant at a rate of 0.1 pound per day chlorine (or equivalent) per gallon per minute recirculation flow. This equates to a minimum of 8 parts per million in the recirculation flow. The chemical feed system must be designed to provide a 24-hour supply of disinfectant.

4-006.16B3 Hypochlorinators: Where hypochlorinators are used, feed must be capable of being continuous under all conditions of pressure in the recirculation system.

4-006.16B4 Other Disinfectants: The Department will accept other disinfecting materials or methods when it has been adequately demonstrated that they provide a satisfactory residual which is easily measured and that they are otherwise equally effective under conditions of use as is the chlorine concentration required in 178 NAC 2-005.02D, create no objectionable physiological effects, are not dangerous to public health, and do not impart toxic properties to the water. Feed equipment must bear the ANSI/NSF-50 certification mark or be certified to ANSI/NSF Standard 50 by an organization accredited by the American National Standards Institute and must be installed in accordance with the manufacturer's instructions.

4-006.16C Test Equipment: The owner of each swimming pool must have at least the following testing equipment at the pool:

1. Chlorine/Bromine Test Kit or FAS-DPD (Ferrous Ammonium Sulfate-Diethyl-P-Phenylene Diamine) Test Kit: If other halogens are used, an appropriate scale must be provided. Electronic residual monitoring devices may be used in addition to the test kit.

2. pH Test Kit: A pH test kit with a range from 7.0 to 8.0, accurate to the nearest 0.2 pH unit.
3. Alkalinity Test Kit: The alkalinity test range must be at least 60 to 400 parts per million (mg/L) as CaCO<sub>3</sub>.
4. Cyanuric Acid Test Kit: Where cyanurates are used, a test kit to measure the cyanuric acid concentration must be provided. It must permit readings to at least 100 parts per million (mg/L) with maximum increments of 25 parts per million (mg/L).

#### 4-006.17 Bathhouse

4-006.17A General: All Class A pools must have a bathhouse. The term bathhouse refers to the dressing, shower, and sanitary facilities which must be provided adjacent to the swimming pools. All class B, C, D, E, and F swimming pools are required to have minimum sanitary facilities (toilets and sinks). Omission of part or all of the pool-side shower and toilet facilities may be approved by the Department when adequate facilities are conveniently available as determined by the Department.

#### 4-006.17B Design Criteria

4-006.17B1 Bathhouse Routing: Location of the bathhouse must be designed so that the patrons must pass through the bathhouse to enter the pool. The layout of the bathhouse must be designed so that the patrons, on leaving the dressing room, pass the toilets, then the showers on route to the swimming pool.

4-006.17B2 Bathhouse Design: Floors of the bathhouse must be of smooth-finish material with slip-resistant surface, impervious to moisture, easily cleanable and sloped at least 1/4 inch per foot to drains. Carpeting is not permitted in shower and toilet areas.

4-006.17B3 Fixture Requirements: Unless exempted by 178 NAC 4-006.17A, bathhouse facilities must be provided based on maximum patron load designed for the swimming pool according to the following fixture schedule. Fixtures provided in family changing rooms or other unisex restroom facilities which are available to swimming pool patrons may be included in the required male or female fixture count, but not both.

Total Patron Load	Fixtures Required Male				Fixtures Required Female		
	Toilets	Urinals	Sinks	Showers	Toilets	Sinks	Showers
0-50	1	1	1	1	2	1	1
51-100	1	1	1	1	2	1	1
101-150	1	2	1	2	3	1	2
151-200	1	2	1	2	3	1	2
201-250	2	2	1	3	4	2	3
251-300	2	3	2	4	5	2	4
301-400	2	3	2	5	5	2	5
401-500	3	3	2	6	6	2	6
501-1000	3	4	2	7	7	2	7
1001-1500	4	5	2	10	9	2	10
1501-2000	5	6	2	15	11	2	15
2001 or more	6	7	3	20	13	3	20

4-006.17B3a Showers and Sinks: Showers must supply water at a temperature of at least 90 degrees Fahrenheit (32°C) and no more than 115 degrees Fahrenheit (46°C) and at a rate of at least 1.5 gallons per minute per shower head. Sinks must supply water at a temperature of at least 90 degrees Fahrenheit (32°C) and no more than 115 degrees Fahrenheit (46°C). Single temperature fixtures must supply water at a temperature of at least 90 degrees Fahrenheit (32°C) and no more than 105 degrees Fahrenheit (41°C).

4-006.17B4 Suits and Towels: Where towels and/or swimming suits are furnished, facilities must be provided for storage of clean and collection of used items.

4-006.17B5 Foot Baths: The use of foot baths is prohibited.

4-006.17B6 Hose Bibs: Hose bibs must be provided and located to enable the entire bathhouse area to be flushed. All hose bibs must be provided with approved back-siphonage devices to protect the water distribution system for the pool and appurtenant facilities at all times against cross-connection.

4-006.18 Miscellaneous

4-006.18 A Pool Cleaning System: A system must be provided to remove dirt and other foreign material from the bottom of the pool. Built-in vacuum lines must not be used.

4-006.18B Starting Blocks: Starting blocks, when provided, must be located where the water depth is at least 5 feet. They must be removable.

4-006.18C Sand Area Rinse Showers: Sand areas are not allowed inside the pool enclosure unless separated by an effective barrier to control access to the swimming pool deck. Persons entering the swimming pool from the sand area must pass a water spray or shower which effectively removes sand from the bathers. Drainage must not be directed to the pool.

4-006.18D Boilers: Where boilers are provided, the design professional must attest that they meet the Boilers Inspection Act, Neb. Rev. Stat. §§ 48-719 through 48-743.

4-006.19 Spray Parks: Except as modified by 178 NAC 4-006.19, compliance is required with all other applicable portions of 178 NAC 4-006. A spray park is a constructed water play area with sprays, jets and other water features designed so that users have full body contact with the water. A spray park includes no standing water. A spray park uses water that is potable, recirculated independently or from a swimming pool. Spray parks are also called “wet decks,” “splash pads,” “interactive play attractions,” “spray pads,” or “water recreation attractions.” A play area with sprays or other features that uses only potable water that is not circulated (the water drains to waste) is not included in this definition.

4-006.19A General

4-006.19A1 Surface Material: The surface of a spray park must be impervious and durable. Padding specifically designed for the application may be used with play features. The padding must be water resistant or must permit full drainage without retaining water in its structure. Walking surfaces must be slip-resistant.

4-006.19A2 Surface Slopes: The splash zone must be properly sloped so that only water from the sprays flows back to the water treatment tank. Areas adjacent to the splash zone must be sloped away from the collection drains. Plants or vegetation within the immediate area of the splash zone are prohibited.

4-006.19A3 Spray Park Drains must not be directly connected to a pump. At least 2 drains must be provided. The openings in the drain covers (grates) must be no wider than ½ inch. Drain covers must be securely fastened to the drain structure so that they cannot be removed without tools. Drains and the associated piping must be designed for 125% of the flow into the spray park (play feature and recirculation, as applicable).

4-006.19A4 Play Features: Play features and sprays must be designed and installed so that they do not create a safety hazard.



4-006.19A4a Surface Sprays must be flush with the spray park surface. Spray openings must be ½ inch or less.

4-006.19A4b Above ground features must not present a tripping hazard. Features must not have sharp edges or points, or rough surfaces. Above ground features must be of corrosion-resistant materials or provided with a corrosion-resistant coating.

4-006.19A4c Atomized Mists: All foggers and jet nozzle sprays that produce finely atomized mists must be connected to a separate potable water source.

4-006.19B Water Treatment Tank: The recirculation system must be independent from any adjacent swimming pool. The recirculation system components and design must comply with all other applicable parts of 178 NAC 4-006 except as modified by 178 NAC 4-006.19.

4-006.19B1 Water Volume: The minimum water volume for a spray park must be 5 minutes of the flow in gallons per minute of the spray features and the recirculation system combined or 4,000 gallons, whichever is the larger volume.

4-006.19B2 Rate: The recirculation flow rate through the treatment system must provide a turnover of 30 minutes or less.

4-006.19B3 Tank Volume: The water treatment tank must have a volume of at least 125% of the volume specified in 178 NAC 4-006.19B1. The tank must be accessible for cleaning and inspection.

4-006.19B3a Drain: The water treatment tank must be provided with a drain to waste so that all of the water in the tank can be easily removed. (The drain must not be directly connected to a sanitary drainage system.)

4-006.19B3b Skimming: The water treatment tank must be provided with at least 2 skimmers or a fixed weir overflow system must be provided. The skimmers must be accessible for cleaning and service.

4-006.19B3c Automatic level control: The water level in the water treatment tank must be automatically maintained at the overflow (skimming) level.

4-006.19B4 Separate Systems: The recirculation (treatment) system and the play feature pump(s) and piping must be separate. The play feature pump system must be designed so that it will not operate if the recirculation system pump is not operating.

4-006.19B5 Play Feature Piping: The play feature pump suction within and return to the water storage tank must be designed to prevent short-circuiting of the water to

the extent possible. The suction intake from the recirculation pump must be located in the lowest portion of the water treatment tank. Play features and piping must automatically drain into the water treatment tank when the play features are not operating. An easily readable flow meter that complies with the requirements of 178 NAC 4-006.14K1 must be installed in the play feature circulation system.

4-006.19B6 Treated Water Distribution: The treated water distribution system in water storage tank must be designed to maintain water quality as outlined in 178 NAC 2.

4-006.19B7 Sample Tap: A readily accessible sample tap must be available in the equipment area that allows sampling of the water in the play feature piping.

4-006.20 Fountains, sprays, or similar features in a swimming pool are permitted only in water depths not exceeding 2 feet. These features must be of a nonclimbable design, unless specifically manufactured and marketed as a climbing structure. Water supplied to these fountains must come from the recirculation system after filtration. Water supplied to these fountains may also come from the main swimming pool excluding the surge tank main drain, gutters, skimmers, and depths of less than 2 feet. Dedicated wading or zero depth pools not exceeding 2 feet in depth must use filtered water.

4-006.21 Bridges and Overhead Obstructions: Bridges and overhead obstructions over the pool must be designed so they will not introduce any contamination to the pool water. The minimum height of the bridge or obstruction must be at least 8 feet from the bottom of the pool and at least 4 feet above the surface of the pool. Minimum 42-inch high handrails must be provided along each side of the bridge. The walking surfaces must be constructed of concrete or other nonabsorbent material having a smooth slip-resistant finish.

4-006.22 Spas: A spa is a specific type of swimming pool, such as a hot tub or whirlpool designed for recreational use which is not intended to be drained, cleaned, and refilled after each individual use. It may include, but not be limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction systems, or any combination thereof. A pool used under direct supervision of qualified medical personnel is excluded.

4-006.22A General: Requirements for conventional swimming pools may be modified or waived for spas at the discretion of the Department. Except as modified by 178 NAC 4-006.22, compliance is required with all other applicable sections of 178 NAC 4-006.

4-006.22B Physical Separation: A spa pool must be physically separate from any other pool, and there must be no commingling of water between a spa pool and another pool or spa pool.

4-006.22C Patron Load: The patron load must not exceed 1 person per 3 lineal feet of seat or bench measured at the front edge.

4-006.22D Maximum Depths: The maximum water depth must be 4 feet measured from the water line. The maximum depth of any seat or sitting bench must be 2 feet measured from the water line.

4-006.22E Stairs, Ladders, and Recessed Treads: Stairs, ladders, or recessed treads must be provided when spa depths are greater than 2 feet. A spa must be equipped with at least 1 means of egress with handrails for each 50 feet of perimeter or portion thereof.

4-006.22F Deck Widths: A 5-foot minimum width, continuous, unobstructed deck, which may include the coping, must be provided on 2 sides or 50% or more of the spa. When the spa is adjacent to another pool, the spa must be located at the shallow end, with a minimum distance of 5 feet between the 2 bodies of water.

4-006.22G Water Temperature Controls: Controls must be provided to prevent water temperatures in excess of 104 degrees Fahrenheit (40°C). The controls must be accessible only to the Nebraska swimming pool operator.

4-006.22H Spa Drainage: Means to completely drain the spa must be provided to allow frequent draining and cleaning. Water suction outlets must conform to 178 NAC 4-006.14H (new) or 178 NAC 4-006.14I (existing).

4-006.22I Surface Skimmers: 1 surface skimmer must be provided for each 100 square feet or major fraction thereof of surface area.

4-006.22J Recirculation System Inlets: A minimum of 2 inlets must be provided.

4-006.22K Air Induction Systems: An air induction system, when provided, must prevent water back-up that could cause electrical shock hazards. Air intake sources must not permit the introduction of toxic fumes or other contaminants.

4-006.22L Disinfectant Feeders: Gas chlorinators must not be used.

4-006.22M Recirculation Rate: The recirculation rate must provide 30 gallons per minute per skimmer, or provide a 30-minute turnover, whichever provides a greater flow rate.

4-006.22N Agitation Systems: The agitation system must be separate from the water treatment recirculation system. The agitation system must be connected to a timer located out of reach of a person in the spa. The timer must not exceed 15 minutes.

4-006.22O An emergency shutoff switch must be located within sight of the spa, at least 5 feet horizontally from the inside walls of the spa, and must be clearly labeled. This control must disable all spa circulation, agitation, air induction systems, as well as other associated mechanical, chemical feed and electrical devices.

4-006.22P Roofs or canopies over spa pools, when provided, must be constructed so that moisture or condensation from the roof or canopy will not drain into the spa pool. Where a roof or canopy covers the spa pool, the height from the rim of the spa pool to the lowest point of the canopy must be at least 7-1/2 feet.

4-006.22Q All room heating units must be isolated or protected from contact with spa or tub users to prevent injury. The pool or tub room-heating unit must be capable of maintaining a temperature of 75°F to 82°F.

4-006.22R An in-line thermometer on the spa/hot tub water return line is required.

4-006.23 Wading Pools: A wading pool is a pool that is no more than 24 inches deep that is intended for use by young children.

4-006.23A General: Wading pools require special consideration in design because of the type of user, the relatively small volume of water, and the shallowness of the water. Except as modified by 178 NAC 4-006.23, compliance is required with all other applicable parts of 178 NAC 4-006.

4-006.23B Recirculation

4-006.23B1 Rate: The recirculation rate must provide a turnover of 1 hour-or less.

4-006.23B2 Separate System: A wading pool must have a separate recirculation system from other swimming or wading pools.

4-006.23B3 Surface Skimming: Intermittent fixed weir overflow structures, including gutters, scuppers, and drains at zero depth may be used. The overflow system must have a hydraulic capacity of at least 125 percent of the recirculation flow rate.

4-006.23B4 Skimmer Equalizer Line: A skimmer equalizer line may be connected to the main drain.

4-006.23B5 Inlets: Inlets must be designed and located to distribute treated water to all parts of the wading pool and to move debris to the overflow and drain systems.

4-006.23C Safety

4-006.23C1 Barrier and Location: When a wading pool is in the same enclosure as a supervised swimming pool, there must be a barrier at least 3 feet high between the wading pool and the swimming pool. When a wading pool is adjacent to a swimming pool, it must be near the shallow end of the

pool. A self-closing, self-latching gate must be between the wading pool and the swimming pool.

4-006.23C2 Barrier: Stand-alone wading pools or wading pools associated with unsupervised swimming pools must have a barrier, as required by 178 NAC 4-006.11.

4-006.23C3 Depth Marking: Signs must be provided at the pool indicating the maximum depth in addition to other required depth markings.

4-006.23C4 Steps or Ladders: Steps or ladders are not required at wading pools.

4-006.24 Wave Pools: A wave pool is a special-use pool with wave generating equipment and a design which provides for control of the waves within the side walls and dissipation of the waves at a zero depth shallow end.

4-006.24A General: Wave pools require special consultation with the Department for consideration of design variations and areas where potential problems may exist. Requirements for conventional swimming pools may be modified or waived for wave pools at the discretion of the Department. Except as modified by 178 NAC 4-006.24, compliance is required with all other applicable sections of 178 NAC 4-006.

4-006.24B Depths: The water depth may be reduced to zero at the shallow end to allow for safe access and for dissipation of the waves.

4-006.24C Gutters: Overflow gutters must be provided, but may be omitted along the side of the pool with the wave generating equipment if effective skimming devices are provided instead. Continuous skimming must be provided during the quiescent period over the entire length of the gutter. The zero depth end must have a continuous trench with a grate.

4-006.24D Decks and Ladders

4-006.24D1 Barriers: A safety railing or other effective barrier at least 42 inches in height must be provided to prevent swimmers from entering the pool at any location other than the zero water depth end. It must have at least 1 intermediate-height rail or rope.

4-006.24D2 Runout: Runout areas sloping down toward the zero depth trench must not exceed 4 feet.

4-006.24D3 Access: Deck areas accessible to swimmers may be omitted along the side of the pool with the wave generating equipment.

4-006.24D4 Ladders: Ladders must be of a recessed design.

4-006.24E Waves

4-006.24E1 Magnitude: The wave generating equipment must not be capable of producing waves of a magnitude which could cause swimmers to have contact with the pool bottom in the deep end.

4-006.24E2 Emergency Shutoff: An emergency shutoff for the wave generating equipment must be provided at every lifeguard chair at a minimum. At least 4 emergency shutoffs must be provided.

4-006.24F Openings

4-006.24F1 Inlet: The zero depth area must have bottom inlets.

4-006.24F2 Openings to Wave Generating Equipment: Openings to wave generating equipment must be designed to prevent entrapment of swimmers.

4-006.25 Zero Depth Pools

4-006.25A General: Except as modified by 178 NAC 4-006.25, zero depth pool facilities must comply with all other applicable provisions of 178 NAC 4-006.

4-006.25B Zero Depth End: A gutter or trench with a grate cover is required along all zero depth areas. It must be at an elevation that allows effective skimming at the trench at all times.

4-006.25C Runout: Runout areas sloping toward the zero depth trench must not exceed 6 feet.

4-006.25D Bottom Inlets: A system of bottom inlets must be provided in the shallow end, designed to provide the minimum of a 2-hour turnover for that area.

4-006.26 Pool Slides: All slides used at pools must be specifically designed and intended for use with a pool, and for the specific application. An emergency shutdown control must be provided for all water slides. This control must stop all water flow on the slide and must be mounted in the pool area, no more than 50 feet from the slide for lifeguards or for slide users, if no lifeguards are present. Water slides require special consultation with the Department for consideration of design variations and areas where potential problems may exist. Requirements for swimming pools may be modified or waived for water slides at the discretion of the Department. Except as modified by 178 NAC 4-006.26, compliance is required with all other applicable sections of 178 NAC 4.

4-006.26A Entry: Slide entry areas must be designed so the rider is able to properly enter and position him/herself before sliding down the chute. This area

must be a small platform or a less-sloped portion of chute, with well-placed assist bars.

4-006.26B Handrails: Slides must have handrails on both sides of the ladder or steps. Platforms and landings must have guardrails not less than 42 inches high, with an effective barrier such that a 4-inch diameter sphere cannot pass through. Handrail height must not be less than 34 inches and not more than 38 inches high, with balusters or ornamental patterns such that a 4-inch diameter sphere cannot pass through.

4-006.26C Pump Intake: Water from the surge tank and water leaving the pool for recirculation (for example, main drain, gutter, skimmers, main drain line) must not be used for pump intakes. (See 178 NAC 4-006.14H.)

4-006.26D Children's Activity Slides: Children's activity slides are small slides with a low exit velocity designed by the manufacturer for use by small children at pools. They must be designated by the manufacturer for use in 24 inches or less of water, and installed accordingly.

4-006.26E Drop Slides: A drop slide is a slide which discharges to a pool with a drop of more than 2 inches to the water surface.

4-006.26E1 Landing Area: There must be a drop slide landing area extending 5 feet on either side of the center line of the slide and from the back wall to 20 feet in front of the slide terminus. This area must not infringe on the required landing areas for other drop slides, water slides, or diving equipment.

4-006.26E2 Landing Area Designation: The drop slide landing area must be clearly designated by float ropes. A slide mounted in a separate diving area may be allowed to use the diving area separation as long as access to the diving well is restricted to patrons using the slide and diving equipment.

4-006.26E3 Slide Terminus: The terminus of the chute must extend beyond the pool wall, and be so oriented that the safety area in front of the slide does not interfere with the safety area of another slide or other pool equipment.

4-006.26E4 Exit Angle: The maximum angle of the slide runway at the exit must be between zero degrees and 11 degrees, measured downward from horizontal.

4-006.26E5 Water Depth: The area from the slide terminus outward 6 feet in front of the slide terminus must have a depth as established from the table below. The slide must be constructed so the rider enters the water in this 6-foot area. If the depth is 5 feet or less, the bottom in this area must have a maximum slope of 1 inch in 12 inches (1:12), and the slide must be located at least 5 feet from any change to steeper slope of the pool bottom.

Water Depth from the Slide Terminus to 6 Feet in Front of the Terminus (see above)	Corresponding Maximum Exit Height Above the Water
4 feet minimum	2 to 12 inches
>4 to 8 feet minimum	greater than 12 to 42 inches (Subject to interpolation)

4-006.26E6 Maximum Drop: The maximum drop height at the terminus of the slide must not exceed 42 inches.

4-006.26F Flume Water Slides: A flume water slide consists of 1 or more flumes entering a plunge pool or dedicated plunge area of a multiple use pool at or near the water level.

4-006.26F1 Flumes

4-006.26F1a Position: A flume must be perpendicular to the plunge pool wall for a distance of at least 10 feet from the exit end of the flume.

4-006.26F1b Clearances: The distance between the side of a flume terminus and a plunge pool side wall must be at least 4 feet. The distance between sides of adjacent flume terminuses must be at least 6 feet. The distance between a flume exit end and the opposite side of the plunge pool, excluding steps, must be at least 20 feet.

4-006.26F1c Elevation: A flume must terminate at a depth between 6 inches below the plunge pool operating water surface level and 2 inches above the water surface level. The flume must not exceed a 1-in-ten slope for a distance of at least 10 feet from its exit end.

4-006.26F1d Design: The design of the flume must minimize abrupt contact with the slide and prevent people from being airborne.

4-006.26F2 Plunge Pools

4-006.26F2a Depths: The plunge pool operating water depth at the end of a flume must be 3 to 4 feet. A depth of at least 3 feet must be maintained in front of the flume for a distance of at least 10 feet, from which the pool floor may have a constant slope upward.

4-006.26F2b Plunge Area: The plunge area in multi-use pools must be designated by float ropes, and each area must have ladders, steps, or stairs for egress.



4-006.26F3 Flume Pumps

4-006.26F3a Check Valves: Each flume pump discharge pipe must have a check valve.

4-006.26F3b Walkways: A 4-foot minimum width, surfaced walkway or steps must be provided between the plunge pool deck and the steps leading to the top of the flume(s).

4-006.26F3c Pump Reservoir: If a separate pump reservoir is provided, it must have a main drain and surface skimmer, both connected to the recirculation system.

4-006.27 Lazy River Rides: Except as modified by 178 NAC 4-006.27, compliance is required with all other applicable parts of 178 NAC 4.

4-006.27A Construction Material: Lazy River Rides must be constructed of concrete or other impervious materials with a nontoxic, smooth and slip-resistant finish. These rides must be of such shape and design as to be operated in a safe and sanitary manner.

4-006.27B Water Depth: The maximum water depth of the Lazy River Ride must not exceed 4 feet.

4-006.27C Decks: Decking must be provided at the entrance and exit points as necessary to provide safe patron access but must not be smaller than 10 feet in width and length. Additional decking along the ride course is not required except that decking is required at lifeguard locations and emergency exit points.

4-006.27D Emergency Exit Locations: Access and exit must be provided at the start and end of the ride only, except that emergency exit locations may be located along the ride course as necessary to provide for the safety of the patrons.

4-006.27E Patron Loading: 25 square feet of Lazy River water surface area must be provided for each patron.

THESE AMENDED RULES AND REGULATIONS replace Title 178 NAC 4, Public Swimming Pool Design and Construction Standards, effective June 8, 2004.

**178 NAC 4 Attachment 1**

**Application for a Variance**  
One variance request per form  
\$300 fee per variance

Project Number P- \_\_\_\_\_

PART I (To be completed by the applicant):

1. Name of Owner \_\_\_\_\_

Street Address \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_ Telephone (\_\_\_\_) \_\_\_\_\_

2. Name of Plan, Project, or Product \_\_\_\_\_

Street Address \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_ Telephone (\_\_\_\_) \_\_\_\_\_

3. Name of Contractor \_\_\_\_\_

Street Address \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_ Telephone (\_\_\_\_) \_\_\_\_\_

4. Engineer's/Architect's Name and Nebraska License # \_\_\_\_\_

5. State reason(s) for variance request. Attach 3 copies of applications, drawings, specifications, photos, etc., that clearly illustrate this variance request. (Attach separate sheet if necessary.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Specific section(s) of 178 NAC 4 for which variance is requested.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. State hardship and justification as to why the variance would relieve the hardship. (Attach separate sheet if necessary.)

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7. State any additional reason or provide any technical documentation to support your supposition that a variance would not likely result in an impairment to public health. (Attach a separate sheet if necessary.)

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- Approved  
 Disapproved

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Engineering Services Program Manager

Date

Comments:

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**178 NAC 4 Attachment 2**

**Swimming Pool Data and Check Sheet**

Please fill out a separate Attachment 2 for each pool and/or spa.

Name of Pool:			
Address of Pool:	Street:		
	City:	State:	Zip: _____
Telephone:		Fax:	

Owner of Pool:			
Address of Owner:	Street:		
	City:	State:	Zip: _____
Telephone:		Fax:	

Name of Engineering/Architectural Firm:			
Address:	Street:		
	City:	State:	Zip: _____
Telephone:		Fax:	
Engineer's/Architect's Seal and Signature:			

Estimated Pool Cost:	\$
Initial Review Fee [\$100.00 + 0.5% of Estimated Pool Cost (Maximum \$7600.00)]:	\$
Estimated Start Date of Construction:	

<b>Pool Type</b>			
<input type="checkbox"/> Indoor		<input type="checkbox"/> Outdoor	
<b>Purpose/Type of Pool (Check One):</b>			
<input type="checkbox"/> Standard Swimming Pool	<input type="checkbox"/> Zero Depth Pool	<input type="checkbox"/> Wave Pool	<input type="checkbox"/> Slide Plunge Pool
<input type="checkbox"/> Wading Pool	<input type="checkbox"/> Diving Pool	<input type="checkbox"/> Spray Park	<input type="checkbox"/> Other

**Variance: If a variance is being requested, please fill out Attachment 1.**

<b>Construction Approval (4-001)</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are all the requirements of other applicable codes, i.e., electrical, ventilation, building, plumbing, fire, etc., met?

<b>Design Standards (4-006)</b>			
<b>Safety Requirements (4-006.02)</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will the depth markings be 4 inches high on the deck and vertical wall, and be no more than 25 feet intervals with a contrasting color to the background?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will a rescue tube/tow rope, and backboard be provided? (Class A)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will a shepherd's crook, rescue tube/ring buoy be provided? (Class B and F)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will a state approved first aid kit be provided?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will a telephone with emergency numbers be provided?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will chemical storage be labeled?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Carbon monoxide detector provided?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will a "No Lifeguard" sign be provided? (Class B and F)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will the pool sign have the exact language required in 178 NAC 4-006.03?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will the spa sign have the exact language required in 178 NAC 4-006.03?

<b>Patron Loading (4-006.04)</b>			
			Shallow Area (5 ft or less):      ft <sup>2</sup> 15 ft <sup>2</sup> /patron =      patrons
			Deep Area (5 ft or greater):      ft <sup>2</sup> 25 ft <sup>2</sup> /patron =      patrons
			Total Patron Load Based on Swimming Pool:      patrons

<b>Lifeguard Chairs (4-006.05)</b>			
			Water Surface Area:      ft <sup>2</sup> Minimum number of chairs:

<b>Construction Material (4-006.06)</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Material inert, stable, non-toxic, watertight, slip resistant and enduring? Material:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Finish: white or light color?      What is the color of the pool?

<b>Structural Stability (4-006.07)</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are swimming pools, spas and appurtenances (slides, platforms, main drains, etc.) constructed to withstand anticipated loading?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is there a boundary between the shallow and deep area of contrasting color at least 4 inches wide?

<b>Decks (4-006.10)</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the deck unobstructed 5 feet around the pool? What is the slope?      in/ft Deck Drainage to: Grade      Indirect Drains
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will at least 1 hose bib with a backflow preventer be provided?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will 1 drinking fountain be provided? (Class A ONLY)

<b>Barriers (4-006.11)</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the pool completely surrounded by a barrier not less than 6 feet high?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is there a self closing/latching gate with a latching mechanism at 48 inches or is there another means of controlling access?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the barrier such that a 4-inch sphere cannot pass through?

<b>Lighting, Electrical and Ventilation Requirements (4-006.12)</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the pool intended for nighttime use?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are 3 foot candles of lighting provided for overhead lighting?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is 1/2 watt per square foot of lighting provided for underwater lighting?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are underwater requirements waived due to 15 foot candles of illumination provided at the water surface?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does electrical conform to the State Electrical Act?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is ventilation provided per the appropriate regulating agency?

<b>Water Supply and Waste Water Disposal (4-006.13)</b>		
Yes	No	N/A
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>Recirculation System (4-006.14)</b>		
Yes	No	N/A
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>Overflow System (4-006.14G)</b>		
Yes	No	N/A
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>Skimmers (4-006.14G2)</b>		
Number:		Make:
Model:		Skimmer Pipe Size:
Yes	No	N/A
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>Main Drain System Outlet (4-006.14H)</b>			
Number (2 minimum or a single unblockable):		Make:	Model Number: _____
Size:		Pipe Size:	
Effective open area of each main drain: _____ sq. in.			
Yes	No	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

<b>Pump Data (4-006.14J)</b>						
	Number Installed	Spare Basket(s)	Make	Model	Capacity (gpm)	Hp
Swimming Pool						
Wading Pool						
Slide						
Other						
<b>Yes</b>	<b>No</b>	<b>N/A</b>				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will pumps and motors be readily accessible for inspection and service?			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are pumps self-priming or have a net positive suction head?			

	Swimming Pool	Wading Pool	Zero Depth Pool	Other
Volume	gal.	gal.	gal.	gal.
Surface Area	sq. ft.	sq. ft.	sq. ft.	sq. ft.
Perimeter (feet)	ft.	ft.	ft.	ft.
Filtered Return Water Flow Rate	gpm	gpm	gpm	gpm
Turnover Times	hrs.	hrs.	hrs.	hrs.

<b>Flow Measurement and Control (4-006.14K)</b>			
Yes	No	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the flow meter measured in gpm, capable of measurement of at least 1.5 times the recirculation rate, and accurate to 10% of the actual flow rate?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the flow meter installed in a straight pipe upstream and downstream of any fitting, and such that it is accessible for reading and maintenance?

<b>Inlets (4-006.14L) (Check all that apply)</b>			
<input type="checkbox"/> Wall Inlets—Number of Wall Inlets:		<input type="checkbox"/> Floor Inlets—Number of Floor Inlets:	
<b>Yes</b>	<b>No</b>	<b>N/A</b>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are inlets located at least 12 inches below water level or not less than 6 inches if designed for downward flow?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are inlet fittings of the adjustable rate-of-flow type, are directional flow with skimmer type pools, not projecting from the floor (floor inlets), and do not extend from the wall more than 2 inches (wall inlets)?

<b>Filtration (4-006.15)</b>				
	Sand	D.E.	Cartridge	Other
Pressure				
Vacuum				
Gravity				
Maximum Capacity gpm/ft <sup>2</sup>				
Effective Surface Area ft <sup>2</sup>				
Manufacturer				
Model				
Other				
<b>Yes</b>	<b>No</b>	<b>N/A</b>		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will filters be installed with adequate clearance and facilities for easy and safe inspection, maintenance, disassembly, and repair?	

<b>Sand Filters (4-006.15A) (Check One)</b>			
<input type="checkbox"/> Rapid Sand Filter		<input type="checkbox"/> High-Rate Sand Filter	
		<input type="checkbox"/> Backwash rate      gpm/ft <sup>2</sup>	
Yes	No	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the filter NSF approved?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are the following included? <input type="checkbox"/> Influent Pressure Gauge <input type="checkbox"/> Effluent Pressure Gauge or Differential Pressure Gauge <input type="checkbox"/> Backwash Site Glass (rapid sand filter ONLY) <input type="checkbox"/> Air Relief Valve
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is valving, piping setup for isolation, drainage, and backwashing for individual filters?

<b>Disinfection and Chemical Application Equipment (4-006.16)</b>			
Yes	No	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the disinfection system NSF approved?
Manufacturer:		Model #:	
Chemical Used:		Type of Disinfection Equipment:	
<input type="checkbox"/>	Chlorine      gals/day	<input type="checkbox"/>	Gas
<input type="checkbox"/>	Bromine      gals/day	<input type="checkbox"/>	Liquid NaOCl
<input type="checkbox"/>	Other (specify)	<input type="checkbox"/>	Erosion Feeder
		<input type="checkbox"/>	% Chlorine//Bromine
Yes	No	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does feeder have anti-siphon safeguards?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Can the feeder supply disinfectant at a rate of 0.1 pound per day chlorine (or equivalent) per gallon per minute of recirculation flow? This equates to 8 parts per million.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Maximum concentration of disinfectant in the recirculation stream =      ppm.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If hypochlorinators are used, will the feed be capable of being continuous under all conditions of pressure in the recirculation system?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will a test kit be provided that will be able to test applicable parameters indicated in 178 NAC 4-006.16C?

<b>Bathroom (4-006.17) (Class A Pools ONLY, if applicable)</b>			
Yes	No	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does the bathroom have a smooth finish, slip resistant, impervious to moisture, easily cleanable and sloped ¼ inch to the drains and no carpet?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will showers supply water at 1.5 gals/min?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will showers and sinks supply water at least 90° Fahrenheit (32° C) and no more than 115° Fahrenheit (45° C)?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is a hose bib with a backflow device located for use in the entire bathroom?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Minimum facilities (toilets and sinks) in Class B, C, D, E, F pools?

<b>Miscellaneous (4-005.18)</b>			
Yes	No	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will a system be provided to remove dirt and other foreign material from the bottom of the pool?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will boilers meet the Boilers Inspection Act?

<b>Diving Boards (Indicate Number)</b>			
Deck Level:		1 Meter:	3 Meter:
2/3 Meter:		3/4 Meter:	Other:



EFFECTIVE DATE  
SEPTEMBER 14, 2010

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 4

<b>Slides (4-006.26)</b>			
Height of slide exit above water:		feet	
Slide pump capacity:		gpm	
Number of Suction Outlets		Make:	Model:
Effective open area of each suction outlet:			

**178 NAC 4 Attachment 3**

Certification of Construction

Pursuant to Title 178 NAC 4, construction of the \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

located at \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

was completed on \_\_\_\_\_, 20\_\_\_\_\_

I certify that to the best of my knowledge and belief, said construction has been performed in substantial compliance with Title 178 NAC 4, and in accordance with the approved plans and specifications or approved change orders.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

PE/AIA License # \_\_\_\_\_

Final Fee

In accordance with 178 NAC 4-003.01 item 6.b., documentation of the contract or actual cost of the project must be provided to the Department for the purpose of determining the final fee amount. Payment of the final fee amount must be made to the Department before the project is placed into service.

Final contract or actual project cost \$ \_\_\_\_\_

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RULES AND REGULATIONS RELATING TO MOBILE HOME PARKS  
IN THE STATE OF NEBRASKA  
UNIFORM STANDARD CODE FOR MOBILE HOME PARKS

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Title 178 - NEBRASKA DEPARTMENT OF HEALTH

Chapter 5 RULES, REGULATIONS AND STANDARDS GOVERNING MOBILE HOME PARKS

001 Definitions and Scope.

001.01 Definitions. In these rules, regulations and standards, unless the context to be intelligible or prevent absurdity otherwise requires, the following definitions shall apply:

001.01A Mobile Home shall mean a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately lovable but designed to be joined into one integral unit.

001.01B Mobile Home Lot shall mean a designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

001.01C Mobile Home Park shall mean a parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. The term mobile home park shall not be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, corporation, company, or other entity on its own premises and used exclusively to house its own labor force.

001.01D Department shall mean the Department of Health of the State of Nebraska.

001.01E Person shall mean any individual, firm, partnership, corporation, company, association, joint stock company or association, political subdivision, governmental agency or other legal entity, and shall include any trustee, receiver, assignee or other legal representative thereof.

001.01F Mobile Home Stand shall mean that area of a mobile home lot which has been reserved for the placement of a mobile home.

001.01G Public Sever System shall mean a sever system owned, operated or otherwise utilized by the state, a municipality or any other governmental agency or political subdivision, federal governmental agencies being excepted.

001.01H Public Water Supply System shall mean a water supply system designed to provide the public piped water fit for human consumption, if 'such system has at least fifteen service connections or regularly serves at least twenty-five individuals daily, at least sixty days out of the year. This definition shall include (a) any collection, treatment, storage, or distribution facilities under control of the operator of such system and used primarily in connection with such system, and (b) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

001.02 Scope and Application. These rules, regulations and standards shall apply to the utility systems and sanitary conditions for mobile home parks. Mobile home parks in existence and operation on July 10, 1976 shall have until December 31, 1980 within which to comply with the Departmental standards concerning utility systems and sanitary conditions as a condition of licensure, except that in no case shall any such existing and operating mobile home park be required to comply with any electrical system standards. These rules and regulations shall also pertain to administrative forms to be submitted, licensure fees, and other administrative procedures.

002 Administrative Forms - Copies. Copies of all administrative forms required by the Department of Health concerning the licensure of a mobile home park shall be furnished by the Department to all applicants and licensees. A copy of each of these forms is attached to and forms a part of this body of rules, regulations and standards. A listing of these forms is:

002.01 Application for Annual License to operate a Mobile Home Park (Attachment 1)

002.02 Application for Permit to Construct, Expand, Remodel or Make Alterations to the Sanitary Facilities in a Mobile Home Park (Attachment 2)

003 Submission of Plans. Each application for an initial license to establish a newly constructed mobile home park and each application for a permit to construct, expand, remodel or make alterations to the sanitary facilities in a mobile home park must be accompanied by plans and specifications of the mobile home park and the appurtenances thereto, and in the latter instance shall also include a description of the nature, type, location and extent of the proposed construction, expansion, remodeling and alterations to the sanitary facilities. All plans and specifications shall be submitted in triplicate and must be prepared by an engineer or architect if the mobile home park has or is to have facilities for fifteen (15) or more mobile homes.

The detailed construction plans shall show: the area and dimensions of the park site; the number, location, and dimensions of all mobile home lots; the location and width of roadways, automobile parking facilities, and walkways; the location of service buildings and any other proposed structures; plans and specifications for the water supply, sewage-disposal, and solid waste disposal facilities, including the location of water lines, sewer lines, and riser pipes; and the location and details of lighting and electrical systems.

Depending on the extent of the facilities to be provided; additional plans may be required to show: the location of fire hydrants; plans and specifications for swimming pools; and details of fuel-oil and LP-gas storage facilities.

004 Fees.

004.01 The following fees relative to the licensure, inspection and plan review for mobile home parks shall be paid in order for such licensure, inspection and plan review to be valid:

004.01A All licenses shall expire at midnight December 31 of each calendar year. The following fees must be paid on or before January 1 of each year for the applicable category in order for a person to receive an annual license to conduct, operate or maintain a mobile home park and receive the required annual inspection of such park:

<u>CATEGORY</u>	<u>FEE</u>
Mobile home park with facilities for 2-3 mobile homes -	\$25
Mobile home park with facilities for 4-15 mobile homes -	\$50
Mobile home park with facilities for 16-25 mobile homes -	\$75
Mobile home park with facilities for 26-50 mobile homes -	\$100
Mobile home park with facilities for 51-100 mobile homes -	\$125
Mobile home park with facilities fur over 100 mobile homes -	\$175

004.01B For each additional necessitated inspection of a mobile home park, which is conducted after the initial annual inspection, the following fees must be paid: (Additional inspections shall be classified as those which are required to determine if violations which were discovered in previous inspections have been corrected.)

<u>CATEGORY</u>	<u>FEE</u>
Mobile Home Park with facilities for 2-3 mobile homes -	\$20
Mobile Home Park with facilities for 4-15 mobile homes -	\$40
Mobile Home Park with facilities for 16-25 mobile homes -	\$70
Mobile Home Park with facilities for 26-50 mobile homes -	\$95
Mobile Home Park with facilities for 51-100 mobile homes -	\$120
Mobile Home Park with facilities for over 100 mobile homes -	\$170

004.02 An initial fee for the review of plans and specifications for the types of projects described in subsection 003 shall be submitted with the plans and specifications to be reviewed and in the amount of one hundred dollars plus five tenths of one percent of the engineer's estimate of the cost of the project, alteration, or improvement described in the documents to be reviewed but such total fee shall not exceed \$7,600.00 and:

004.02A Documentation of the contract or actual cost of the project shall be provided to the Department by the engineer or owner of the mobile home park for the purpose of determining the final fee amount;

004.02B Payment of the final fee amount based on one hundred dollars plus five tenths of one percent of the engineer's estimate or the contract or actual cost of the project, whichever is larger, shall be made before the project is placed in service.

### 004.03 Time of Payment

004.03A Fees for the licensure and initial annual inspection shall be paid at the time the application for licensure is submitted.

004.03B Inspection fees for subsequent necessitated inspections shall be paid within 30 days of the inspection.

004.04 Mode of payment Payments made in the form of currency will be accepted, without responsibility being placed on the Division of Drinking Water and Environmental Sanitation, Department of Health, until properly receipted. Payment should be made, however, in the form of a personal, certified, or cashier's check or money order made payable to the "Division of Drinking Water and Environmental Sanitation, Department of Health." Payments made in the form of stamps, foreign currency, or third party endorsed checks will not be accepted.

004.05 Refunds No refund shall be made of any fee paid for which the applicable service has been performed except in cases of mistake or fraud.

004.06 Penalties Failure to pay the specified fees for the licensure and/or inspection and/or plan review of mobile home parks shall constitute cause for the denial, suspension, revocation or refusal of renewal of the license to operate the park.

## 005 Utility Systems.

### 005.01 Water Supply:

005.01A General Requirements: An accessible, adequate, safe and potable supply of water shall be provided to each mobile home lot. The collection, treatment, storage, and distribution systems of all mobile home parks with fifteen or more service connections or which regularly serve twenty-five or more individuals, shall be constructed, maintained and operated in accordance with all provisions of the Nebraska Safe Drinking Water Act, Nebraska Revised Statutes Chapter 71, Article 53 and of the Regulations Governing Public Water Supply Systems, Title 179, Nebraska Administrative Code, Chapter 2. The collection, treatment, storage, and distribution systems of all mobile home parks with less than fifteen service connections and which serve less than twenty-five (25) individuals shall be constructed, maintained, and operated in accordance with the provisions of the Rules and Regulations Governing a Private Water Well, Title 178, Nebraska Administrative Code, Chapter 9.

Where an approved public water supply of satisfactory quantity, quality, and pressure is available, connection shall be made thereto and its supply used exclusively. Where an approved public water supply system is not available within a reasonable distance for extension to a mobile home development, a private water supply system shall be developed and constructed in accordance with the provisions of the Rules and Regulations Governing a Private Water Well, Title 178, Nebraska Administrative Code, Chapter 9.

005.01B The water supply shall be capable of supplying a minimum of 150 gallons per day per mobile home site. The water supply system shall be capable of delivering a minimum sustained flow of 5 gallons per minute per mobile home site.

005.01C The water supply system shall deliver water to each mobile home lot at normal operating pressures of 20 to 80 lbs. per square inch.

005.01D Every mobile home stand shall be provided with an individual branch water service pipe and riser pipe. The riser pipe shall be at least three-quarters of an inch in diameter and extend at least four inches vertically above ground elevation unless it is shielded by a riser above ground elevation or unless it is shielded by a riser protector encasement extending above grade and fitted with a lid.

005.01E The water supply riser pipe shall be located within 4 feet (1.22 m) of the mobile home stand, and a minimum of 10 feet (3.50 m) from the sewer drain inlet.



005.01F Water service lines, valves, and riser pipes shall be installed and protected from damage by freezing, ground movement, vehicles or other damage sources. Surface drainage shall be diverted from the riser pipe.

005.01G A shutoff valve shall be provided on the water-riser pipe serving each mobile home site. The shutoff valve shall be protected and shall be listed for backflow protection (listed by I.A.M.P.O. - International Association of Plumbing and Mechanical Officials, N.S.F. - National Sanitation Foundation, or other comparable organization with similar Standards). Heat tapes, when used for protection of plumbing components against freezing, shall be of the listed type (listed by U.L. - Underwriter Laboratories, C.S.A. - Canadian Standards Association, or other comparable organization with similar Standards).

005.01H Mobile homes shall be connected to the water riser pipe with flexible metal tubing not less than the size of the mobile home water supply inlet (3/4 in., 19 mm.).

## 005.02 Sanitary Sewer System

005.02A General Requirements: Facilities shall be provided and properly maintained for the collection and disposal, or treatment and disposal, of sewage from all mobile homes, service buildings, and other facilities. Where a public sewer system is available all plumbing fixtures, building sewers, and mobile home park sewers shall be connected thereto. If a public sewer system is not available, a private sewage disposal facility meeting Nebraska Department of Environmental Quality and applicable local sewage disposal requirements shall be installed and all plumbing fixtures, building sewers, and mobile home park sewers connected thereto. Sewage shall not be deposited upon the surface of the ground.

005.02B Detailed plans and specifications shall be submitted to the Nebraska Department of Health for review and approval, as outlined in Section 003, prior to the construction of a newly built sewage disposal facility or the alteration to an existing system.

005.02C Sewage collection lines shall be laid in trenches of sufficient depth to be free of breakage from traffic or ground movement and shall be separated from any pressurized drinking-water supply line by a horizontal distance of 10 feet.

005.02D The sewer lines shall be constructed in compliance with the applicable municipal or county plumbing code. In the absence of a local plumbing code, all sewer lines shall be constructed in compliance with the National Plumbing Code of 1955.

005.02E Sewers shall be at a grade sufficient to ensure a mean velocity of 2 feet per second when flowing full. The system shall be designed for a minimum flow rate of at least 200 gallons per day per mobile home lot.

005.02F Each mobile home lot shall be provided with a sewer branch line and riser pipe at least 4 in. in diameter. The branch shall be installed with a slope of at least 1/4 in. per linear foot and shall be trapped when all fixtures in the mobile home are not trapped and vented. The branch line shall terminate at a riser pipe of at least four (4) inches in diameter, which extends vertically four (4) inches above ground elevation.

005.02G The sewer service connection shall be equipped with standard screw, ring, or clamp-type fittings or adapters so that water-tight, and air-tight, connections can be obtained at the mobile home drain outlet and sewer riser pipe. The connection shall be of approved semi-rigid, noncollapsible, corrosion-resistant pipe having a smooth interior surface and an inside diameter of not less than 3 inches. Each mobile home shall be connected to the site sewer inlet by means of a drain connector consisting of pipe Schedule 40, meeting the standards of the UPC (1991), (Table A-Plumbing Material Standards, which is attached hereto marked attachment 8 and made a part hereof by reference), appropriate fittings and connectors, and shall be not less in size than the mobile home drain outlet. The fitting connected to the inlet shall be a directional fitting to discharge into the sewer inlet. A listed flexible connector may be used at each end of the pipe (listed by I.A.M.P.O. or N.S.F. or other comparable organization with similar Standards). Mobile homes with drain outlets less than three (3) inches inside diameter shall be connected with reducers and screw or clamp type fittings.

005.02H The sewer drainage inlet shall be positioned within four (4) feet of the mobile home stand and a minimum of ten (10) feet from the water riser.

005.02I When a mobile home does not occupy the mobile home stand, the sewer riser pipe shall be capped with an airtight cap or plug.

005.03 Electrical System. All electrical installations in mobile home parks including mobile home accessory buildings or structures and electrical wiring fixtures and equipment installed in a building other than a mobile home in a mobile home community, shall be designed and constructed in accordance with the NEBRASKA ELECTRICAL CODE, adopted by the Nebraska State Electrical Board under section 81-2104, Reissue Revised Statutes of Nebraska, 1943.

However, in no case shall a mobile home park in existence and operation on July 10, 1976, be required to comply with any electrical system standards as a condition of licensure. This part applies to electrical distribution systems in mobile home parks. It does not apply to the electrical systems of mobile homes.

005.04 Fuel Supply. Each mobile home park shall comply with the following specifications.

005.04A Mobile Home Park Gas Systems

005.04A1 General. Gas equipment and installations within a mobile home park shall be designed and constructed in accordance with these regulations and with chapter 5 of ANSI A225.1 NFPA501A, "Manufactured Home Installation" 1982 which is marked attachment 4, attached hereto and incorporated herein by reference and the Standard for Storage and Handling of Liquefied Petroleum Gases, (NFPA No. 58-1989) which is marked attachment 5, attached hereto and incorporated herein by reference.

005.04A2 Required Gas Supply. The minimum hourly volume of gas required at each mobile home lot outlet or any section of the mobile home park gas piping system shall be calculated as shown below.

DEMAND FACTORS FOR USE IN CALCULATING GAS PIPING SYSTEMS IN MOBILE HOME PARKS

No. of Mobile Home Sites	BTU Per Hour Per Mobile Home Site
1	125,000
2	117,000
3	104,000
4	96,000
5	92,060
6	87,000
7	83,000
8	81,000
9	79,000
10	77,000
11-20	66,000
21-30	62,000
31-40	58,000
41-60	55,000
Over 60	50,000

005.04A3 Installation. Underground piping shall be buried a sufficient depth (18" minimum) or covered in a manner so as to protect the piping from physical damage when it passes through flower beds, shrub beds, and other such cultivated areas.

Gas piping shall not be installed underground beneath a mobile home stand unless it is installed in an open-ended gas-tight conduit designed to withstand the superimposed loads. The conduit shall extend into a normally usable and accessible portion of the building and, at the point where the conduit terminates in the building, the space between the conduit and the gas piping shall be sealed to prevent the possible entrance of any gas leakage. If the end sealing is of a type that will retain the full pressure of the pipe, the conduit shall be designed for the same pressure as the pipe. The conduit shall extend at least 4 inches outside the building, be vented above grade to the outside, and be installed so as to prevent the entrance of water and insects. Gas piping installed underground within mobile home parks shall comply with §§3.1 to 3.1.7, 3.6 to 3.6.4, and 3.7 to 3.16 of Part 3 and all of Part 4 of THE NATIONAL FUEL GAS CODE (NFPA No. 54- 1988, ANSI z223.1-1988). Parts 3 and 4 of THE NATIONAL FUEL GAS CODE (NFPA NO. 54- 1988, ANSI z223.1-1988) is marked attachment 6, attached hereto and incorporated by reference.

The gas supply to the mobile home shall be located within 4 feet (1.22 m) of the mobile home stand.

Exception: The above requirements do not apply to gas supply connections for mobile homes located on an all-weather wood or concrete or concrete block foundation system, or on a foundation constructed in accordance with the local building code or, in the absence of a local code, with a recognized model building code.

All underground fuel gas piping systems shall comply with the requirements of chapter 5 of ANSI A225.1 NFPA 501A, Manufactured Home Installations, 1982.

005.04A4 System Shutoff Valve. A readily accessible and identified shutoff valve controlling the flow of gas to the entire gas piping system shall be installed near to the point of connection to the natural gas service piping or supply connection of the liquefied petroleum gas container.

005.04A5 Lot Shutoff Valve. Each mobile home lot shall have an accessible, listed gas shutoff valve installed. Such valve shall not be located under a mobile home. Whenever the mobile home lot outlet is not in use, the shutoff valve shall be plugged or capped to prevent accidental discharge.

005.04A6 Gas Connector. Each gas supply connector shall be: (1) Listed for outside mobile home use by American Gas Association, Canadian Gas Association, or other comparable organization with similar standards; (2) Installed with sufficient flexibility to prevent bending or breakage by load shift. Flexibility shall be provided by the use of bends, loops, or offsets, (acceptable methods are illustrated in attachment 3); (3) Not more than 6 feet (1.83m) in length; and (4) Have a capacity rating adequate to supply the connected load. Exception: All gas supply connections for mobile homes located on an all-weather wood or concrete or concrete block foundation system or on a foundation constructed in accordance with the local building code or, in the absence of a local code, with a recognized model building code.

005.04A7 Protection From Physical Damage. All gas outlet risers, regulators, meters, valves or other exposed equipment shall be protected from physical damage by vehicles or other causes.

005.04A8 Maximum Pressure Permitted. Gas supplied into the mobile home shall not exceed 1/2 pound per square inch gauge or 14 inches water-column.

#### 005.04B Mobile Home Park Oil Supply Systems

005.04B1 General. Oil-burning equipment and installations within a mobile home park shall be designed and constructed in accordance with all the provisions, except S 3-8, of chapter 2 and chapter 3 of the STANDARD FOR THE INSTALLATION OF OIL BURNING EQUIPMENT (N.F.P.A. No. 31 1987). The STANDARD FOR THE INSTALLATION OF OIL BURNING EQUIPMENT (N.F.P.A. No. 31 1987), is marked attachment 7 and attached hereto and incorporated herein by reference.

005.04B2 Oil Supply. The following three methods of supplying oil to an individual mobile home site are permitted:

Supply from an outside underground tank (see 005.04B3).

Supply from a centralized oil distribution system designed and installed in accordance with accepted engineering practice and in compliance with Section 3-8 of the STANDARD FOR THE INSTALLATION OF OIL BURNING EQUIPMENT (N.F.P.A. No. 31 1987;) adopted by reference in section 005.04B1 above.

Supply from an outside above ground tank (see 005.04B3).

005.04B3 Recommended Minimum Oil Supply Tank Size. Oil supply tanks shall have a minimum capacity equal to 20 percent of the average annual oil consumption. Except for areas with mild winters (less than 1,800 degree days), 60 gallon ICC-5 shipping containers (drums) are not recommended.

## 006 Sanitary Conditions.

### 006.01 Refuse, Garbage and Solid Waste Disposal

006.01A The storage, collection, transportation, and disposal of refuse, garbage and solid waste shall be so conducted as to not create insanitary conditions, nuisances, rodent harborages, insect breeding areas, accident or fire hazards, or air pollution.

006.01B All refuse, garbage and solid waste shall be stored in fly-tight, water-tight, rodent-proof containers which shall be maintained in clean condition and in good repair.

006.01C Containers shall be provided in sufficient number and capacity to properly store all refuse, garbage and solid waste whether the licensee of the mobile home park or each occupant of a mobile home provides the container or containers depends entirely upon the internal rules of each mobile home park.

006.01D Concrete platforms, metal racks, or holders shall be provided for all refuse, garbage and solid waste containers and such platforms, racks, or holders shall be so designed and constructed as to prevent the containers from being tipped, to minimize spillage, and to facilitate cleaning around the containers.

006.01E Refuse, garbage and solid waste shall be removed from the mobile home park premises at least once weekly. Where adequate refuse, garbage and solid waste removal service is not available, the licensee of the mobile home park shall provide such service and the removal and disposal shall conform to local ordinance, if any is applicable.

006.01F All refuse, garbage and solid waste shall be collected and transported in a leak-proof covered vehicle or covered containers.

006.01G Where adequate municipal or private solid waste disposal service is not available, the mobile home park licensee shall provide for disposal of the refuse, garbage and solid waste.

### 006.02 Insect and Rodent Control

006.02A Grounds, buildings, and structures shall be maintained free of insect breeding areas, rodent haborage, and infestation of insects, rodents or vermin that transmit disease to humans.

006.02B All exterior openings of management buildings or other applicable structures shall be effectively screened or insects, rodents and vermin excluded by other effective means.

006.02C The growth of grass, brush, and weeds shall be controlled to prevent the harborage of noxious insects.

006.02D Mobile home parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, and other noxious plants detrimental to human health and well-being.

007 Observance of Regulations. The person to whom a license is issued to operate a mobile home park shall operate said park in strict compliance with the provisions of these rules, regulations and standards and shall provide adequate supervision to maintain the park, its related facilities, roadways, walkways, open spaces, utilities and equipment in good repair and in a clean and sanitary condition.

The licensee shall not construct, expand, remodel or make alterations to the sanitary facilities, including water supply and sewage disposal facilities in a mobile home park or the appurtenances thereto without first obtaining a permit therefore from the Department. No fee shall be charged for such permit, and no such permit shall be required in the making of minor repairs or in matters of general maintenance.

The licensee applying for such a permit must submit a completed application form for a permit to construct, expand, remodel or make alterations to the sanitary facilities in a mobile home park (Attachment 2), accompanied by plans and specifications of the mobile home park and the appurtenances thereto which shall include a description of the nature, type, location and extent of the proposed construction, expansion, remodeling and alterations to the sanitary facilities. All plans and specifications shall be submitted in triplicate and must be prepared by an engineer or architect if the mobile home park has or is to have facilities for fifteen (15) or more mobile homes.

008 Rules of Practice in Administrative Hearings.

008.01 Application. An application for issuance of renewal of an annual license to establish, conduct, operate or maintain a mobile home park or an application for a permit to construct, expand, remodel or make alterations to the sanitary facilities in a mobile home park shall be made on forms provided by the Department (Attachments 1 and 2). The application form must be accompanied by any necessary supporting data as prescribed in section 003. Every application shall be acted upon within one hundred and fifty (150) days after its filing with the Department.

008.02 Denials and Revocations of Licenses and Permits. Whenever the Department determines to deny, refuse renewal of, suspend or revoke a license, or deny a permit, or deny or revoke a certificate of exemption, it shall send to the applicant or licensee, by either certified or registered mail, a notice setting forth the specific reasons for the determination. Such notice shall state that the denial, refusal of renewal, suspension, or revocation shall become final thirty (30) days after the mailing of the notice in all cases of failure to pay the required licensure fee if not paid by the end of such period, and in all other instances unless the applicant or licensee, within such thirty-day period, shall give written notice of a desire for a hearing. Thereupon the applicant or licensee shall be given opportunity for a formal hearing before the Department and shall have the right to present evidence on his own behalf. The Department, within thirty (30) days of the receipt of the request, shall schedule a formal hearing to be held before the Department.

008.03 Rules of Practice and Procedures. All hearings shall be conducted in accordance with the Administrative Procedures Act and the "Rules of Practice and Procedure of the Department of Health." 184 NAC 1

Source: Sections 71-4621, 71-4623  
to 71-4626, 71-4628, 71-  
4629, 71-4631, and 71-4632



(ATTACHMENT 2)

APPLICATION FOR PERMIT TO CONSTRUCT, EXPAND, REMODEL OR MAKE ALTERATIONS TO SANITARY FACILITIES IN A MOBILE HOME PARK

Instructions: Fill in the applicable information, please type. Plans and specifications outlining the proposed construction, expansion, remodeling, or alteration, must be submitted in triplicate with this application. If the proposed construction is for a Mobile Home Park with facilities for fifteen (15) or more mobile homes the plans and specifications must be prepared by an engineer or architect. No permit required in the making of minor repairs or in matters of general maintenance.

Applicant's Name:

If Corporation, List Officers -- If Partnership, List Partners

Applicant's Mailing Address

Street City State Zip

Business Telephone:

Does hereby make application to construct sanitary facilities at the following mobile home park:

Name of Park:

Address of Park:

Street City County

OR, does hereby make application to expand, remodel, or make alterations to the sanitary facilities in the following mobile home park:

Name of Park:

Address of Park:

Street City County

Mobile Home Park License Number:

Indicate the systems to be included in this alteration:

- Sewer
- Water
- Electrical
- Fuel Supply

Briefly describe the nature, type, location and extent of the construction, expansion, remodeling or alterations contemplated.

USE ADDITIONAL SHEETS OF PAPER IF NECESSARY

Department Use Only:

I.D. Number \_\_\_\_\_

Permit Issued

Plans Rec'd \_\_\_\_\_

Plans Approved: Site: \_\_\_\_\_

Inspection

Water

Sewage \_\_\_\_\_

By

Electrical

Fuel Supply

TITLE 178 ENVIRONMENTAL HEALTH

CHAPTER 7 CLEAN INDOOR AIR

7-001 SCOPE AND AUTHORITY

7-001.01 These regulations are authorized by the Nebraska Clean Indoor Air Act (CIAA), Neb. Rev. Stat. §§71-5716 to 71-5734 and by Neb. Rev. Stat. §71-1911. These regulations are operative June 1, 2009.

7-001.02 The purpose of the Nebraska Clean Indoor Air Act is to protect the public health and welfare by prohibiting smoking in public places and places of employment. The Act shall not be construed to prohibit or otherwise restrict smoking in outdoor areas. The Act shall not be construed to permit smoking where it is prohibited or otherwise restricted by other applicable law, ordinance, or resolution. The Act shall be liberally construed to further its purpose.

7-002 DEFINITIONS

Act means the Nebraska Clean Indoor Air Act, Neb. Rev. Stat. §§71-5716 to 71-5734.

Ceiling means the top or overhead portion of a room or building. For the purposes of these regulations, it can be of any shape, height, or material; and can be full or partial.

Child care program means any facility providing child care which is required to be licensed under Neb. Rev. Stat. §71-1911.

Child Care Provider means a person who is licensed to operate a child care program under Neb. Rev. Stat. §71-1911.

Department means the Nebraska Department of Health and Human Services.

Employed means hired, contracted, subcontracted, or otherwise engaged to furnish goods or services.

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages, profit, or other remuneration.

Employer means a person, nonprofit entity, sole proprietorship, partnership, joint venture, corporation, limited partnership, limited liability company, cooperative, firm, trust, association, organization, or other business entity, including retail establishments where goods or services are sold, who or which employs one or more employees.

Entrance means the opening of a building used for entry or exit.

Floor means the lower horizontal surface of a room, and/or the surface people walk on. For the purposes of these regulations, it can be of any shape, substance, or material.

Guestroom or suite means a sleeping room and directly associated private areas, such as a bathroom, a living room, and a kitchen area, if any, rented to the public for their exclusive transient occupancy, including, but not limited to, a guestroom or suite in a hotel, motel, inn, lodge, or other such establishment.

Indoor area means an area enclosed by a floor, a ceiling, and walls on all sides that are continuous and solid except for closeable entry and exit doors and windows and in which less than 20% of the total wall area is permanently open to the outdoors. For walls in excess of eight feet in height, only the first eight feet shall be used in determining such percentage.

Person shall include bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations.

Place of employment means an indoor area under the control of a proprietor that an employee accesses as part of his/her employment without regard to whether the employee is present or work is occurring at any given time. The indoor area includes, but is not limited to, any work area, employee break room, restroom, conference room, meeting room, classroom, employee cafeteria, and hallway. A private residence is a place of employment when such residence is being used as a licensed child care program and one or more children who are not occupants of such residence are present.

Proprietor means any employer, owner, operator, supervisor, manager, or other person who controls, governs, or directs the activities in a place of employment or public place.

Public place means an indoor area to which the public is invited or in which the public is permitted, whether or not the public is always invited or permitted. A private residence is not a public place.

Smoke or smoking means the lighting of any cigarette, cigar, pipe, or other smoking material or the possession of any lighted cigarette, cigar, pipe, or other smoking material, regardless of its composition.

Smoking Cessation Program means a program designed to help people stop smoking tobacco products.

Tobacco retail outlet means a store that sells only tobacco and products directly related to tobacco. Products directly related to tobacco do not include alcohol, coffee, soft drinks, candy, groceries, or gasoline.

Wall means a vertical partition with a height and length greater than its thickness; used to divide, define, or enclose an area. For the purposes of these regulations, it can be of any shape or material which impedes airflow.

## 7-003 PUBLIC PLACES AND PUBLIC MEETINGS

7-003.01 General Prohibition: Smoking is prohibited in all public places and indoor places of employment. The definition of an indoor area can be found in 178 NAC 7-002. For purposes of determining compliance with these regulations, the Department will assess these areas according to the following requirements:

1. The presence of a floor, a ceiling, and walls on all sides. Definitions of floor, ceiling and wall may be found in 178 NAC 7-002.
  - a. Walls may contain closeable entry/exit doors and windows.
  - b. Entry/exit doors allowing access between an indoor public place and an outdoor smoking area must not remain open while smoking is occurring.
2. Measurements of the wall area to determine that less than 20% is permanently open to the outdoors.
  - a. The first eight feet of height and the entire length of each wall are measured to obtain total wall square footage.
  - b. Calculate 20% of total wall square footage to obtain total open area square footage.
  - c. If a proprietor chooses to install security devices, such as bars, fencing, and wood slats, they must be permanent fixtures. Any security devices located within permanently open areas must be included in total wall measurements.

7-003.02 Responsibilities of Proprietor or Other Person in Charge of a Public Place: Compliance with the provisions of 178 NAC 7 is the responsibility of the proprietor of a public place or place of employment where smoking is prohibited. To ensure compliance, a proprietor must take measures, which may include:

1. Posting appropriate signs that include the international symbol for no smoking on entrance doors to inform the public that smoking is not allowed, and;
2. Removing any smoking paraphernalia designated for on-site use, such as ashtrays.

7-003.03 Exemptions: Some indoor public places and indoor places of employment are exempt from 178 NAC 7-003.01. The following indoor areas are exempt:

7-003.03A Guestrooms and Suites: Guestrooms and suites that are rented to guests and are designated as smoking rooms.

1. No more than 20% of rooms rented to guests in an establishment may be designated as smoking rooms;
2. All smoking rooms on the same floor must be contiguous; and
3. Smoke from smoking rooms must not infiltrate into areas where smoking is prohibited under the Act.

7-003.03B Indoor areas used in connection with a research study on the health effects of smoking conducted in a scientific or analytical laboratory under state or federal law or at a college or university approved by the Coordinating Commission for Postsecondary Education; and

7-003.03C Tobacco retail outlets as defined in 178 NAC 7-002.

#### 7-004 FINDING VIOLATIONS; INJUNCTIONS

7-004.01 Finding Violations: Any person may report possible violations of the Nebraska Clean Indoor Air Act to the Department or a local public health department as defined in Neb. Rev. Stat. §71-1626. Such departments may conduct inspections of public places or places of employment where smoking is prohibited in response to reports of potential violations.

7-004.02 Retaliation: No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because such employee, applicant, or customer reports or attempts to report a violation of the Act.

7-004.03 Injunctions: The Department or a local public health department as defined in Neb. Rev. Stat. §71-1626 may institute an action in any court with jurisdiction to enjoin a violation of the Act.

7-005 SMOKING CESSATION PROGRAMS: A person found guilty of smoking in a place of employment or a public place in violation of the Act is guilty of a Class V misdemeanor for the first offense and a Class IV misdemeanor for the second and any subsequent offenses. A person charged with such offense may voluntarily participate, at his/her own expense, in a smoking cessation program approved by the Department of Health and Human Services, and such charge will be dismissed upon successful completion of the program.

7-005.01 To be approved by the Department, a smoking cessation program must, at a minimum:

1. Consist of three contacts between participant and counselor, equaling two hours of counseling time;
2. Be able to track the progress of participants to determine required counseling time is met; and
3. Issue a certificate of completion to participants.

7-005.01A To have a smoking cessation program approved by the Department, the program facilitator must submit a written application to the Department on a form provided by the Department or construct an application that must contain the following information:

1. The name and address of the organization providing the smoking cessation program;

2. The professional experience of the individual responsible for the direct delivery of cessation counseling;
3. The name and phone number of the facilitator of, or primary contact for, the smoking cessation program;
4. A copy of the certificate issued to participants upon completion, and
5. A statement detailing the length of the program in hours and the cost to participants.
6. The written application must be sent to:

Clean Indoor Air Act Program Manager  
Nebraska Department of Health and Human Services  
Division of Public Health  
301 Centennial Mall South  
Lincoln NE 68509

7-005.02 The Department will maintain a list of smoking cessation programs that have met the requirements of 178 NAC 7-005.01.

#### 7-006 CHILD CARE PROGRAMS

7-006.01 Child care programs that are not located in the residence of the child care provider must be smoke free environments. The prohibition of smoking applies:

1. To all persons including employees, parents, guests, contractors and others;
2. At all times, 24 hours per day, seven days per week, regardless of the hours of operation; and
3. In all indoor areas of the child care program whether or not children use the area.

7-006.02 The following requirements apply to child care programs that are located in the residence of the child care provider:

1. Smoking must be prohibited in all areas of the home during the hours when the residence is being used as a licensed child care program and one or more children who are not occupants of the residence are present.
2. The child care provider must inform parents, guardian(s), or other individuals responsible of all enrolled children if any household member, including the provider, smokes in the home. This information must be provided to parents, guardian(s), or other individuals responsible before accepting a child into care.

7-007 WAIVER OF THE LAW

7-007.01 The Department of Health and Human Services may waive provisions of the Nebraska Clean Indoor Air Act upon good cause shown and shall provide for appropriate protection of the public, including employees', health and safety in the granting of these waivers.

1. An applicant for a waiver must demonstrate good cause for a waiver and demonstrate that the waiver will not significantly affect the health and safety of the public and/or employees.
2. To apply for a waiver of provisions of the Act, or these regulations, the proprietor or other person in charge must submit a written application to the Department on a form provided by the Department or construct an application that must contain the following information:
  - a. Name and address of public place or place of employment.
  - b. Type of public place or place of employment.
  - c. Name and telephone number of proprietor or person in charge.
  - d. Name and telephone number of person making the application, if other than the proprietor or person in charge.
  - e. Description of how the public, including employees', health and safety would be protected under the waiver.
  - f. Description of which provisions are to be waived and the time period for which the waiver is in effect.
3. The written application for a waiver must be sent to:

Clean Indoor Air Act Program Manager  
Nebraska Department of Health and Human Services  
Division of Public Health  
301 Centennial Mall South  
Lincoln NE 68509

7-007.02 In order to grant a waiver, the Department will determine that the health and safety of the public and/or employees would be protected under a waiver as if there were compliance with the Act.

7-007.03 Any waivers granted by the Department will be consistent with the intent of the statute and these regulations.

7-007.04 Any waivers granted by the Department will be temporary, with the length of the waiver to be determined by the Department. At the time of the waiver's expiration, if an applicant desires a continued exemption, the applicant must reapply for another waiver to ensure the continued protection of the public, including employees', health and safety.

EFFECTIVE DATE  
APRIL 18, 2009  
OPERATIONAL JUNE 1, 2009

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 7

7-007.05 Any person aggrieved by the Department's decision regarding a waiver may seek administrative review as provided by the Administrative Procedure Act.



NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE

TITLE 178  
CHAPTER 8

FEE FOR INSPECTION OF PRIVATE WATER SUPPLY OR PRIVATE SEWAGE  
DISPOSAL FACILITIES

01. Fee For Inspection. The Department of Health shall collect a fee of one-hundred dollars (\$100.00) for each inspection of private water supply or private sewage disposal facilities requested of and made by the Department of Health in order for the person requesting the inspection to qualify for any type of commercial loan, guarantee, or other type of payment or benefit from any commercial agency or enterprise to the person applying for or receiving the same, or to meet the requirements of any federal governmental agency, including, but not limited to, the Farms Home Administration, the Federal Housing Administration, and the United States Veterans' Administration, that such an inspection be conducted as a condition of applying for or receiving any type of grant, loan, guarantee, or other type of payment or benefit from such agency to the person applying for or receiving the same. All fees so collected shall be paid into the state treasury and by the State Treasurer credited to the Department of Health Cash Fund.

EFFECTIVE DATE  
JUNE 7, 2011

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 10

TITLE 178 ENVIRONMENTAL HEALTH

CHAPTER 10 LICENSURE UNDER THE WATER WELL STANDARDS AND CONTRACTORS'  
PRACTICE ACT

10-001 SCOPE AND AUTHORITY: These regulations govern credentialing and continuing competency under the Water Well Standards and Contractors' Practice Act, Neb. Rev. Stat. §§ 46-1201 to 46-1241, and the Uniform Credentialing Act (UCA).

10-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 46-1201 to 46-1241, known as the Water Well Standards and Contractors' 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 Water Well Standards and Contractors' Licensing Board.

Business Engaged in the Installation of Pumps and Pumping Equipment means any activity or enterprise undertaken for profit or otherwise which involves the installation of pumps and pumping equipment on water wells. The term shall not include any such activity carried out by an individual on land owned by him/her and used by him/her for farming, ranching or agriculture purposes or as his/her place of abode.

Business Engaged in the Construction of Water Wells means any activity or enterprise undertaken for profit or otherwise which involves the construction of water wells. The term shall not include any activity carried out by an individual on land owned by him/her and used by him/her for farming, ranching or agricultural purposes or as his/her place of abode.

Certificate of Completion means written evidence or documentation that shows attendance and completion of a continuing education program.

Continuing Education means that education required as a condition of licensure under the Act, for the maintenance of skills necessary for the protection of groundwater and the health and general welfare of the citizens and the competent practice of the construction of water wells, the installation of pumps and pumping equipment, and water well monitoring which has been approved by the Board in accordance with 178 NAC 10-007.

Continuing Education Program or Program means a formal offering of instruction or information to licensees for the purpose of maintaining skills necessary to the protection of groundwater and the health and general welfare of the citizens and the competent practice of the construction of water wells, the installation of pumps and pumping equipment, water well monitoring, the inspection of chemigation systems, or the inspection and servicing of flow meters. Programs may be offered under names such as, "school," "clinic," "forum," "lecture," "course of study," "educational seminar," "workshop," "conference," "convention," or "short course."

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.

Construction of Water Wells means and includes all acts necessary to make a water well usable for the purpose for which it is intended including, without limitation, the siting of and excavation for the water well and its construction, alteration, or repair, but excluding the installation of pumps and pumping equipment.

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.

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 of time 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.

Good Cause means a substantial reason consistent with the purposes of the Act.

Hour of Continuing Education means 1 hour of credit toward the continuing competency requirements of the Act (Neb. Rev. Stat. §46-1225).

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.

Installation of Pumps and Pumping Equipment means the procedure employed in the placement and preparation for operation of pumps and pumping equipment at the water well location, including connecting all wiring to the first control and all construction or repair involved in making entrance to the water well, which involves the breaking of the well seal.

Installed Water Well Equipment means but is not limited to equipment that may be set up for use on a water well, such as main line check valves, vacuum relief valves, chemigation devices, and flow meters.

License means an authorization issued by the Department to an individual to engage in a profession which would otherwise be unlawful in this state in the absence of such authorization as provided by Neb. Rev. Stat. § 38-118.

Licensed Natural Resources Ground Water Technician means a natural resources ground water technician who has taken a training course, passed an examination based on the training course, and received a license from the Department indicating that s/he is a licensed natural resources ground water technician.

Licensed Pump Installation Contractor means an individual who has obtained a license from the Department and who is a principal officer, director, manager, or owner/operator of any business engaged in the installation of pumps and pumping equipment or the decommissioning of water wells.

Licensed Pump Installation Supervisor means any individual who has obtained a license from the Department and who is engaged in the installation of pumps and pumping equipment or the decommissioning of water wells. Such supervisor may have discretionary and supervisory authority over other employees of a pump installation contractor.

Licensed Water Well Contractor means an individual who has obtained a license from the Department and who is a principal officer, director, manager, or owner-operator of any business engaged in the construction or decommissioning of water wells.

Licensed Water Well Drilling Supervisor means any individual who has obtained a license from the Department and who is engaged in the construction or decommissioning of water wells. Such supervisor may have discretionary and supervisory authority over other employees of a water well contractor.

Licensed Water Well Monitoring Technician means any individual who has obtained a license from the Department and who is engaged solely in the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment or pumping systems. A licensed water well monitoring technician shall not supervise the work of others.

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.)

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

Practice means work done under the Water Well Standards and Contractors' Practice Act that requires a license. (See 178 NAC 10-003.)

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

Provider means an institution, organization or individual that presents continuing education programs to licensees and requests approval from the Board for the programs.

Pumps and Pumping Equipment means any equipment or materials utilized or intended for use in withdrawing or obtaining ground water including, but not limited to, seals, tanks, fittings, and controls.

Sampling Event means the collection of a single sample or a single set of samples per each site visit from a water well for the purpose of water quality analysis.

Served in the Regular Armed Forces has the same meaning as “military service” in these regulations.

Supervision or its derivatives means the ready availability of a person licensed under the Act for consultation and direction of the activities of any person not licensed who assists in the construction of a water well or the installation of pumps and pumping equipment. Contact with the licensed contractor or supervisor by telecommunication will be sufficient to show ready availability.

Water Sampling Practices means acts by which ground water samples are obtained from a water well or pumping system in which the water well seal is broken. The term generally includes any act which serves to protect the integrity of the water well or the quality of the ground water and may include preparation of the sampling point, use of sampling equipment, and certain aspects of sample collection. Water well monitoring technicians may temporarily employ sampling equipment or pumping equipment in a water well for each and every sampling event after which time the equipment must be removed. Natural resources ground water technicians may temporarily employ sampling equipment. Employment of sampling equipment for longer periods of time or pumping equipment may only be carried out by a licensed pump installation contractor or supervisor and is deemed to be pump installation rather than water sampling practices.

Water Sampling Techniques means the procedure(s) and/or method(s) by which water sampling practices are conducted.

Water Well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground, obtaining hydrogeologic information, or extracting water from or injecting fluid as defined in Neb. Rev. Stat. § 81-1502 into the underground water reservoir. Water well does not include any excavation made for obtaining or prospecting for oil or natural gas, or for inserting media to repressure oil or natural gas bearing formations regulated by the Nebraska Oil and Gas Conservation Commission.

Well Repairs means any change, replacement, or other alteration of any water well, pump or pumping equipment or any other activity which requires a breaking or opening of the well seal.

Well Seal means an arrangement or device used to cap a water well or to establish and maintain a junction between the casing or curbing of a water well and the piping or equipment installed therein, the purpose or function of which is to prevent pollutants from entering the water well.

### 10-003 TYPES OF LICENSES/WHEN REQUIRED

10-003.01 A water well must be constructed, pumps and pumping equipment must be installed and repaired onsite, and water wells must be decommissioned in accordance with Title 178 NAC 10 and 12.

10-003.02 A water well may only be opened or the seal may only be broken by:

1. A licensed contractor or supervisor or a person working directly under the supervision of a licensed contractor or supervisor;
2. An individual who owns a water well on land owned by him/her and used by him/her for farming, ranching, or agricultural purposes or as his/her place of abode.
3. A licensed water well monitoring technician or a licensed natural resources ground water technician,
4. A licensed operator of a public water system in the course of his/her employment or someone under his/her supervision, or
5. A state electrical inspector in the course of his/her employment.

10-003.03 A licensed water well contractor may have supervisory authority over all employees.

10-003.04 A licensed water well drilling supervisor shall work under the supervision of a licensed water well contractor and may have supervisory authority over noncredentialed employees.

10-003.05 A licensed pump installation contractor may have supervisory authority over all employees.

10-003.06 A licensed pump installation supervisor shall work under the supervision of a licensed pump installation contractor and may have supervisory authority over noncredentialed employees.

10-003.07 A licensed water well monitoring technician may work independently and shall not have supervisory authority.

10-003.08 A licensed natural resources ground water technician employed by a natural resources district may work independently and shall not have supervisory authority over any credentialed or noncredentialed persons.

10-003.09 An individual who owns land and uses it for farming, ranching, or agricultural purposes or as his/her place of abode may, on such land, construct a water well, install a pump in a well, or decommission a driven sandpoint well.

### 10-004 INITIAL CREDENTIAL

10-004.01 Qualifications: To receive a credential to practice as a licensee under the Act, 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. Examination: Pass the examination(s) for licensure prescribed by the Board unless the person qualifies for a temporary hardship license as provided in 178 NAC 10-005.08;
4. Otherwise comply with the Act and all standards, rules and regulations adopted and promulgated pursuant to the Act; and
5. For water well and/or pump installation contractors, furnish proof to the Department that there is in force a policy of public liability and property damage insurance issued to the applicant in at least the sum of \$100,000.00.

10-004.02 Application: To apply for a credential to practice as a licensee under the Act, an 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: An individual may apply for 1 or more licenses under a single application. The Department issues licenses to individuals for any category or combination of categories for which they have passed any required examination(s) and otherwise meet the requirements of the Act and 178 NAC 10.
  - 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;
    - b. Practice Before Application: The applicant must state:
      - (1) That s/he has not practiced as a licensee under the Act in Nebraska before submitting the application; or
      - (2) If s/he has practiced as a licensee under the Act 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. The type of license desired;
    - d. The name, address and telephone number of the business with which the applicant is/will be engaged;
    - e. All addresses and phone numbers of each business location;
    - f. The nature of the business;
    - g. The person's affiliation with the business;
    - h. The name of all partners in a partnership and the business address and telephone number of each partner;
    - i. If a corporation, the officers and directors of that corporation and the address and telephone number for each office of that corporation within the state.
    - j. If applying for licensure as a water well and/or pump installation contractor, proof of public liability and property damage insurance in the amount of at least \$100,000 from the insurance company(ies);
    - k. If the applicant is licensed/certified in any other state or jurisdiction, and whether or not disciplinary action has been taken against the license/certificate;
    - l. Which exam(s) s/he needs to take: the Nebraska exam, the water well monitoring technician exam, the natural resources ground water technician exam, the pump installation exam, and/or the general drilling exam.
    - m. Persons requesting a hardship exemption for licensure must indicate the reasons for the request;
    - n. Persons requesting special arrangements for administering the exam must list the reasons for the request and the special arrangements sought, and
    - o. 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 178 NAC 10-009. or if an act(s) was committed, provide an explanation of all such acts; 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 Board/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;
- (15) A request for special accommodations, if special testing accommodations are needed by the applicant;
- (16) Any other documentation as requested by the Board/Department; and

3. Fee: The applicant must submit the required license fee (See 178 NAC 11) along with the application and all required documentation.

10-004.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

10-004.04 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 178 NAC 10-009, 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.

10-004.05 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.

10-004.06 Practice Prior to Credential: An individual who practices as a licensee under the Act prior to issuance of a credential is subject to assessment of an administrative penalty under 178 NAC 10-012 or such other action as provided in the statutes and regulations governing the credential.

10-004.07 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.

10-004.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

10-004.09 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.

## 10-005 EXAMINATION OF APPLICANTS FOR LICENSURE

10-005.01 Type and Categories: The examination for licenses is designed in accordance with Neb. Rev. Stat. § 46-1223. Applicants for licensure as a water well monitoring technician must successfully complete the examination sections described in 178 NAC 10-005.01 items 1 and 2. Applicants for licensure as a water well contractor, water well drilling supervisor, pump installation contractor, or pump installation supervisor must successfully complete the applicable examination sections described in 178 NAC 10-005.01 items 1 and 3. Applicants for licensure as a natural resources ground water technician must successfully complete the examination section described in 178 NAC 10-005.01 item 4. All examinations are written unless special hardship provisions apply, and consist of the following:

1. Section I, the "Nebraska Section", which examines the applicant's knowledge of Nebraska minimum standards for water wells and water well pumps and pumping equipment, the geological characteristics of the State of Nebraska, and the Act, rules and regulations adopted pursuant to the Act and other laws and regulations as may apply to groundwater and the water well industry.
2. Section II, the water well monitoring category, which examines the applicant's knowledge in water sampling practices and techniques and measuring groundwater levels.
3. Section III
  - a. For applicants for licensure as a water well contractor or as a water well drilling supervisor, the special knowledge category consists of current drilling practices and techniques in general drilling and/or environmental drilling.
  - b. For applicants for licensure as a pump installation contractor or supervisor, the special knowledge category consists of current pump installation practices and techniques.
4. Section IV, the natural resources ground water technician category which examines the applicant's knowledge concerning the inspection of chemigation systems, measuring and recording static water levels, inspecting and servicing flow meters, and taking water samples.

10-005.02 Examination Contents: The Department with the approval of the Board may contract with examination development consultants, water well technical experts or other technical experts as deemed necessary to prepare the examinations and may assign a member or members of the Board to work with the consultants and technical experts to assure that the

requirements of this rule and regulation are complied with. All persons holding a license under the Act, or any other persons involved in developing an exam are not allowed to take the exam for a period of 3 years after completion of the exam.

10-005.03 Passing Scores: All applicants taking the examination must achieve a score of at least 70% on each required examination section(s) to successfully complete the examination requirements for licensure under the Act. When an applicant satisfactorily passes an examination section as herein required, the applicant need retake only those section(s) which have not yet been passed.

10-005.04 Board Representation at Examinations: The Board must be represented at all examinations by 1 or more members of the Board or a Board approved proctor who will observe details of the examination and report to the Board.

10-005.05 Review Materials: The Board must, to the extent possible, provide to each applicant for licensure a list of published or unpublished materials and the source of each which may be useful as teaching or review materials in preparation for the examination. The list must specify that materials listed thereon may not necessarily cover all matters tested.

10-005.06 When Required: Examination is required for licensure under the Act for:

1. All applicants for initial regular licensure; and
2. All applicants for reinstatement of licenses
  - a. Whose license has been expired or on inactive status for a period of two or more years, or
  - b. Who have not met the requirements for continuing competency each renewal period, or
  - c. Who have been required to retake the examination as a condition of discipline.

10-005.07 Special Arrangements

1. Administering Examination - Hardship Exceptions: In case of hardship, and with good and sufficient cause shown, the Board may provide for special arrangements for administering the examination which to the extent possible will accommodate the hardship without compromising the examination purposes. Hardships may include but not be limited to reading difficulties, physical skills limitations or absence from the state during regular examination dates. Accommodations may include special proctors or readers, oral examination, dictation of answers or non-resident proctor.
2. Hardship Application: Any individual who believes s/he may have good and sufficient cause to request a hardship exemption may request the Board to review his/her petition for hardship ruling by submitting a written request which includes:
  - a. A completed application for license;
  - b. A written description of the hardship;
  - c. A suggestion of the accommodation requested.

3. Recommendation to Department: The Board reviews each hardship request submitted and approves or denies it. If the Board approves the request, it notifies and directs the Department to make the accommodation.

10-005.08 When Not Required: Upon a finding by the Board that a current licensed contractor has died and that business cannot function unless the applicant is issued a temporary contractor's license or upon a finding by the Board of other good cause and a recommendation by the Board that a temporary license should be issued without examination, the Department will issue a temporary license to the applicant who meets all other qualifications for the requested license.

10-005.08A Hardship Licensing: The Board may upon application recommend that the Department grant a temporary hardship license without examination provided all other requirements are fulfilled by the applicant when the current licensed contractor has died or for other good documented cause.

10-005.08B Application: Any individual who believes s/he may have good and sufficient cause to request a temporary hardship license may request the Board to review his/her petition for a ruling by submitting a written request which includes:

1. A completed application for a license;
2. A written description of the hardship.

10-005.08C Recommendation to Department: The Board must review each such request submitted and must recommend approval or denial of the request to the Department to issue the temporary hardship license.

10-005.09 Eligibility for Examination: In order to be eligible to take the examination for licensure under the Act, an applicant must meet all qualifications necessary for the issuance of the appropriate license other than examination. Applicants for the examination required for reinstatement must meet all requirements for reinstatement of the license other than examination.

10-005.10 Time and Place of Examination: The Department will hold examinations for licensure at least 4 times each year, with no less than 1 examination during each calendar quarter, in Lincoln, Nebraska, at the test sites the Department, with the advice of the Board, may determine.

10-005.10A If a regularly scheduled examination is canceled due to inclement weather or other cause, a new examination date will be scheduled and notice given to all eligible candidates.

10-005.10B Special arrangements for administering examinations may be made by the Department upon recommendation by the Board in cases of hardship determined by the Board.

10-005.11 Notice to Examinees: Applicants eligible for examination will be provided with:

1. Notice of the date, time and place of the examination;

2. An admission card or receipt and information on the requirements for admission to the examination site;
3. Information on equipment or materials needed for the examination, if any;
4. Information on the general format of the examination and tentative schedule of examination periods;
5. At the request of the applicant, copies of Department regulations pertinent to the examination and Nebraska law covered in the examinations; and
6. Other information pertinent to the conduct of the examination as the Board and Department may determine.

10-005.12 Administration: Examinations may be administered by representatives of the Department, Board members or their designated representatives, or a combination of the same. The identity of examinees must not be disclosed on the examination papers in such a way as to enable the examiner to know by whom it was written.

10-005.13 Examination Security: Subject to the provisions of 178 NAC 10-005.14 and 10-005.15, no applicant, license holder, or persons other than Department staff, Board members, or legal representatives or test experts consulting with the Department or Board, will be provided with advance copies of or access to examination questions, answers, or answer keys, with copies of past or proposed questions, answers or answer keys, or any information disclosing the content of or compromising the integrity of any examinations or portions of examinations under development, in use, or proposed to be used.

10-005.13A All examination materials must be kept under lock and key when not under review by Department staff, Board members, or Department legal counsel, or test consultants to the Department and Board, in use during an examination, or under review by an examinee or his/her legal representative in accordance with 178 NAC 10-005.15, item 8.

10-005.13B The Department must maintain a log of persons provided access to examination questions, answers, or other examination materials in a form as agreed between the Department and Board.

10-005.13C Any applicant or license holder who subverts an examination may be subject to discipline under 178 NAC 10-009.

10-005.14 Security Procedures During Examination: Security procedures during the examination include but are not limited to:

1. Admission Identification: All examinees are required to show at least one piece of picture identification and an admissions card provided by the Department.
2. Late Admissions: No late admissions to the examination room are allowed. Any time following commencement of verbal instructions by the proctor is considered late.

3. Distribution of Materials: Examination books, sheets and/or answer sheets will be handed individually and directly to each examinee. Each examinee will receive only one examination book, sheet, and/or answer sheet.
4. Examinations Instructions: The chief proctor will read verbatim the instructions for the examination and will not repeat them.
5. Answering Questions: The proctors will not answer any questions concerning content during the examination. If an examinee thinks a test item is misprinted or incorrect, the examinee will be told to answer the question as it reads. The examinee will be assured that a report of this concern will be made before the examinations are scored.
6. Leaving the Examination Room: Examinees may be permitted to go to the restroom unescorted one at a time. The proctor must hold the examinee's test book, sheet, and/or answer sheet during this absence. No additional testing time is allowed.
7. Leaving the Examination Permanently: If an examinee must leave the examination because of an emergency or illness, the examinee's test book, sheet, and/or answer sheet will be collected. If an examinee finishes the examination early s/he may leave the examination room after all materials are collected; however, to ensure proper security of test materials, no examinee may leave the room during the last 10 minutes of the testing time.
8. Permitted Materials: Examinees must have nothing on their work surface or area except the test book, sheet, and/or answer sheet, identification/admission card, and any materials or equipment needed to respond to exam questions.
9. Taking the Examination: No examinee may work ahead or behind when the examination requires all examinees to work simultaneously on one section or part of the examination. Examinees must stop writing at the end of the session. No extra time will be allowed.
10. Notes: No examinee may write notes concerning the examination nor may examinees remove pages from the test or leave the examination room with any materials held during the examination.
11. Communications: Examinees must not communicate with anyone other than the proctor in any way after the examination questions have been distributed. No electronic communication devices are allowed.
12. 10-Minute Warning: A warning will be given when there are 10 minutes left in the examining session.
13. Observers: No persons are allowed in the examination room other than the examinees, Board members, Department staff, designated proctors, or their representatives administering the examination.



14. Proctors: If more than one proctor is necessary for test administration, 1 proctor will be designated as chief proctor. The chief proctor has the authority and responsibility to assure that the examination is conducted under the conditions and procedures required by 178 NAC 10 with the assistance of the other proctors.
15. Disruptive Behavior: An examinee who exhibits behavior that disrupts or interferes with the testing conditions for other examinees and who fails to cease the behavior will be removed from the examination room after failure to comply with 1 warning.
16. Irregular Behavior: An examinee who is suspected of giving, copying, or otherwise receiving unauthorized information about the contents of the examination will be immediately removed from the examination room and have his/her application for licensure returned as unaccepted.

10-005.15 Access to Examinations: All persons who take and fail examinations required under the Act and Department and Board regulations may review their own answers subject to the following conditions:

1. Review may take place only after results of the examination have been issued by the Department.
2. Photographic identification is required.
3. Review must take place in the offices of the Department during regular business hours.
4. Review may take place only in the presence of a representative of the Department. A representative of the Board may also be present.
5. The answer sheet may not be taken from the site designated for review.
6. Answers may not be copied from the answer forms. Notes may be made but must be limited to the question number and any objections, challenges or questions concerning examination questions and answers. The Department will review notes and may confiscate them if, in the opinion of the representative, the notes are likely to compromise the integrity of the examination.
7. No questions may be asked of or answered by the Department or Board representative during review concerning the examination or answers. Questions, objections, or challenges may be submitted to the Board in writing for its consideration.
8. The examinee may have legal counsel present during review or authorize, in writing, legal counsel to review the examination and answer sheet in his/her absence. Review by counsel is subject to the same conditions and terms as those for the examinee.

10-005.16 Discovery on Examinations During Appeals: Unsuccessful examinees in the process of administrative appeal of the denial of a license for failure of the required

examination may review their own answer sheets as set forth in 178 NAC 10-005.15 and the questions and model answers marked wrong or not given full credit on their answer sheets. No copies of examination materials are provided except upon order of the Director or a court of competent jurisdiction. If the number of wrong answers is so great that release of copies of the records will jeopardize the security of the examination, or if access to and/or copies of the questions is sought, the Director or a court of competent jurisdiction, on motion, may order disclosure of such records as are relevant under such conditions as are warranted in the circumstances. Conditions on records found by the Director to be subject to disclosure may include, but are not limited to:

1. Restrictions on who may possess the copies;
2. Restriction on the number of copies thereto which may be made;
3. Restriction on distribution of any copies provided;
4. Restriction of the persons who may review the material or copies thereof, including limitations on the examinee;
5. Procedures for maintaining security of the copies and for documenting or logging access provided;
6. Security of the examination during hearing and further appeal; and/or
7. Other measures as may be deemed necessary to ensure that security is maintained.

10-005.17 Access to Other Examination Materials: Any person may have access to public records concerning examinations and their development, or statistical information available, if any, relating to examination results.

10-005.18 Failure of Examination: Failure of an examination required for licensure or reinstatement of a license results in denial of the application for the license or its reinstatement.

10-005.19 Retakes of Examinations: An examinee who fails to pass an examination may, upon reapplication for licensure or for reinstatement retake the examination at any regularly scheduled examination.

10-006 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential under the Act must on or before the date of expiration of the credential, complete at least 12 hours of continuing education related to the discipline for which his/her license was issued unless the continuing education requirements are waived in accordance with 178 NAC 10-008.03 or 10-008.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

10-006.01 General Requirements:

10-006.01A Each individual licensed under the Act may, following his/her completion of each continuing education program, submit to the Board an affidavit evidencing his/her

completion of the program or may in the alternative make one or more affidavit submissions to the Board of evidence of all programs completed during the applicable period on or before December 31 of each even-numbered year after the initial renewal.

10-006.01B Licensees must submit one or more notarized affidavit(s) showing evidence of completion of the programs. The affidavit(s) must include the name, address, telephone number, and license number of the individual; the program name and provider; the program location; the program dates; and the number of continuing education hours that were earned at each program. The licensee must submit a copy of all certificates or other evidence of completion provided by the program sponsor for each program included on the affidavit.

10-006.01C Whenever licensees serve as presenters in a program, they may receive credit only for their initial presentation during a single renewal period, regardless of the number of times a program is presented.

10-006.02 Responsibilities: The licensee is responsible for:

1. Maintaining documentation of attendance at continuing education programs; and
2. Verifying with the Board that the continuing education program is approved by the Board in accordance with 178 NAC 10-007.

10-006.03 Application for Waiver: In order to apply for a waiver of continuing education requirements for circumstances other than initial renewal and military service, the licensee must submit on or before December 31 of the applicable renewal period a written request for a waiver addressed to the Department which includes:

1. The applicant's license number;
2. The number of continuing education hours for which waiver is sought;
3. A narrative explaining what circumstances beyond the applicant's control prevented completion of all or part of the continuing education requirements, including, but not limited to, pertinent dates and identification of persons by name, address, and telephone number, who have direct knowledge of the grounds claimed for waiver; and
4. Documentation of the circumstances which prevented the licensee from fulfilling the continuing education requirement. Documentation may include, but is not limited to, things such as letters from treating physician(s) stating that the licensee suffered a serious illness or physical disability, duration of the illness and recovery period and the inability of the licensee to complete the continuing education hours.

10-007 APPROVAL OF CONTINUING EDUCATION PROGRAMS: The Board will evaluate applications from licensees or providers for approval of continuing education programs. The Board will grant approval for a specific number of hours of continuing education and will indicate to which occupational activities the program applies.

10-007.01 General Requirements for Approval: To be approved for hours of continuing education all continuing education programs must meet the following general requirements:

1. Content must relate directly to ground water or the water well industry and must include but is not limited to, water well and water well pump standards, geologic characteristics of the State, state groundwater laws and regulations, water well construction and pump installation practices and techniques; water well monitoring; inspection of chemigation devices; and inspection or repair of flow meters;
2. Presenters of programs must be qualified by education, experience or training; and
3. The program provider agrees to provide each attendee a certificate of attendance and to submit a complete attendance record to the Board no later than 30 days after the occurrence of each program provided and must include the following information and assurances:
  - a. The name and address of licensed individuals in attendance,
  - b. Program title,
  - c. Program date(s), and
  - d. Number of hours each individual was in attendance.

10-007.02 Application: To obtain approval of a continuing education program, a provider or a licensee must submit a written application, which must include the following information:

1. The applicant's name, address and telephone number;
2. The name, address, and telephone number of the provider;
3. The name, location and date(s) of the program;
4. A description in detail of program content;
5. A description of program objectives;
6. A description of the qualifications of each presenter;
7. The number of hours of continuing education credit for which approval is requested;
8. In the case of application by a provider, a description of the process the provider uses to verify attendance; a sample of the document required in 178 NAC 10-007.01 item 3 which the provider must issue to attendees; and, the means by which and the time the provider intends to maintain records of attendance.
9. In the case of application by a licensee a copy of any written evidence or certification of attendance of the program from the provider showing attendance and completion of the program and properly executed affidavit of completion of continuing education programs as required in 178 NAC 10-006.01B.

0-007.03 Additional Information: An applicant may submit additional documents or information as the applicant may consider relevant to the application and compliance with the provisions of these regulations.

10-007.04 Applications for CEUs: The Board will consider only applications which are complete. In the event that the Board determines an application is incomplete, the Department

will notify the applicant of the information necessary to complete the application. The Board may accept alternative sources of evidence from that required under 178 NAC 10-007.

10-007.05 Continuing Approval: Once the Board has approved an application for any continuing education program, reapproval is not required for each occasion on which the program is presented provided the program is not changed, or program requirements are not changed by law or regulation. If the program, or any portion of a program is changed, or requirements are changed by statute or regulations, reapplication must be made. The program provider must notify the Department in writing each time an approved continuing education program is presented. The notification must include the date, number of hours presented, and a statement that the program presented was not changed from the program approved previously by the Department.

10-007.06 Advertisement of Approvals: After the Board has granted its written approval of an application, the provider is entitled to state upon its publications: "This program is approved for \_\_\_\_\_ (number of credit hours approved) hours of continuing education credit (on water well construction licenses, pump installation licenses, water well monitoring technician licenses, or natural resources ground water technician licenses) (or any combination) under the Nebraska Water Well Standards and Contractors' Practice Act".

10-007.07 Prior Approval: The Board must receive an application that contains all the required information at least 65 days prior to the date on which the program is to be presented in order for the Board to issue prior approval. Board action on applications received less than 65 days prior to the date on which the program is to be presented may be deferred until the next regularly scheduled Board meeting.

10-007.08 Post-Program Approval: Applications for approval of a continuing education program made after the program has occurred must be submitted to the Board within 1 year from the date the program was presented.

10-007.09 Provider Record Keeping: In order for the Board to approve a continuing education program, the provider must maintain the records of all certificates of completion issued for the most recent 3 years. The records must identify the following:

1. Full name of each recipient;
2. License number;
3. Program title;
4. Date(s) of program;
5. Program description; and
6. Number of hours of continuing education credit earned.

10-007.10 List of Approved Continuing Education Activities: The Board must provide, upon request, a list of all approved continuing education activities currently available to the public. The list must include but need not be limited to information on the location where the activity is to be held, the number of credit hours assigned, and program description.

10-007.11 Approved Continuing Education Activity - Loss of Approval

10-007.11A The Board may withdraw or suspend approval of a program if the Board determines that:

1. The provider changed the program teaching method or program content without notice to the Board and the Board's approval of the program as changed;
2. The provider issued a certificate of completion to an individual who did not attend or complete the approved program in accordance with the provisions under which the program was approved;
3. The provider did not give certificates of completion to all individuals who have satisfactorily completed the approved activity in accordance with the provisions under which the program was approved;
4. The provider does not maintain records for certificates of completion issued; or
5. Fraud or misrepresentation has occurred with the application for program approval, maintenance of records, teaching method, program content, or issuance of certificates for a particular course or program.

10-007.12 Appeal: If the Board proposes to deny, suspend or withdraw approval of a continuing education program, it must send notice and provide opportunity for hearing in accordance with the Administrative Procedure Act and its rules of procedure 184 NAC 1.

10-008 RENEWAL: An individual who wants to renew his/her credential under the Act must request renewal as specified in 178 NAC 10-008.02 and must meet all requirements for continuing competency for each renewal period. All credentials issued by the Department under the Act will expire on December 31 of each even-numbered year.

10-008.01 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.

10-008.02 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 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.
    - (d) Telephone number including area code.
  - 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. Must indicate that s/he:
    - (1) Is of good character;
    - (2) Has met the continuing competency requirements specified in 178 NAC 10-006.01; or has requested a waiver if s/he meets the requirements of 178 NAC 10-008.03 and/or 10-008.04;
    - (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 178 NAC 10-009.01 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; and
  - (6) Any other information as requested by the Board/Department;
3. For licensed contractors, proof of public liability and property damage insurance in the amount of at least \$100,000.00; and
4. The renewal fee according to 178 NAC 11-003.

10-008.03 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 178 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.

#### 10-008.04 Waiver of Continuing Competency Requirements

10-008.04A The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

10-008.04B 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 that the licensee suffered a serious or disabling illness or physical disability which prevented completion of continuing education hours during the 24 months immediately preceding the license renewal date.



10-008.05 Audit: The Board reserves the right to audit for good cause the continuing education filing of any licensee by notifying the licensee and requesting the licensee to produce within 30 days of mailing all documents verifying attendance at approved continuing education programs.

10-008.06 Failure to Document: If a licensee is unable to document any hours of attendance at a continuing education program after audit as provided in these regulations, the Department will not include those hours in the calculation of the total of continuing education credit hours earned by the applicant for renewal of his/her license.

10-008.07 Department Review: The Department will act within 150 days upon all completed applications for renewal.

10-008.07A 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.

10-008.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

10-008.09 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.

10-008.09A 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.

10-008.09B 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.

10-008.09C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice under the Water Well Standards and Contractors' Practice Act terminates.

10-008.09D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 178 NAC 10-012 or such other action as provided in the statutes and regulations governing the credential.

10-008.09E Reinstatement of an Expired Credential: If a credential holder wants to resume practice under the Act after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 178 NAC 10-011.

10-008.10 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.

10-008.10A 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.

10-008.10B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in practice as a licensee under the Act, but may represent him/herself as having an inactive credential.

10-008.10C 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 178 NAC 10-011.

#### 10-009 DISCIPLINARY ACTIONS

10-009.01 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 178 NAC 10-009.05 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 Water Well Standards and Contractors' Practice Act, or the rules and regulations under either of those 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;
23. Unprofessional conduct as defined in 178 NAC 10-009.02;
24. Permitting, aiding, or abetting the practice of the trade or the performance of activities requiring a license by a person not licensed to do so;
25. Conduct or practices detrimental to the health or safety of persons hiring the services of the licensee or of members of the general public;
26. Practice of the trade while the license to do so is suspended or practice of the trade in contravention of any limitation placed upon the license;
27. Failing to file a properly completed notice of abandonment of a water well required by subsection (8) of Neb. Rev. Stat. § 46-602; or
28. Failing to file a water well registration required by subsection (1), (2), (3), (4), or (5) of Neb. Rev. Stat. § 46-602 or failing to file a notice required by subsection (7) of Neb. Rev. Stat. § 46-602.

10-009.02 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;
7. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession; or
8. Failure to comply with any law, ordinance, rule or regulation that pertains to the applicable profession.

#### 10-009.03 Temporary Suspension or Limitation

10-009.03A 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 178 NAC 10-009.01 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.

10-009.03B 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.

10-009.03C A temporary suspension or temporary limitation of a credential under 178 NAC 10-009.03 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.

10-009.04 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.

10-009.05 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.

10-009.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 178 NAC 10-009.05, 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, 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.

10-010 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 the credential holder's signature and date.

10-010.01 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.

10-010.02 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.

10-010.03 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.

10-010.04 A limitation may be placed on the right of the credential holder to practice a profession to the extent, for the time, and under the conditions as imposed by the Director.

10-010.05 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.

10-010.06 Reinstatement following voluntary surrender is set out in 178 NAC 10-011.

10-011 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 renewal. 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.

10-011.01 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; and
    - (5) Telephone number including area code;
  - 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 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;
  - 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 178 NAC 10-006 within the 24 months immediately preceding submission of the application;

- (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 178 NAC 10-009 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.

10-011.01A 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.

10-011.01B 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.

10-011.01C The Department will act within 150 days on all completed applications.

10-011.01D 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.

10-011.02 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 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 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) Proof of restitution to all persons suffering damage or injury as a result of the actions for which the disciplinary measure was imposed; and
    - (7) Telephone number including area code; .
  - 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 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;
  - 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 178 NAC 10-006 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 178 NAC 10-009 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 found in 178 NAC 11.

10-011.02A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

10-011.02B 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; or
5. Take any combination of these actions.

10-011.02C On the basis of the written application, materials submitted by the applicant and the information obtained under 178 NAC 10-011.02B, 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 178 NAC 10-012, in which case a separate notice of opportunity for hearing will be sent to the applicant.

10-011.02D 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.

10-011.02E 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.

10-011.02F 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.

10-011.02G Decision Denial: 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.

10-011.02H 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.

10-011.021 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;
  - 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.

10-012 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession. 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.

10-012.01 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. Water well registration or other government records indicate that the person was engaged in practice; and
6. The person opens a business and announces or advertises that the business is open to provide service.

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

10-012.02 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.

10-012.03 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.

10-013 FEES: Fees referred to in these regulations are set out in 178 NAC 11, unless otherwise specified.

THESE AMENDED RULES AND REGULATIONS replace Title 178 NAC 10, Licensure of Water Well and Pump Installation Contractors and Certification of Water Well Drilling and Pump Installation Supervisors, and Water Well Monitoring and Natural Resources Ground Water Technicians, effective June 13, 2007.

TITLE 178 ENVIRONMENTAL HEALTH

CHAPTER 11 FEES UNDER THE WATER WELL STANDARDS AND CONTRACTORS'  
PRACTICE ACT

11-001 SCOPE AND AUTHORITY: These rules prescribe fees for licensure under the Water Well Standards and Contractors' Practice Act. The authority for these regulations is found in Neb. Rev. Stat. §§ 46-1201 to 46-1241 and the Uniform Credentialing Act.

11-002 DEFINITIONS

Act means the Water Well Standards and Contractors' Practice Act, Neb. Rev. Stat. §§ 46-1201 to 46-1241.

Credential means a license, certificate, or registration.

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

License means an authorization issued by the Department to an individual to engage in a profession which would otherwise be unlawful in this state in the absence of such authorization. In 178 NAC 11 it means those licenses issued under the Act.

Reinstatement means the restoration of a license to active status.

11-003 FEES

11-003.01 Schedule of Fees

1. A fee of \$150 for any regular or temporary hardship, initial or renewed license issued under the Act. These fees include a \$1 fee for the Licensee Assistance Program;
2. A fee for each water well required to be registered by the Department of Natural Resources. The fee for water wells designed and constructed to pump 50 gallons per minute or less and each monitoring and observation

well is \$30. The fee for a water well designed and constructed to pump more than 50 gallons per minute is \$70. For water wells permitted pursuant to the Industrial Ground Water Regulatory Act, the fee is collected for each of the first 10 water wells registered; and for each group of 10 or fewer water wells registered thereafter, the fee is collected as if only 1 water well is being registered. These fees are remitted to the Director of Natural Resources with the registration form required by Neb. Rev. Stat. §46-602 and are described in Neb. Rev. Stat. § 46-606;

3. A fee of \$100 for application for a declaratory order and;
4. A fee of \$100 for application for a variance.

11-003.02 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.

11-003.03 Administrative Fees: These fees are:

1. \$10 for a duplicate original or reissued credential.
2. \$25 for certification of a credential. This includes a certified statement that provides information regarding the basis on which a credential was issued; the date of issuance; and whether disciplinary action has been taken against the credential; and whether a credential is valid at the time the request is made.
3. \$5 for verification of a credential.
4. \$35 reinstatement fee in addition to the renewal fee.
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 178 NAC 11, Fees Under the Water Well Standards and Contractors' Practice Act, effective June 7, 2011.

TITLE 178 WATER WELL STANDARDS

CHAPTER 12 WATER WELL CONSTRUCTION, PUMP INSTALLATION, AND WATER  
WELL DECOMMISSIONING STANDARDS

12-001 SCOPE AND AUTHORITY: These regulations apply to the construction, location, and decommissioning of water wells, the installation of pumps and pumping equipment, the collection of water samples from water wells, and the inspection of installed water well equipment and chemigation regulation devices. The statutory authority is found in Neb. Rev. Stat. §§ 46-1201 to 46-1241, and 46-602. **These are minimum requirements.** Local requirements may be more stringent.

12-001.01 Related Regulations: Persons doing the work referenced above must be aware that other statutes and regulations may apply, including but not limited to:

1. Nebraska Department of Health and Human Services Title 179, Regulations Governing Public Water Systems;
2. Nebraska Department of Natural Resources (NDNR) Chapter 46, Article 6;
3. Nebraska Department of Environmental Quality (NDEQ) Title 122 Rules and Regulations for Underground Injection and Mineral Production Wells;
4. NDEQ Title 135 Rules and Regulations for Mineral Exploration Holes;
5. NDEQ Title 128 Rules and Regulations Governing Hazardous Waste Management in Nebraska;
6. NDEQ Title 130 Rules and Regulations for Livestock Waste Control;
7. Nebraska Natural Resources Districts (NRD) regulations; and
8. State Electrical Code.

12-002 DEFINITIONS

Abandoned Water Well means any water well (1) the use of which has been accomplished or permanently discontinued, (2) which has been decommissioned as described in the rules and regulations of the Department of Health and Human Services, and (3) for which the notice of abandonment required by Neb. Rev. Stat. §46-602(2) has been filed with the Department of Natural Resources by the licensed water well contractor or pump installation contractor who decommissioned the water well or by the water well owner if the owner decommissioned the water well.



Annular Fill means materials placed in the annular space between the surface seal required in NAC 12-003.08C and the primary aquifer seal required in NAC 12-003.08A.

Annular Space means the space between the well casing and the well borehole wall and/or the space between two or more strings of well casing.

Aquifer means a geological formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs.

Aquifer Seal

Primary Aquifer Seal means a non-slurry bentonite or high solids bentonite grout interval placed in the annular space on top of the gravel pack just above the screened openings, and/or beginning at the base of the first layer of silt/clay above the production zone, and/or at or immediately below the static water level, whichever provides the most aquifer protection.

Surface Seal means a grout interval placed in the annular space within the first 15 feet below surface.

Backflow Preventer means an assembly, a device, or a construction practice that prohibits the backflow of water from the distribution piping into the water well. This includes but is not limited to check valves, curb stops, or air gaps.

Bentonite means a highly plastic, colloidal sodium clay composed largely of montmorillonite.

Bentonite Seal means a viscous bentonite based material used as a seal or plug.

Bored or Dug Well means a well consisting of a large diameter borehole, usually two feet or more, lined with concrete, clay tile, brick, or stone.

Casing means a structural retainer which is installed in the borehole to support loose formation, provide a conduit for movement of fluids, and/or house pumping equipment.

Cesspool means an underground catch and discharge basin for household sewage or other liquid waste.

Clay means a fine grained inorganic material (grains less than 0.0005 mm in diameter) which has very low permeability.

Community Water System means a public water system that (a) serves at least 15 service connections used by year-round residents of the area served by the system or (b) regularly serves at least 25 year-round residents. (Neb. Rev. Stat. §71-5301)

Confining Layer means a geologic layer of either unconsolidated or consolidated material having permeability distinctly lower than the adjacent aquifer(s).

Construction of Water Wells means and includes all acts necessary to make a water well usable for the purpose for which it is intended including, without limitation, the siting of and excavation for the water well and its construction, alteration, or repair, but excluding the installation of pumps and pumping equipment.

Contamination means the addition of unwholesome or undesirable parts that render the larger whole physically unclean or impure.

Decommissioned when used in relation to a water well, means the act of filling, sealing, and plugging a water well in accordance with the rules and regulations of the Department.

Department means the Department of Health and Human Services.

Dewatering Well means a water well constructed for the purpose of lowering the ground water surface elevation, either temporarily or permanently.

Discharge Pipe means any and all piping beginning at the discharge head, or pitless unit tapping, extending to the first backflow prevention device.

Distribution Piping means all piping extending beyond the discharge pipe.

Driven Sandpoint Well means a well that is driven, washed or jetted into an aquifer with the sandpoint attached directly to the pump suction line.

Good Cause means a substantial reason consistent with the purposes of the Water Well Standards and Contractors' Practice Act.

Gravel Pack means filter material placed in the annular space around the well screen.

Ground Water means water below the surface of the ground.

Ground Water Heat Pump Well means a well constructed for the purpose of utilizing the geothermal properties of the ground.

1. Open Loop Heat Pump Well means a well that transfers heat via pumped ground water which is discharged above and/or below ground. For below ground discharge refer to NDEQ Title 122.
2. Closed Loop Heat Pump Well means a well constructed for the purpose of installing the underground piping necessary to recirculate heat transfer fluid.
  - a. Horizontal Closed Loop System means a boring, trench, or pit essentially parallel to the horizon and into which a closed loop pipe is placed for the purpose of utilizing the geothermal properties of the ground.

- b. Vertical Closed Loop System means a borehole essentially perpendicular to the horizon into which a closed loop pipe is placed and includes the horizontal closed loop header piping for the purpose of utilizing the geothermal properties of the ground.

Grout means materials composed of bentonite clays and/or portland cements, and if needed, other additives that when combined form a low permeability seal not greater than  $1 \times 10^{-7}$  cm/sec. Grout material is designed to seal the annular space when used for well construction and the well cavity when used for decommissioning.

Illegal Water Well means any water well which has not been properly decommissioned and which meets any of the following conditions:

1. The water well is in such a condition that it cannot be placed in active or inactive status;
2. Any necessary operating equipment has been removed and the well has not been placed in inactive status;
3. The water well is in such a state of disrepair that continued use for the purpose for which it was constructed is impractical;
4. The water well was constructed after October 1, 1986, but not constructed by a licensed water well contractor or by an individual on land owned by him/her and used by him/her for farming, ranching, or agricultural purposes or as his/her place of abode;
5. The water well poses a health or safety hazard;
6. The water well is an illegal water well in accordance with Neb. Rev. Stat. § 46-706; or
7. The water well has been constructed after October 1, 1986, and such well is not in compliance with the standards developed under the Water Well Standards and Contractors' Practice Act.

Inactive Status Water Well means a water well that is in a good state of repair and for which the owner has provided evidence of intent for future use by maintaining the water well in a manner which meets the following requirements:

1. The water well does not allow impairment of the water quality in the water well or of the ground water encountered by the water well;
2. The top of the water well or water well casing has a watertight welded or threaded cover or some other watertight means to prevent its removal without the use of equipment or tools to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes or contaminants into the water well;
3. All entrances and discharge piping to the water well are effectively sealed to prevent the entrance of contaminants; and
4. The water well is marked so as to be easily visible and located and is labeled or otherwise marked so as to be easily identified as a water well and the area surrounding the water well is kept clear of brush, debris, and waste material.

Injection Well means a well into which fluids are injected (regulated under NDEQ Title 122).

Installation of Pumps and Pumping Equipment means the procedure employed in the placement and preparation for operation of pumps and pumping equipment at the water well location, including connecting all wiring to the first control and all construction or repair involved in making entrance to the water well, which involves the breaking of the well seal.

Monitoring Well means a well constructed for purposes of monitoring water quality and/or quantity.

Non-potable Well means a water well constructed to produce water not intended for human consumption.

Observation Well means a non-potable water well constructed for the purpose of measuring water levels and/or collecting water quality samples that is not located in a zone of contamination.

Open Hole Well means a water well that results from the drilling of a hole into certain rock formations and often finished with no casing or screen adjacent to the water-yielding portion of the rock.

Person means any: Individual; partnership; limited liability company; association, public or private corporation; trustee; receiver; assignee; agent; municipality or other governmental subdivision, public agency; other legal entity; or any officer or governing or managing body of any public or private corporation, municipality, governmental subdivision, public agency, or other legal entity.

Pitless Unit means an underground discharge assembly for a water well which attaches directly to the casing and provides watertight subsurface connections for suction lines or pump discharge without the use of a well pit and includes the underground distributor and the steel extension to the ground surface.

Pollution means an impairment of water quality to a degree that restricts the intended use of ground water.

Potable Well means a water well constructed to produce water for human consumption.

Primary Aquifer Seal means a non-slurry bentonite or high solids bentonite slurry grout interval placed in the annular space on top of the gravel pack just above the screened openings, and/or beginning at the base of the first layer of silt/clay above the production zone, and/or at or immediately below the static water level, whichever provides the most aquifer protection.

Public Water System means a system for providing the public with water for human consumption through pipes or, after August 5, 1998, 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 (a) any collection,

treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system and (b) 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, or 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 subdivision (ii) or (iii) of this subdivision. (Neb. Rev. Stat. §71-5301.)

(Licensed) Pump Installation Contractor means an individual who has obtained a license from the Department and who is the principal officer, director, manager, or owner/operator of any business engaged in the installation of pumps and pumping equipment or the decommissioning of water wells.

(Licensed) Pump Installation Supervisor means an individual who has obtained a license from the Department and who is engaged in the installation of pumps and pumping equipment or the decommissioning of water wells. Such supervisor may have discretionary and supervisory authority over other employees of a pump installation contractor.

Pumps and Pumping Equipment means any equipment or materials utilized or intended for use in withdrawing or obtaining ground water including, but not limited to seals, tanks, fittings, and controls.

Recovery Well means a water well constructed for the purpose of, or in conjunction with, the removal of contamination from an aquifer or aquifers.

Sanitary Well Seal means a device used to cap a water well or to establish and maintain a junction between the casing or curbing of a water well and the piping or equipment installed therein, the purpose or function of which is to prevent pollutants from entering the water well.

Screen Apertures means a series of openings in a water well casing, made either before or after installation of the casing, to permit the entrance of water into the well.

Screened Vent means an inverted, U-shaped tube, or the equivalent, the open end of which is covered with a wire mesh, that is inserted into the top of a well to equalize the air pressure inside the well with that of the atmosphere.

Secure Cover or Cap means an object placed over a borehole or water well, the purpose of which is to prevent the degradation of ground water quality and/or personal injury.

Seepage Pit means a cavity into which sewage discharges and from which the discharge seeps into the surrounding soil.

Septic Tank means a covered, watertight receptacle for receiving sewage and liquid waste, for separating solids and liquids, for disintegrating organic material by bacterial action, and for discharging clarified liquid for final disposal.

Soil Absorption System (Septic Lateral Field) means a drain field, leaching area, or seepage bed including the effluent application/distribution system intended for the treatment of wastewater or disposal of effluent. The absorption system includes the infiltrative surface in the absorption trench and the soil between and around the trenches.

Static Water Level means the distance from the ground surface to the water level in a well when the well is not being pumped.

Substantially Equivalent means any procedure or material to be used for water well construction, pump installation, or water well decommissioning which provides equal protection to ground water resources from potential pollution and protects public health equivalent to the procedures or materials prescribed in 178 NAC 12.

Subsurface Disposal System means any system that utilizes the soil for subsequent absorption of treated sewage; such as a lateral field, absorption trench, seepage bed, or seepage pit.

Supervision or its derivatives means the ready availability of an individual licensed as a contractor or supervisor under the Water Well Standards and Contractors' Practice Act for consultation and direction of the activities of any individual not licensed who assists in the construction of a water well, the installation of pumps and pumping equipment, or decommissioning of a water well. Contact with the licensed contractor or supervisor by telecommunication is sufficient to show ready availability.

Surface Seal means a grout interval placed in the annular space within the first 15 feet below surface.

Test Hole means a hole or excavation designed to obtain information on hydrogeologic conditions.

Tremie Pipe means a pipe or hose that carries grout or gravel pack to the placement depth.

Watertight Casing means a watertight pipe that is of sufficient wall thickness to permit threading, gluing, or welding; is capable of withstanding the pressures exerted during installation and

forces imposed by the surrounding materials; and will resist corrosion by soil and water environments.

Watertight Secure Cover means a welded, solvent welded, threaded, or bolted watertight cover for a water well that is secured in such a way so as to prevent its removal without the use of tools.

Water Well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground, obtaining hydrogeologic information, or extracting water from or injecting fluid as defined in Neb. Rev. Stat. §81-1502 into the underground water reservoir. Water well does not include any excavation described in Neb. Rev. Stat. §46-601.01 (1) (b) and (1) (c).

(Licensed) Water Well Contractor means any individual who has obtained a license from the Department and who is the principal officer, director, manager, or owner-operator of any business engaged in the construction or decommissioning of water wells.

(Licensed) Water Well Drilling Supervisor means any individual who has obtained a license from the Department and who is engaged in the construction or decommissioning of water wells. Such supervisor may have discretionary and supervisory authority over other employees of a water well contractor.

Well Development means the act of repairing alterations to the formation during construction of the well and enhancing the porosity and permeability of materials surrounding the intake portion of the well. The development process is the application of mechanical devices and/or the use of chemicals to remove drilling fluids and debris left in the filter pack and formation as a result of the drilling process.

Well Pit means a structure that is set at or below grade and houses a pump and/or pumping equipment and is large enough to allow an individual to fully enter the structure to work on such equipment and is not water tight.

Well Screen means the section of the well that allows water to pass from an aquifer into the well or from the well into an aquifer.

12-003 GENERAL REQUIREMENTS: These requirements apply to all water wells constructed under Title 178 NAC 12, except as modified in 178 NAC 12-004 through 12-014.

12-003.01 Protection and Location:

12-003.01A A well must not be located in a well pit.

12-003.01B Protection: All water wells must be protected from surface drainage, flooding and seepage from sources of contamination and pollution by:

1. Locating the well site to promote drainage away from the well, and

2. Terminating the top of the well and vent above the 100 year flood plain, or
3. Locating on a berm and/or within a dike to protect the well from a 100 year flood, or
4. Plugging the vent and seal at the top of the well if yield is less than 50 GPM.

12-003.01C Separation distances must at a minimum comply with the distances listed in Chart 1 (or Chart 2 if the requirements in 178 NAC 12-003.01C item 2 are met). Be aware that other state, NRD, and local statutes and regulations may have more restrictive requirements. If locations are found to not comply with more stringent standards of other state or local regulations that apply, the Department may notify the appropriate authority.

1. All water wells except those covered in 178 NAC 12-007 must meet the minimum separation distances in accordance with Chart 1 below.

**Chart 1**

<b>Minimum Distance in Feet</b>	<b>From</b>
1,000	Any Title 179 community water supply wells under different ownership
1,000	Any industrial wells under different ownership
600	Any irrigation wells under different ownership
100	Any waste water lagoon
100	Any privy, cesspool, subsurface disposal system
100	Any septic lateral field (soil absorption system)
100	Any animal waste containment structure
100	Any holding pens of animals
100	Any other known sources of contamination or pollution
50	Any sewer line
50	Any septic tank
10	Any depression that could retain stagnant water
10	Any storm water way
10	Any frost proof hydrant
10	Any well pit



2. A well driller may locate a well as indicated in Chart 2 below only if:
  - a. Compliance with the separation distances established in Chart 1 cannot be met; and
  - b. The well driller notifies the Department in writing of his/her intent and receives Department written approval prior to construction; and
  - c. The water well is grouted the full length of the annular space from immediately above the gravel pack above the screened openings to the surface with chip bentonite; and
  - d. The subsurface geology includes sufficient silts and/or clays that will provide a protective seal to the groundwater when combined with chip bentonite.

**Chart 2**

<b>These Separation Distances Require Prior Written Approval from the Department</b>	
<b>Distance in Feet</b>	<b>From</b>
50-100	Any waste water lagoon
50-100	Any privy, cesspool and subsurface disposal system
50-100	Any septic lateral field (soil absorption system)
50-100	Any animal waste containment structure
50-100	Any holding pens of animals
50-100	Any other known sources of contamination or pollution
25-50	Any sewer line
25-50	Any septic tank
5-10	Any depression that could retain stagnant water
5-10	Any storm water way
5-10	Any frost proof hydrant

3. If a person wants to locate a well closer than the listed separation distances in Chart 2, a declaratory order request may be submitted to the Department so the Department can determine if the proposal is substantially equivalent to the regulations.

12-003.02 Sanitation: All water wells must be constructed to prevent the introduction of biological, chemical or radiological substances which may degrade the ground water.

12-003.02A Drilling Equipment: The water well contractor must use precautions to ensure that all down hole equipment used in the construction of water wells is free of contaminated or polluted materials.

12-003.02B Secure Cover: All water wells must be protected with a secure cover or cap. All inactive water wells must be capped with a watertight secure cover. When the pump is in place, it must be made secure and watertight in accordance with 12-011.03D.

### 12-003.03 Well Screens

12-003.03A Materials: Well screens must be constructed of durable non-toxic materials of sufficient strength to withstand the pressure to which they may be subjected. They must also be resistant to any corrosion which may result from the characteristics of the water and aquifer materials in which they are placed.

12-003.03B Screen Apertures: Screen apertures must be formed by the continuous slot method, louver, punched casing, molded or mill slotted. Torch slotted casing must not be used. The method of construction must allow for control of aperture width. In general, the aperture width should retain a minimum of 85% of the gravel pack, if used, or a minimum of 50% of the aquifer material if gravel pack is not used.

12-003.04 Well Casing: All wells other than test holes and closed loop heat pump wells must be cased. Well casing must be composed of nontoxic durable material compatible with the water quality encountered.

12-003.04A Casing Wall Thickness: The wall thickness of water well casing must be sufficient to withstand the pressures exerted by the surrounding materials, forces imposed on it during installation, and corrosion by soil and water environments.

12-003.04B Casing Placement: The casing must be centered in the borehole in areas of grout so there is a minimum 2-inch uniform annular space.

12-003.04C Watertight Casing must be constructed of steel, PVC, fiberglass, or teflon and must be manufactured expressly for water well casing.

### 12-003.05 Gravel Pack

12-003.05A Gravel Pack must consist of clean sand or gravel of selected grain size and gradation.

12-003.05B Gravel Pack, Screen Size, and Gradation must be determined based upon the grain size and gradation of the portion or portions of the aquifer to be screened. Gravel pack must be designed to stabilize the aquifer material and to permit the fine fraction to move into the water well during development. Gravel pack, when used, must extend to a length equal to at least 2.5 times the casing diameter above the screen apertures.

12-003.06 Grout: Cement based grouts must not contain fly ash. The Department has approved the following grout materials:

1. Neat Cement Grout Slurry which must consist of a mixture of portland cement and no more than 5.2 gallons of clean water per bag (1 cubic foot or 94 pounds) of cement. Non-toxic additives may be used to minimize shrinkage and cracking.
2. Sand Cement Grout Slurry which must consist of a mixture of portland cement, sand and water in the proportion of no more than 2 parts by weight of sand to 1 part of cement with no more than 6 gallons of clean water per bag of cement (1 cubic foot or 94 pounds).
3. Non-slurry Bentonite Grout which must consist of chip, chunk or pelletized bentonite varieties that are hydrated to manufacturer's specifications.
4. Cement/Bentonite Grout Slurry which must consist of a mixture of portland cement and bentonite in the following proportion: no more than 6.5 gallons of water and 3 to 5 pounds of bentonite per 94-pound sack of portland cement.
5. High Solids Bentonite Grout Slurry which must consist of an inorganic mixture of:
  - a. Soda ash for pre-treatment of makeup water, and
  - b. Minimum of 20% by weight active solids bentonite-to-water ratio, and
  - c. Fine to medium grade sand added at a minimum ratio of 4:1 sand to bentonite by weight, and if needed
  - d. Additives designed for yield/rate control for bentonite products that form a low permeability seal not greater than  $1 \times 10^{-7}$  cm/sec which resists flow of fluid through the seal, is pumpable, and is mixed to the manufacturer's specifications.
6. Bentonite Grout Slurry which must consist of an inorganic mixture of:
  - a. Soda ash for pretreatment of makeup water, and
  - b. Minimum of 20% solids by weight bentonite that forms a low permeability seal not greater than  $1 \times 10^{-7}$  cm/sec which resists flow of fluid through the seal, is pumpable, and is mixed to the manufacturer's specifications, and if needed
  - c. Additives designed for yield/rate control for bentonite products that form a low permeability seal not greater than  $1 \times 10^{-7}$  cm/sec which resists flow of fluid through the seal, is pumpable, and is mixed to the manufacturer's specifications.

12-003.07 Placement of Grout

12-003.07A Slurry Grout: All grout slurries must be placed by tremie or by pumping. Cement based grout must not be allowed to free-fall more than 10 feet. Cement based grout must be separated from bentonite grouts by a 2-4 foot interval of fine sand.

12-003.07B Non-slurry Grout: Pellet, chip, chunk bentonite or any combination of those materials must be placed, measured frequently, and hydrated, before installing another interval to confirm the grout is placed without bridging and provides a tight homogeneous seal.

12-003.08 Aquifer Protection: All water wells must be filled and sealed in a manner that protects the water bearing formations from contamination from surface runoff and from subsurface contaminants.

12-003.08A Primary Aquifer Seal: All water wells, except (a) bored wells (178 NAC 12-004.04 and 12-005.03), (b) temporary dewatering wells (178 NAC 12-006.02), and (c) wells that require surface casing and additional gravel pack throughout the life of the well (178 NAC 12-005.05) must have a 5 foot primary aquifer seal of non-slurry bentonite or high solids bentonite slurry as defined in 178 NAC 12-003.06 items 3 and 5, respectively. The primary aquifer seal must be placed in the borehole at one or more of the following locations to provide optimal aquifer protection.

1. On top of the gravel pack just above the screened openings (See Figure 1A), and/or
2. Beginning at the base of the first layer of silt/clay above the production zone (See Figure 1B), and/or
3. At/or immediately below the static water level. (See Figure 1C)

12-003.08B Filling the Annular Space: The annular space of all wells except closed loop heat pump wells that are part of a closed loop heat pump system in 178 NAC 12-010.03C must be filled from the top of the primary aquifer seal to the bottom of the surface seal (12-003.08C) with:

1. Non-slurry bentonite grout, or
2. Non-slurry bentonite grout mixed with gravel pack in a 1:1 ratio by weight, or
3. Sand and granular bentonite mixed in a 2:1 sand-to-bentonite ratio by weight, or
4. High solids bentonite slurry as defined in 12-003.06 item 6, or
5. A mixture of bentonite/clay, drilling fluid, and gravel pack, or
6. Cement based grouts.

12-003.08C Surface Seal: The annular space of all wells, except bored wells and temporary dewatering wells, must have at least 5 feet of non-slurry bentonite, high solids bentonite slurry, or sand cement grout placed between 5 and 15 feet below

grade or at the static water level, whichever is less (See Figure 2A). If a pitless unit is used to terminate the top of the well, the surface seal must extend 5 feet down the borehole below the bottom of the pitless adapter (See Figure 2B).

12-003.08D Above Ground Protection: Cased water wells that terminate in a pump house must be protected with a concrete floor measuring a minimum of 4 inches thick by 12 inches beyond the borehole wall and sloping away from the water well. Watertight casing must extend 12 inches above the floor of the pump house.

12-003.08E Surface Completion: The earth surrounding the casing must slope away from the water well and must be firmly tamped to prevent water from seeping down around the casing.

12-003.09 Well Development: All cased water wells must be developed to repair the alterations to the formation during the construction of the well and to enhance the porosity and permeability of materials surrounding the intake portion of the well. The development process is the application of mechanical devices and/or the use of chemicals to remove drilling fluids and debris left in the filter pack and formation as a result of the drilling process.

12-003.10 Test Pumping a Well: Test pumping must be utilized to determine the most efficient production rate for the well. The pumping water level must be recorded during the period of test pumping.

12-003.11 Repairing a Well: Only the portion(s) of a well being repaired must meet the same minimum standards as it would if it were within a new well with regard to design, construction, and material. Bored and dug wells must be repaired so that they meet the standards of a bored well. (See Figure 3.)

12-003.12 Well Logs: Any owner of a water well or any licensed water well contractor who engages in the act of or business of constructing a water well must keep and maintain an accurate well log of the construction of each water well and test hole. A licensed water well contractor must forward a copy of the well log to the owner.

12-003.12A Required Information: The well log must include the following information:

1. Legal description and the GPS coordinates of the location of the water well or test hole;
2. Description and depth of geologic materials encountered;
3. Depth and diameter or dimension of constructed water well and test hole;
4. Diameter and depth or dimension of excavated hole if applicable;
5. Depth and volume of formation stabilizer or gravel pack and size of particles, if used;
6. Depth and thickness (intervals and volume) of grout or other sealing material if applicable;

7. Casing and/or loop pipe information, including length, inside and outside diameter (ID and OD), wall thickness, and type of material if applicable;
8. Screen information, including length, trade name, inside and outside diameter, slot size and type of material if applicable;
9. Static water level;
10. Water level when pumped at the designed rate giving the rate of pumping and amount of time pumped, if applicable;
11. Yield of water well in gallons per minute or gallons per hour if applicable;
12. Signature of water well contractor;
13. Dates drilling commenced and construction completed;
14. Intended use of the water well;
15. Name and address of the landowner;
16. Identification number of any permit for the water well issued pursuant to Neb. Rev. Stat. § 46-601 et seq. or Neb. Rev. Stat. § 66-1101 et seq., and
17. Name, address, and license number of any license issued pursuant to the Water Well Standards and Contractors' Practice Act of any individual, other than the owner of the water well, who constructed the water well.

12-003.12B Availability for Inspection: The well log must be available to the Department for inspection and copying during reasonable hours or the regular business hours of the contractor.

12-003.13 Registration: A licensed water well contractor must register all wells with the Nebraska Department of Natural Resources on forms provided by that Department, except as otherwise provided by Neb. Rev. Stat. § 46-602.

12-004 POTABLE WELL CONSTRUCTION: A water well contractor must verify the purpose of a new well with the owner or the system's engineer. If the well is to serve water to the public, see 178 NAC 12-008.

12-004.01 Construction of Potable Well:

1. A potable water well to be used for human consumption must not be constructed as a driven sandpoint well.
2. It must meet the requirements specified in 178 NAC 12-003.

12-004.02 Casing a Potable Well: A potable water well must be cased with unused watertight casing in the following manner:

12-004.02A The top of the well must extend at least 12 inches above the grade of the land surface. The earth surrounding the well must slope away from the well and must be firmly tamped to prevent water from seeping down the casing.

12-004.02B Non-steel cased wells must be fitted with a watertight connection to .237 inch wall minimum steel casing through the frost zone, unless terminating in a pump house.

12-004.02C Non-steel watertight casing must be manufactured expressly for well casing, and must meet the following specific requirements:

1. Casing strength must be not less than 160 pounds per square inch or Standard Dimension Ratio (SDR) 26.
2. Plastic or other non-steel casing must bear the National Sanitation Foundation (NSF) 61 stamp of approval.

12-004.02D Special Engineered (SE) plastic piping systems must meet the requirements of 178 NAC 12-004.02C item 2.

12-004.02E Packaging of thread compounds, sealants and lubricants must bear the NSF Standard 61 stamp of approval.

#### 12-004.03 Potable Well Shock Decontamination

12-004.03A When a well which will produce water for human consumption is constructed or altered, it must be decontaminated.

12-004.03B The water well contractor/pump installation contractor must supply the landowner with an informational brochure that tells the owner why s/he should test his/her water and what the results mean.

12-004.03AC Shock decontamination must be accomplished by:

1. Using a solution equivalent to 200 parts per million chlorine (See Table 1);
2. Pouring the solution directly into the well; splashing the well pump, piping, casing, and other well equipment as much as possible; agitating the water in the well by surging the pump or by other means to mix the solution with the water or recirculating the water into the well, always washing down the casing or drop pipe;
3. Letting the mixture stand in the well for a minimum of 4 hours;
4. Opening all water taps and pumping the well until evidence of the solution is detected at all taps. The system must be allowed to stand idle for a minimum of 2 additional hours and then the entire system must be flushed to waste.

12-004.04 Bored (Seep or Cistern) Wells must be constructed to the same minimum standards for potable wells with the following exceptions: (See Figure 3)

12-004.04A Casing materials may be concrete, tile, or other material approved in 178 NAC 12-003.04C.

12-004.04B The annular space below the surface seal must be filled with gravel.

12-004.04C Watertight casing and grout must be placed from 10 feet below the surface or the static water level, whichever is less, to the surface or the bottom of the pitless unit. (See Figure 3)

12-004.05 Open Hole Wells must be constructed to the same minimum standards for potable wells and in the following manner. (See Figure 4)

12-004.05A The casing must extend at least 2 feet into the open borehole. A seal must be created between the casing and the lower borehole to ensure that the annular fill material remains in the upper borehole. This can be accomplished by using a collar attached to the casing, a drive shoe, or other sealing device.

12-004.05B A minimum 5 foot primary aquifer seal must be placed in the annular space directly above the collar, drive shoe, or other sealing device.

12-004.05C Open Hole Wells in Multiple Aquifers must be constructed to the same minimum standards for potable wells and must comply with 178 NAC 12-004.05A and 12-004.05B. The screened section must be gravel packed. The gravel pack must extend both above and below the screen for a length equal to 2.5 times the diameter of the well. A 5 foot minimum primary aquifer seal must be placed directly above the gravel pack. (See Figure 5)

## 12-005 NON-POTABLE WELLS

### 12-005.01 Construction of a Non-Potable Well

12-005.01A Driven sandpoint wells are permitted only for temporary use and must be decommissioned within 90 days of installation. They must meet the requirements specified in 178 NAC 12-003.

12-005.01B Observation wells must be located as required in 178 NAC 12-003.01C item 1.

12-005.02 Casing a Non-Potable Well: A non-potable water well must be cased with unused watertight casing in the following manner:



12-005.02A Cased wells with an outside diameter (OD) of 6-5/8 inches or less

12-005.02A1 The top of the well must extend at least 12 inches above the grade of the land surface. The earth surrounding the well must slope away from the well and must be firmly tamped to prevent settling around the casing.

12-005.02A2 Non-steel cased wells must be fitted with a watertight connection to 0.237 inch wall minimum steel casing or fitted inside a metal sleeve secured and cemented in the borehole through the frost zone. The annular space between the metal sleeve and the casing must be a minimum of 2 inches and must be filled with an approved grout (178 NAC 12-003.06) or annular fill (12-003.08B). (See Figures 6 and 7)

12-005.02A3 Above Ground Protection for Observation Wells: Non-steel cased wells completed above ground must be enclosed with a 5-5/8 inch minimum metal casing/sleeve, buried a minimum of 2-1/2 feet below the ground surface, and covered with an overlapping, vandal-resistant secured metal cap.

12-005.02B Cased Wells with an OD Larger than 6-5/8 Inches

12-005.02B1 The casing must extend a minimum of 6 inches above the grade of the land surface. (See Figure 8)

12-005.02B2 The well must have a concrete pad a minimum of 40 inches by 40 inches by 8 inches thick. Prefabricated slabs are acceptable. The concrete must contact the entire circumference of the casing. (See Figure 8)

12-005.02C The earth surrounding the well must slope away from the well and must be firmly tamped to prevent settling around the casing. (See Figure 8)

12-005.02D Watertight steel casing must be a minimum of 0.188 inch wall thickness.

12-005.02E Watertight non-steel casing must be manufactured expressly for well casing and must meet the following specific requirements:

1. Casing strength must not be less than 160 pounds per square inch or Standard Dimension Ratio (SDR) 26 for 8-5/8 inch or less OD casing. Casing strength must not be less than schedule 40 for casing larger than 8-5/8 inches OD; and
2. Non-steel casing must bear the National Sanitation Foundation (NSF) 61 stamp of approval.

12-005.02F Special Engineered (SE) plastic piping systems must meet the requirements of 178 NAC 12-005.02E item 2.

12-005.02G Packaging of thread compounds, sealants, and lubricants must bear the NSF 61 stamp of approval.

12-005.03 Bored (Seep or Cistern) Wells must be constructed to the same minimum standards for non-potable wells with the following exceptions: (See Figure 3.)

12-005.03A Casing may be concrete, tile, or other material approved in 178 NAC 12-003.04C;

12-005.03B The annular space must be filled with gravel;

12-005.03C Watertight casing is required and grout must be placed from 10 feet below the surface or the static water level, whichever is less, to the surface or the bottom of the pitless unit.

12-005.04 Open Hole Wells must be constructed to the same minimum standards for non-potable wells and in the following manner. (See Figure 4.)

12-005.04A The casing must extend at least 2 feet into the open borehole. A seal must be created between the casing and the lower borehole to ensure that the annular fill material remains in the upper borehole. This can be accomplished by using a collar attached to the casing, a drive shoe, or other sealing device.

12-005.04B A minimum 5 foot primary aquifer seal must be placed in the annular space directly above the collar, drive shoe, or other sealing device.

12-005.04C Open Hole Wells in Multiple Aquifers must be constructed to the same minimum standards for non-potable wells and must comply with 178 NAC 12-005.04A and 12-005.04B. The screened section must be gravel packed. The area of gravel pack must extend both above and below the screen for a length equal to 2.5 times the diameter of the well. A minimum 5 foot primary aquifer seal must be placed directly above the gravel pack. (See Figure 5.)

12-005.05 Wells Located in the Arikaree Formation Subject to Subsidence must be constructed to the same minimum standards as non-potable wells with the following exceptions. (See Figure 9)

12-005.05A The borehole for the surface casing must allow for a uniform annular space of 4 inches or larger than the surface casing;

12-005.05B A minimum 6 inch annular space must exist between the surface casing and the well casing to provide for gravel placement.

12-005.05C The metal surface casing must be a minimum of 20 feet in length.

12-005.05D A minimum of 5 feet of concrete must be placed between the borehole wall and the surface casing and allowed to set, encasing the bottom 5 feet of surface casing.

12-005.05E A minimum layer of 5 feet of non-slurry bentonite must be placed between the borehole wall and the surface casing above the concrete, with an additional 5 feet of concrete placed on top of the non-slurry bentonite. The concrete must be set prior to drilling inside the surface casing.

12-005.05F The metal gravel chute must be straight and a minimum of 6-5/8 inches OD. The top of the chute must extend a minimum of 6 inches above the concrete pad and be equipped with a vandal resistant, secure cover or cap. The bottom of the gravel chute must extend from the surface casing a minimum of 2 feet below grade. The gravel chute and the upper 5 feet of surface casing must be encased in concrete.

12-005.05G The concrete pad must extend a minimum of 12 inches beyond the surface casing borehole and be a minimum of 5 feet by 5 feet which surrounds the gravel chute. The thickness must be a minimum of 12 inches above grade and an additional minimum of 12 inches below grade within the boreholes.

## 12-006 DEWATERING WELLS

12-006.01 Permanent Installation: Permanently constructed dewatering wells must be constructed to the same standards as non-potable wells.

12-006.02 Temporary Installations: Temporary installations must be constructed in a manner that prevents the introduction of contaminants into the ground water. They must be decommissioned within 90 days of installation.

12-006.02A Location: Dewatering wells must be located or the site graded so that surface drainage is away from the well.

12-006.02B Sanitation: Temporary dewatering wells must be constructed to prevent the introduction of microbiological, chemical, or radiological substances which may be toxic into the aquifer or aquifers penetrated.

12-006.02C Well Screens must be composed of nontoxic, durable material.

12-006.02D Temporary Casing: Casing and screen may be re-used.

12-006.02E Casing Wall Thickness: The wall thickness of temporary dewatering well casing must be sufficient to withstand the forces imposed on it during installation and pressures exerted on it by the surrounding materials.

12-006.02F Secure Cover: Any temporary dewatering well which is under construction must be protected with a secure cover or cap when it is unattended.

12-006.02G Repair of a Dewatering Well: All temporary dewatering well repairs must be done in accordance with current standards.

12-007 GROUND WATER MONITORING AND RECOVERY WELLS must be constructed in the following manner.

12-007.01 Well Screens: The top of the screen aperture may extend to within 2 feet of the land surface. The gravel pack thickness may be reduced so as to not compromise the surface seal.

12-007.02 Watertight Well Casing

12-007.02A Casing must be composed of nontoxic durable material compatible with water quality encountered.

12-007.02B Wells must be cased with watertight casing through required areas of grout. The watertight casing must extend at least 12 inches above ground level except for construction in sidewalks, roadways, driveways, parking lots, other heavily trafficked areas, or wherever else the situation requires flush mounted installation with watertight caps.

12.007.02C Casing must be chemically resistant to all contaminants which are expected to be encountered.

12.007.02D Casing must be equipped with a watertight cap or plug in conjunction with both flush mount and above-ground protectors.

12-007.03 Grouting the Annular Space: A non-slurry bentonite seal with a minimum thickness of 5 feet must be placed on top of the gravel pack immediately above the screen. All wells must be grouted from immediately above the non-slurry bentonite seal/fine sand to the surface in accordance with 178 NAC 12-003.07.

12-007.04 Above Ground Protection: Non-steel cased wells completed above ground must be enclosed with a steel casing embedded in the concrete pad and covered with an overlapping, vandal-resistant secured metal cap.

12-007.05 Pad: Ground water monitoring and recovery wells must have a concrete pad extending a minimum of 1 foot past the walls of the original borehole and must be a minimum of 8 inches thick. The concrete must contact the entire circumference of the casing.

12-007.06 Well Logs: The location of each well must be shown on a site diagram in addition to the driller's log, to be provided in accordance with 178 NAC 12-003.12A.

12-007.07 Nested Well Design: Wells constructed for ground water investigations may use a nested design. (See Figure 10)

12-007.07A Individual casings must be separated vertically by a minimum of 2 feet of non-slurry bentonite grout between casings of different lengths within the borehole. A 1-foot minimum non-slurry bentonite grout must be placed on top of each gravel pack interval. The annular space must be grouted as per 178 NAC 12.003.06 and 12-003.07 between non-slurry bentonite grout and the next gravel pack interval.

12-007.07B Individual casings must be separated horizontally by a 2 inch annular space, including 2 inches between the outermost casing and the borehole wall.

12-007.08 Temporary Well Installation: A pre-notification document must be submitted to the Department 30 days before constructing a temporary well to be in use longer than 10 days (does not apply to temporary dewatering wells). The notification must indicate what type of surface seal will be provided. Temporary wells must be decommissioned within 90 days of installation and cannot be used as a monitoring, recovery, or test well on a permanent basis unless the construction complies with the provisions of Title 178 NAC 12-003.04B, or the well is granted a Declaratory Order in accordance with 178 NAC 12-013 before it is constructed.

12-008 PUBLIC WATER SUPPLY SYSTEMS: If a well is to serve water to the public, the contractor must verify if the well is to serve a community or a non-community system.

12-008.01 Community public water wells must be sited, constructed, and/or relined in accordance with Title 179 NAC 7 requirements, including Department-approved plans and specifications. Examples of community public water systems include, but are not limited to mobile home parks, subdivisions, and nursing homes or assisted living residences.

12-008.02 Non-community public water systems include, but are not limited to restaurants, gas stations, factories, schools, rest areas, and recreation camps. When a well is intended to be a non-community public water supply well, the contractor may drill the well in accordance with the requirements of 178 NAC 12 only when:

1. The capacity of the well is less than 100 gallons per minute (gpm), and the total system capacity of any associated bladder tank and piping does not exceed 200 gallons, and
2. The top of its well screen is greater than 50 feet from the original ground surface, and
3. The well is located more than 200 feet from surface water, and
4. The owner supplies the contractor with written confirmation from the Department that states the well may be drilled according to Title 178 NAC 12 standards.

12-008.03 Any public water system wells not meeting the criteria in 179 NAC 12-008.02 must be constructed in accordance with Title 179 NAC 7 plans and specifications prepared by a registered Nebraska engineer and approved by the Department.

12-009 TEST HOLES: Test holes, constructed in conjunction with ground water investigations must not be retained for more than 10 days, must be covered when not in use, and must be properly decommissioned within 10 days of drilling.

12-009.01 Location: A test hole must be located so that it is protected from surface waters and seepage from sources of contamination and pollution.

12-009.02 Surface Casing: When onsite conditions dictate, surface casing is permitted but must be protected with a secure cover or cap when left unattended, and decommissioned within 10 days of drilling completion.

## 12-010 GROUND WATER HEAT PUMP WELLS

### 12-010.01 Open Loop Heat Pump Wells:

1. Water wells intended only to withdraw water must comply with 178 NAC 12-004, Potable Water Wells.
2. Water wells intended only to inject ground water must comply with Nebraska Department of Environmental Quality's Title 122 – Rules and Regulations for Underground Injection and Mineral Production Wells.

12-010.02 Closed Loop Heat Pump Wells: Water wells for closed loop heat pump systems must be constructed in accordance with the following standards.

12-010.02A For a closed loop heat pump system that has 10 or more boreholes, the following information must be submitted to the Department a minimum of 14 working days prior to initial construction.

1. Location of project;
2. Name and address of licensed water well contractor supervising the installation of the heat pump system; and
3. A completed copy of the information referenced in 178 NAC 12-003.12A, showing proposed construction and installation of the closed loop heat pump system.

12-010.02B Location: All water wells constructed for closed loop heat pump systems must be located in accordance with 178 NAC 12-003.01.

12-010.02B1 Location from a Public Water System Well

12-010.02B1a The location of closed loop heat pump wells must comply with 178 NAC 12-003.01C item 1. Be aware that other state and local statutes and regulations may have more restrictive requirements. If locations do not comply with more stringent standards of other applicable state or local regulations, the Department may notify the appropriate authority, which could require the well to be decommissioned.

12-010.02B1b Water wells constructed for a closed loop heat pump system must be located more than 100 feet from a non-community public water system well.

12-010.02B1c A closed loop heat pump system must be located more than 1,000 feet from a community public water system well.

The Department will consider approval for location of closed loop heat pump wells at closer proximity than 1,000 feet horizontal separation distance, when the licensed professional engineer or licensed professional geologist representing the owner(s) of the closed loop heat pump wells, demonstrates to the Director or Director's designee that such location will not constitute a pollution hazard to the safety of the water supply, and that the owner(s) of the community water system has no objection to the location of the closed loop heat pump wells.

The engineer or geologist must submit the supporting data as appropriate to make a case for approval of the proposed location of heat pump wells to the Department 30 working days prior to the date on which action by the Director or Director's designee is desired. The contractor must not begin construction until the Department has approved the location.

12-010.02C Borehole Diameter: The borehole diameter of a closed loop heat pump well must be of sufficient size to allow placement of the pipe and placement of a tremie to emplace the grout. The borehole diameter must be a minimum of 4 inches larger than the total OD of the loop pipes.

12-010.02D Pipe: Pipe material must be composed of polyethylene, grade p34, minimum cell classifications PE 355434C or PE 345434C, when tested under ASTM Standard 3350, incorporated herein by reference. (ASTM standards are copyrighted and available from the American Society for Testing and Materials International, 1916 Race St., Philadelphia, PA 19103; Phone 215-299-5585, Fax 215-977-9679, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959 USA; Phone: 610-832-9500; <http://www.astm.org>. Standards may be viewed during normal business hours at the Nebraska Department of Health and

Human Services, Division of Public Health, 301 Centennial Mall South, 3<sup>rd</sup> Floor, Lincoln, NE 68509.)

12-010.02E Pipe Joining Method: Heat fusion methods for pipe joining must be the socket or butt heat fusion technique as referenced in ASTM Standards D3261 or D2683, both of which are incorporated herein by reference. (ASTM standards are copyrighted and available from the American Society for Testing and Materials International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959 USA; phone: 610-832-9500; <http://www.astm.org>; OR standards may be viewed during normal business hours at the Nebraska Department of Health and Human Services, Division of Public Health, 301 Centennial Mall South, 3<sup>rd</sup> floor, Lincoln, NE 68509.)

12-010.02F Pressure Testing: The installed system must be pressure tested to a minimum of 100 pounds per square inch (psi). After 6 hours it is permissible for the pressure to drop a maximum of 15% of the initial psi due to expansion of the HDPE piping. A pressure loss greater than 15% in 6 hours is an indication of a leak in the circulating system. If a pressure loss is detected, the cause must be properly repaired, the material replaced, or the well must be properly decommissioned.

12-010.02G Purging a Loop System: After a loop system is installed and pressure tested, and prior to introducing additives to the circulating fluid, the entire loop, header and associated plumbing must be purged at a minimum rate of 5 feet per second to remove any debris that has entered the loop during construction.

12-010.02H Circulating Fluids: When food grade propylene glycol is added to water for antifreeze protection, it must be non-toxic in nature when combined with the circulating fluid additives in a closed loop heat pump system. If needed, the addition of corrosion inhibitors and biocides may be used in circulating fluid if such additives are also:

1. Non-toxic; and
2. Compatible with food grade propylene glycol; and
3. Non-hazardous materials upon disposal or a change of circulating fluid.

12-010.03 Completion of a Vertical Closed Loop System: Completion of a borehole for a closed loop heat pump well must be finished within 6 hours from the time the borehole is drilled. Drilling muds or cuttings cannot be used as completion materials. The tremie pipe must not be left in the borehole.

12-010.03A Systems that have 10 or more boreholes must be grouted full-length with high solids bentonite slurry in accordance with 178 NAC 12-003.06 item 5. (See Figure 11A)

12-010.03B Systems that have fewer than 10 boreholes must be grouted full-length with high solids bentonite slurry in accordance with 12-003.06 item 5 when they are



located less than 1000 feet of a community public water well (which requires prior written permission from the community). (See Figure 11B)

12-010.03C Systems that have fewer than 10 boreholes and are located 1000 feet or more from a community public water well must use one of the following methods to complete construction of the boreholes: (See Figure 11C)

1. High solids bentonite slurry that meets the requirements of 178 NAC 12.003.06 item 5 must be used to grout the full length of the borehole, or
2. Sand or gravel must be placed through the sodium bentonite fluid with a viscosity that allows the sand to settle through the fluid from the bottom of the borehole to the static water level by tremie or free fall method. A 5 foot interval of bentonite chips must be placed at the static water level, and the remainder of the borehole must be sand/gravel packed through the fluid to within 30 feet of the surface minus excavation for the header piping. The remaining annular space must be filled with non-slurry bentonite chips.

#### 12-010.04 Horizontal Closed Loop System

12-010.04A A horizontal closed loop heat pump system that is constructed by trenching or digging is exempt from the grouting requirements of closed loop systems provided that no part of the horizontal loop is constructed at or below the ground water level.

12-010.04B A horizontal closed loop heat pump system constructed by boring or drilling must be grouted with high solids bentonite slurry grout that meets the requirements of NAC 12-003.06 item 5.

12-010.04C All other construction standards for closed loop heat pump wells in 178 NAC 12-010 apply.

### 12-011 INSTALLATION OF PUMPS AND PUMPING EQUIPMENT

12-011.01 General Requirements: The following are general requirements and apply to the installation of all pumps and pumping equipment not already regulated, such as public water systems under Title 179.

12-011.01A Contamination: Pumps and pumping equipment must be installed in a manner that prevents contaminants from entering the well.

#### 12-011.01B Disinfection

12-011.01B1 Care must be taken so that all tools used in the removal of pumps and pumping equipment are disinfected periodically, or as needed. Disinfection solution must be equivalent to 50 parts per million chlorine

solution (See Table 2). It is not permissible to lay the drop pipe, pump, pumping equipment, or wire on the ground.

12-011.01B2 When a pump for a potable well is installed or repaired the well must be disinfected with a disinfectant solution equivalent to 50 ppm chlorine solution (See Table 2), unless specifically waived in writing by the landowner. The waiver must be worded in accordance with Attachment 1, "Waiver of Disinfection." The water well contractor/pump installation contractor must supply the landowner with an informational brochure that tells the owner why s/he should test his/her water and what the results mean.

12-011.01C Secure Cover: Any water well which is being serviced or repaired must be protected with a secure cover or cap during periods when the water well is left unattended.

12-011.01D Packaging of thread compounds, sealants, and lubricants must bear the NSF Standard 61 stamp of approval.

12-011.01E New Electrical Installations: When designing and installing a new water supply system, the electrical components must comply with the state electrical code. Electrical work that does not appear to meet standards may be reported to the State Electrical Board.

12-011.01F Repair or Modifications to Pumps and Pumping Equipment: Upon the removal of, or the repair and/or modification to the pump or pumping equipment in which replacement of original equipment is required, current pump and pumping equipment installation standards must be followed. This includes replacement of, or modification to the electrical wiring and/or controls located in the electrical layout serving the pump and pumping equipment including connection to the load side of the service disconnect or breaker. Any upgrade of this electrical system must be in compliance with all current applicable state or national electrical codes, and be installed according to the manufacturer's specifications.

12-011.01G Casing Vent: If a vent is used, it must terminate in a down-turned position, at or above the top of the casing or pitless unit and be covered with a 24 mesh corrosion-resistant screen.

12-011.02 Installation of Pumps: All pump installation must comply with 178 NAC 12-011.01 and 12-011.03.

12-011.02A Line Shaft Pumps must be equipped with a pump base and be designed so the weight of the pump and column pipe is supported by the casing or is resting on a concrete platform which rests upon natural ground and they must be secured to prevent movement.

12-011.02B Submersible Pumps: The drop pipe must be steel pipe, NSF 61 approved plastic material, or fiberglass. There must be at least 1 check valve within the casing which may be furnished with the pump.

12-011.02C Centrifugal and Jet Pumps do not require a relief valve. They must be equipped in the following manner:

1. Offset Location: The suction pipe must be encased in a sleeve from the basement or well pit wall to the well. In the instance of a packer jet system, the pressured pipeline can serve as a sleeve for the suction line.
2. Priming Port must be located higher than the discharge of the pump. Discharge of the priming port may be controlled with a shut off valve. Potable water must be used for priming the pump. Priming valve must be sealed when not in use to prevent contamination from accumulating above the valve.

12-011.02D Reciprocating Pumps must be equipped with a pump base. The pump base must be designed so the weight of the pump pipe and cylinder is supported by steel casing or a metal sleeve embedded in concrete. It must be secured to prevent movement.

### 12-011.03 Installation of Pumping Equipment

12-011.03A Pitless Units must:

1. Bear the Pitless Adapter Standard (PAS) stamp of approval of the Water Systems Council.
2. Be factory assembled and ready for installation from a point of connection with the well casing to the unit cap or cover.
3. Be a threaded, welded, screwed, or flanged gasket compression connection to the well casing.
4. Be of watertight construction throughout, except for any required vent.
5. Be made of steel through the frost zone and be compatible with the casing.
6. Have a field connection to the lateral discharge from the pitless unit of threaded, flanged, or mechanical joint connection.
7. Terminate at least 12 inches above final ground elevation. Where a water well needs to be located in an area of high traffic and physical damage to the pitless unit is probable, the contractor must finish off the

water well even with the grade of the surrounding land surface and protect it by terminating it in a pitless unit covered by a watertight flush mount cover capable of withstanding high vehicle traffic conditions. In all cases where the top of the pitless unit is enclosed in a watertight flush mount vault, the vent opening must be sealed and all electrical conduit fittings must be watertight. If the entrance of the electrical conduit is below ground level, the opening around the wire must be sealed. (See Figure 12)

8. Provide:
  - a. Access to the well for disinfecting or other purposes;
  - b. A properly constructed vent for wells with a pumping rate greater than 50 gpm;
  - c. A watertight secure cover at the upper terminal of the well that will prevent the entrance of contamination;
  - d. A contamination-proof entrance connection for electrical cable; and
  - e. An inside diameter sufficient for the insertion and removal of the pump and pumping equipment.

12-011.03B Pressure Relief Valve must be installed on any pump capable of developing a pressure higher than 115 psi, or exceeding the safe working pressure rating of the water supply system. Relief valve must be of adequate size and the plumbing where the relief valve is located must have sufficient capacity to accommodate 50% of the rated pump volume.

12-011.03C Backflow Protection: The discharge piping from any pump and pumping equipment must be equipped with a backflow preventer. A backflow preventer must be placed before any other device or branches in the distribution piping. Check valves must not be buried at the well for backflow prevention. The device must be located within 1 foot of the discharge head and prior to any other devices.

12-011.03D Discharge Piping includes any and all piping beginning at the discharge head or pitless unit tapping, extending to the first shut off valve or backflow preventer.

12-011.03D1 Above ground discharge piping must:

1. Be protected against the entrance of contamination;
2. For potable water use, be constructed of materials appropriate to each specific service;
3. Be equipped with a backflow preventer, chemigation valve, or air gap;
4. For air gap protection, daylight above the high water line of any tank, pond, stream, or reservoir;

5. Be properly anchored to prevent movement; and
6. Be protected against water hammer.

12-011.03D2 Underground Discharge Piping must be equipped with a curb stop valve and schedule 80 plastic or metal riser within one foot of the discharge, and be in compliance with 178 NAC 12-011.01.

12-011.03E Sample Point: Distribution piping must include a sample point. Location of the sample point must be as follows:

1. Sample point must terminate no less than 12 inches above the floor of the basement, well pit, or pump house floor.
2. A primary sample point must not be located down flow from any filter, trap, or conditioning equipment. A secondary sample point may be located down flow from a filter, trap, or conditioning equipment to verify the proper operation of such equipment.

12-011.03F Storage Tanks

1. Pressurized, if used (hydro-pneumatic or captive-air design)
  - a. Tank construction must be of materials approved for use in potable water systems; and
  - b. Tanks must be equipped with identification as to size, maximum working pressure, and name of manufacturer; and
  - c. Tanks and combinations of tanks and mechanical or electronic short cycle prevention devices must be of adequate size and design to prevent short cycling of the pump motor as per the pump motor manufacturer's specifications.
2. Non Pressurized, if used (reservoirs, cisterns, and standpipes)
  - a. Underground storage tanks must be constructed of material that is structurally adequate to withstand being buried below ground surface without collapsing when emptied;
  - b. Vent must be turned downward and be covered with a #24 mesh screen;
  - c. Vent piping must be of adequate size to prevent either a positive or negative pressurization of the buried tank, and
  - d. Vent piping must be constructed of materials approved for use in potable water systems. Inspection hatch and vent must extend 12 inches above grade. Inspection hatch must have a watertight seal to prevent contaminants from entering the tank.

12-011.03G Above Ground Connections: A pump house may be utilized to prevent the freezing of pipes. If used, the pump house must be mounted on a concrete

platform which slopes away from the well in all directions. The casing must extend a minimum of 12 inches above the concrete platform and the space between the casing and the pump pipe must be closed with a sanitary well seal. The well seal must be watertight and if vented, must be provided with a screened vent.

12-011.03H Well Pit: The installation of pumping and storage equipment in a pit directly over a well is not allowed. A pit for housing the equipment must be located at least 10 feet away from a well.

## 12-012 WATER WELL DECOMMISSIONING

12-012.01 General Requirements: The well cavity of all water wells to be decommissioned must be filled and sealed in accordance with the appropriate procedure described below. Any licensed water well contractor constructing a water well for any customer must as a part of the agreement include the proper decommissioning of each water well and test hole constructed to explore for ground water pursuant to the agreement. A landowner may only decommission a driven sandpoint water well on land owned by him/her and used by him/her for farming, ranching, or agricultural purposes or as his/her place of abode. A well constructed after October 1, 1988, but not constructed according to Title 178 NAC 12 must have a Declaratory Order prior to decommissioning.

12-012.02 Preliminary Work: Prior to decommissioning a water well, the depth of the well and the static water level must be measured and an investigation must be made to determine the details of the well construction. Potential sources of well construction details include:

1. The personal records of the owner,
2. The contractor that drilled the well,
3. The registration forms on file with the Nebraska Department of Natural Resources, available on its website,
4. Water well contractors familiar with the area, and
5. Water well records on file with the University of Nebraska-Lincoln Conservation and Survey Division, School of Natural Resources.

12-012.03 Obstructions: Every effort must be made to remove obstructions. If they cannot be removed, the well cavity must be filled with approved fill material in accordance with 178 NAC 12-003.08B from the bottom of the well to a point above the obstruction. If this is not possible, a 5-foot non-slurry bentonite grout plug must be placed above the obstruction, or the entire length of the water well from the obstruction to the surface must be grouted.

12-012.04 Material Volume: The volume of material required to decommission a water well can be determined using Table 3. Volumes for each interval that is to be either filled or sealed must be calculated prior to beginning. Materials used and calculated volumes must be consistent. If they are not, (1) additional material must be added to replace lost volumes until the interval is filled or sealed or (2) if material bridges in the well (evidenced

by calculated amount of filler/sealer being too much), operations must stop until the bridge is removed by high pressure jetting, drilling, or other methods.

12-012.05 Well Decommissioning Materials: Approved fill material (178 NAC 12-003.08B, 12-012.05B) or grout material (178 NAC 12-012.05A) must be used to decommission water wells. Grout seals must be used to prevent water movement into or between water-bearing zones; approved fill material may be used where grout seals are not necessary.

12-012.05A Grout Material: Grout material found in 178 NAC 12-003.06 can be used as a seal in decommissioning water wells.

12-012.05B Approved Fill Material for Decommissioning to be used in water wells in intervals where grout seals are not used or are not required must be disinfected sand, gravel, or crushed stone except that native earth material may be used in large diameter bored or dug wells because of the volume required. All fill material must be free of potentially toxic chemical residue and trash such as leaves and foreign materials. All fill material must be sized and introduced into the well at a rate to avoid bridging.

12-012.06 Decontaminating: Disinfectant equivalent to at least 200 parts per million chlorine must be introduced into the well before any material is placed into the well. The disinfectant can be in a liquid, granular, or pellet form. This will also decontaminate the fill material placed adjacent to the water-bearing zones. (See Table 1 for the amount of disinfectant to use.)

12-012.07 Upper Plug: All cased water wells to be decommissioned must have an upper plug to prevent surface and near-surface contaminants from entering the well casing. Only non-slurry bentonite and sand cement grouts are allowed in the upper plug. If the water well records indicate that a surface seal was installed during construction, then any option below can be used. If a surface seal was not installed or it is not known if a surface seal was installed, then Option 1 or Option 3 must be used.

12-012.07A Option 1: Remove the top 3 feet of the well casing and grout the upper 5 feet of the remaining casing. Install a 6-inch thick grout seal above the top of the casing that extends a minimum of 1 foot past the walls of the original borehole and extends at least 1 foot below the top of the cut-off casing. Backfill the remainder of the hole with native soil mounded for settlement and proper drainage. (See Figure 13)

12-012.07B Option 2: For all other wells not located in a structure and if the water well was constructed with an annular surface seal, the water well casing may be left in place. A 5-foot long grout plug must be placed in the casing within the top 10 feet. If the casing is going to remain above the concrete surface, a watertight secure cover or cap must be installed on top of the casing. (See Figure 14)

12-012.07C Option 3: If the water well is surrounded by concrete/asphalt that extends 1 foot beyond the original borehole, and the casing is to be cut off flush with the top of the concrete, then a 5 foot minimum grout plug must be placed 10 feet below the concrete pad, and a minimum of 5 feet of concrete must be installed above the grout plug and struck off level with the top of the concrete. (See Figure 15)

12-012.08 Procedures for Specific Well Types are set forth below and must be followed.

12-012.08A Test Holes must be sealed with a 5-foot grout plug placed at static water level and/or confining layer. Approved fill material must be placed from the 5 foot grout plug to the surface seal within the top 10 feet.

12-012.08B Drilled, Bored, or Dug Water Wells

1. Measure the static water level and the total depth of the well.
2. If there is no water in the casing, place a minimum 5 foot grout plug in the bottom as described in the Placement of Grout section (178 NAC 12-003.07).
3. Use these measurements and the information in Tables 3 and 4 to determine the volume of material to be used.
4. Fill the well cavity or casing with clean disinfected sand, gravel, or grout up to 1 foot below the static water level.
  - a. If the static water level is less than 6 feet, refer to upper plug procedures for near-surface decommissioning.
  - b. If the static water level is greater than 6 feet, place a seal at least 5 feet thick on top of the sand/gravel fill. (See Figure 16.)
5. Native earth is an acceptable decommissioning fill material only for dug or bored wells that are two feet or more in diameter because of the volume required. Place native earth material in the excavated hole and mound over the well to accommodate future settling and to divert surface water away from the well. (See Figure 17)
6. Fill the remainder of the well with clean sand or gravel or grout up to 8 feet below the ground surface. At this point, place a 5-foot non-slurry bentonite grout seal in the casing. (See Figure 17)
7. The remainder of the water well must be decommissioned as described in the Plug Section. (See Figure 13)



12-012.08C Driven Sandpoint Wells

1. Fill the entire casing with grout to the top and cut off the casing 3 feet below the ground surface or water level. Place a 6-inch grout seal 1 foot beyond the casing and backfill the remainder of the hole with native soil mounded for settlement. (See Figure 18) or
2. If the casing is pulled, decommission like a test hole as described in 178 NAC 12-012.08A.

12-012.08D Full Length Grouted Wells must be decommissioned by pressure grouting the inside of the screen and casing. (See Figure 19) The rest of the well must be decommissioned as described in the Upper Plug Section, Option 1 or Option 3 only, as described in 178 NAC 12-012.07A and 12-012.07C.

12-012.08E Multiple Aquifer Wells: Water wells that obtained water from more than 1 water bearing zone must have a seal between each zone if each water bearing zone is separated by a confining layer. (See Figure 20) A grout seal not less than 5 feet in length must be placed adjacent to each confining layer and 5 feet of grout must be placed at the static water level.

12-012.08F Flowing Water Wells: Decommissioning these wells requires the placement of neat cement through a tremie line to stop the flow; otherwise, expandable plugs may be installed in the casing (or bedrock if not cased) to stop the water flow.

12-012.08F1 If it is known where a confining layer exists, the following procedure to install an intermediate seal (see Figure 21) is required.

12-012.08F1a If, during construction, the annular space was not grouted at the confining unit, a plug must be set at the bottom of the confining layer and the casing must be perforated a minimum of 3 feet, to allow pressure grouting of the annular space with neat cement.

12-012.08F1b Bentonite grout can be used above the confining layer if the flow has been stopped. The rest of the well must be decommissioned as described in the Upper Plug section, 178 NAC 12-012.07.

12-012.08F2 The exact location of these wells must be flagged for at least 1 year after decommissioning.

12-012.08G Closed Loop Heat Pump Wells must be decommissioned as follows:

1. Remove all heat transfer fluid from the closed loop, and

2. Dig down to the top of the borehole and cut off the loop pipe at least 6 feet below the surface. Pump the remaining loop full of bentonite or cement slurry. The remainder of the borehole is to be decommissioned as described in the Upper Plug section 178 NAC 12-012.07.

12-012.09 Documentation: A record that includes the materials used, the quantity of those materials, location of placement thereof, and mix specifications, including the type and viscosity of bentonite grouts must be maintained on every decommissioned water well, including test holes.

12-012.10 Reporting Decommissioning: A notice of decommissioning for all water wells except test holes must be submitted to the Director of the Department of Natural Resources on the Notice of Decommissioning form supplied by the Department of Natural Resources within 60 days of the decommissioning of the water well as required in Neb. Rev. Stat. § 46-602 as follows:

1. The pump installation contractor or water well contractor must submit written notice of the decommissioning of a water well to the Department of Natural Resources.
2. If both a water well contractor and a pump installation contractor are involved in the decommissioning of a water well, the pump installation contractor must submit the notice of decommissioning to the Department of Natural Resources.
3. If a landowner decommissions a driven sandpoint water well on land owned by him/her and used by him/her for farming, ranching, or agricultural purposes or as his/her place of abode, the landowner must report the decommissioning to the Department of Natural Resources.

#### 12-013 DECLARATORY ORDER ABOUT SUBSTANTIALLY EQUIVALENT PROCEDURE OR MATERIAL

12-013.01 Any water well contractor, pump installation contractor or any other individual carrying out activities subject to 178 NAC 12 who desires to carry out such work by a procedure inconsistent herewith or using materials other than herein prescribed but which the contractor or other individual believes to be substantially equivalent to the standards prescribed in 178 NAC 12 may request a declaratory order by the Department on whether the proposed procedure or material is substantially equivalent to the prescribed standards and may be used to comply with 178 NAC 12.

12-013.02 Such a request must be submitted in writing at least 10 days prior to the initiation of construction or alteration of the well(s) involved, unless good cause is shown for a shorter review period.

12-013.03 The request must include a description of the material(s) and/or construction procedure(s) proposed, identify the procedure or material required by the prescribed

standards and include proof of the alleged equivalency and such written arguments as are deemed appropriate by the requesting party.

12-013.04 Such request must be made generally in accordance with 184 NAC 2, Rules of Practice and Procedure of the Department for Declaratory Orders, but unless the requesting party at the time of the request demands a hearing thereon, the matter will be deemed submitted on the written request, attachments thereto, and facts of which the Department takes judicial notice.

12-013.05 Any order issued by the Department hereunder will be binding between the Department and the requesting party on the facts alleged unless it is altered or set aside by a court. The Department may in situations when the submission of a request 10 days in advance would result in an immediate environmental threat, significant economic hardship on or pose a health threat to the owner or other individuals, waive the 10 day review period.

12-014 VARIANCES: The Department may grant a variance from any rule, regulation, or standard adopted and promulgated by the Department relating to the construction of a water well upon proof by a licensed water well contractor or well owner that the enforcement of the rule, regulation, or standard would create an unreasonable hardship or be unreasonable, impractical, or not feasible under the circumstances. A variance is limited to the construction of a water well to replace an existing water well. A variance may only be requested after a declaratory order about substantially equivalent procedure or material has been requested and denied.

12-014.01 Procedures for Requesting a Variance: The party requesting the variance or renewing a variance must submit the variance request to the Department along with any applicable fee. The request for a variance must be submitted in writing at least 10 days prior to the planned initiation of construction of the well involved. Variances may only be granted in writing by the Department. All variance requests must contain the following:

1. The name, address, telephone number, and signature of the individual(s) requesting the variance;
2. The specific rule(s) for which the variance is requested (if more than 1 rule is affected then each must be listed);
3. The reason the rule(s) cannot be met, with supporting evidence;
4. The length of time for which the variance is requested
5. The alternative or protective measure that will be taken to assure a comparable degree of protection to health or environment;
6. Construction plans and specifications of the proposed water well with all the relevant and required information listed in 178 NAC 12-003.12A; and
7. A scaled map showing the location of the well in relation to property lines, structures, utilities, and contamination sources.

12-014.02 Variance Conditions: A variance may be under such terms and conditions and for such time as the Department may prescribe. The Department must notify the requesting party in writing of the decision to grant or deny the variance. If a variance is

granted, the notification must specify conditions or alternative measures imposed upon the variance, if any. If the variance is denied, the Department will specify the reasons for the denial.

12-014.03 Alternative Measures or Conditions: Alternative measures or conditions attached to a variance have the force and effect of the applicable regulation. If the alternative measure or condition attached to the variance is violated, the party may be enjoined from continuing such activities. The injunction may include an order to properly decommission the water well.

12-014.04 Renewal of a Variance: A request for a renewal of a variance must be submitted in writing to the Department within 30 days of the expiration date. A renewal request must contain the information in 178 NAC 12-014.01 (Procedures for Requesting a Variance). A variance may be renewed if the party continues to satisfy the criteria for granting the variance and demonstrates compliance with the alternative measures or conditions imposed at the time the original variance was approved.

**TABLE 1**  
**Decontamination Chart Calculator for Total System Volumes**

Casing ID Inches	Gal/ft	Ft of H <sub>2</sub> O	Standing Well Volume <sup>1</sup> Feet	Total Treat. Volume <sup>2</sup>	Total Decontam. Volume <sup>3</sup>	200 ppm	200 ppm
						5% chlorine gallons <sup>4</sup>	65% HCL oz. <sup>4</sup>
4	.065	100	65	130	260	0.26	15.6
5	1.02	100	102	204	408	0.408	24.48
6	1.47	100	147	294	588	0.588	35.28

Casing ID Inches	Gal/ft	Ft of H <sub>2</sub> O	Standing Well Volume <sup>1</sup> Feet.	Total Treat. Volume <sup>2</sup>	Total Decontam. Volume <sup>3</sup>	200 ppm	200 ppm
						5% chlorine gallons <sup>4</sup>	65% HCL oz. <sup>4</sup>
8	2.61	100	261	391.5	1044	1.044	62.64
10	4.08	100	408	612	1632	1.632	97.92
12	5.87	100	587	880.5	2348	2.348	140.88
16	10.45	100	1045	1567.5	4180	4.18	250.8
24	23.51	100	2351	3526 .5	9404	9.404	564.24

<sup>1</sup>Standing Well Volume equals the total amount of water in the casing.

<sup>2</sup>Total Treatment Volume equals the amount of water in the casing plus the annular space of the borehole.

1. For 4" to 6" wells, the standing well volume times 2 equals the total treatment volume.
2. For 8" wells and larger the standing well volume times 1.5 equals the total treatment volume.

<sup>3</sup>Total Decontamination Volume equals the standing volume times 4 to approximate the water in the system.

<sup>4</sup>The decontamination amounts are based on a calculation or percent of the available chlorine and dosage strength per given volume of water.

**TABLE 2**  
**Disinfection Chart Calculator for Total System Volumes**

Casing ID Inches	Gal/ft	Ft of H <sub>2</sub> O	Standing Well Volume <sup>1</sup> Feet	Total Treat. Volume <sup>2</sup>	Total Disinf. Volume <sup>3</sup>	50 ppm	50 ppm
						5% chlorine gallons <sup>4</sup>	65% HCL oz. <sup>4</sup>
4	.065	100	65	130	260	0.065	3.9
5	1.02	100	102	204	408	0.102	6.12
6	1.47	100	147	294	588	0.147	8.82

Casing ID Inches	Gal/ft	Ft of H <sub>2</sub> O	Standing Well Volume <sup>1</sup> Feet.	Total Treat. Volume <sup>2</sup>	Total Disinf. Volume <sup>3</sup>	50 ppm	50 ppm
						5% chlorine gallons <sup>4</sup>	65% HCL oz. <sup>4</sup>
8	2.61	100	261	391.5	1044	0.261	15.66
10	4.08	100	408	612	1632	0.408	24.48
12	5.87	100	587	880.5	2348	0.587	35.22
16	10.45	100	1045	1567.5	4180	1.045	62.7
24	23.51	100	2351	3526.5	9404	2.351	141.06

<sup>1</sup>Standing Well Volume equals the total amount of water in the casing.

<sup>2</sup>Total Treatment Volume equals the amount of water in the casing plus the annular space of the borehole.

1. For 4" to 6" wells, the standing well volume times 2 equals the total treatment volume.
2. For 8" wells and larger the standing well volume times 1.5 equals the total treatment volume.

<sup>3</sup>Total Disinfection Volume equals the standing volume times 4 to approximate the water in the system.

<sup>4</sup>The disinfection amounts are based on a calculation or percent of the available chlorine and dosage strength per given volume of water.

**Table 3**  
**Well casing volume and bentonite needed to fill a well casing**

Diameter of opening	Volume		Approximate pounds graded bentonite per foot*	Approximate linear feet filled per 50 pound bag of graded bentonite
	Gallons per foot of depth	Cubic feet per foot		
2 inches	0.16	0.02	1.4	35.70
3 inches	0.37	0.05	3.5	14.30
4 inches	0.65	0.09	6.3	7.90
5 inches	1.02	0.14	9.8	5.10
6 inches	1.47	0.20	14.0	3.60
8 inches	2.61	0.35	24.5	2.00
10 inches	4.08	.055	38.5	1.30
12 inches	5.88	0.79	55.3	0.90
14 inches	8.00	1.07	74.9	0.67
16 inches	10.44	1.40	98.0	0.51
18 inches	13.22	1.77	123.9	0.40
2 feet	23.50	3.14	220.0	0.23
2.5 feet	36.72	4.91	344.0	0.16
3 feet	52.88	7.07	495.0	0.10
4 feet	94.00	12.57	880.0	0.06
5 feet	146.90	19.64	1375.0	0.04
6 feet	211.50	28.27	1979.0	0.03
7 feet	287.90	38.48	2694.0	0.02
8 feet	376.00	50.27	3519.0	0.01
9 feet	475.90	63.62	4453.0	0.01
10 feet	587.50	78.54	5498.0	0.01

\*Based on a granular bentonite bulk density of 70 pounds per cubic foot. (The typical range of reported bulk density is 68 to 72 pounds per cubic foot)

**Table 4**

<b>Useful Equivalents</b>	
1 cup	8 fluid ounces
2 cups	1 pint
1 pint	16 fluid ounces
1 quart	32 fluid ounces
½ gallon	64 fluid ounces
1 gallon	128 fluid ounces
1 cubic foot (ft <sup>3</sup> )	7.48 gallons
1 cubic yard (yd <sup>3</sup> )	27 cubic feet
Gallons per foot of depth	0.0408 (opening diameter, square inches)
Cubic feet per foot of depth	0.0055 (opening diameter, square inches)
1° Latitude	69.2 miles
1 minute of 1°	6,089.6 feet
1 second of 1 minute of 1°	101.49333 feet
1/10 of 1 second of 1 minute of 1°	10.149333 feet
1° Longitude	69.172 miles
1 minute of 1°	6,087.136 feet
1 second of 1 minute of 1°	101.45226 feet
1/10 of 1 second of 1 minute of 1°	10.145226 feet



EFFECTIVE  
8/26/14

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 12  
ATTACHMENT 1

WAIVER OF DISINFECTION

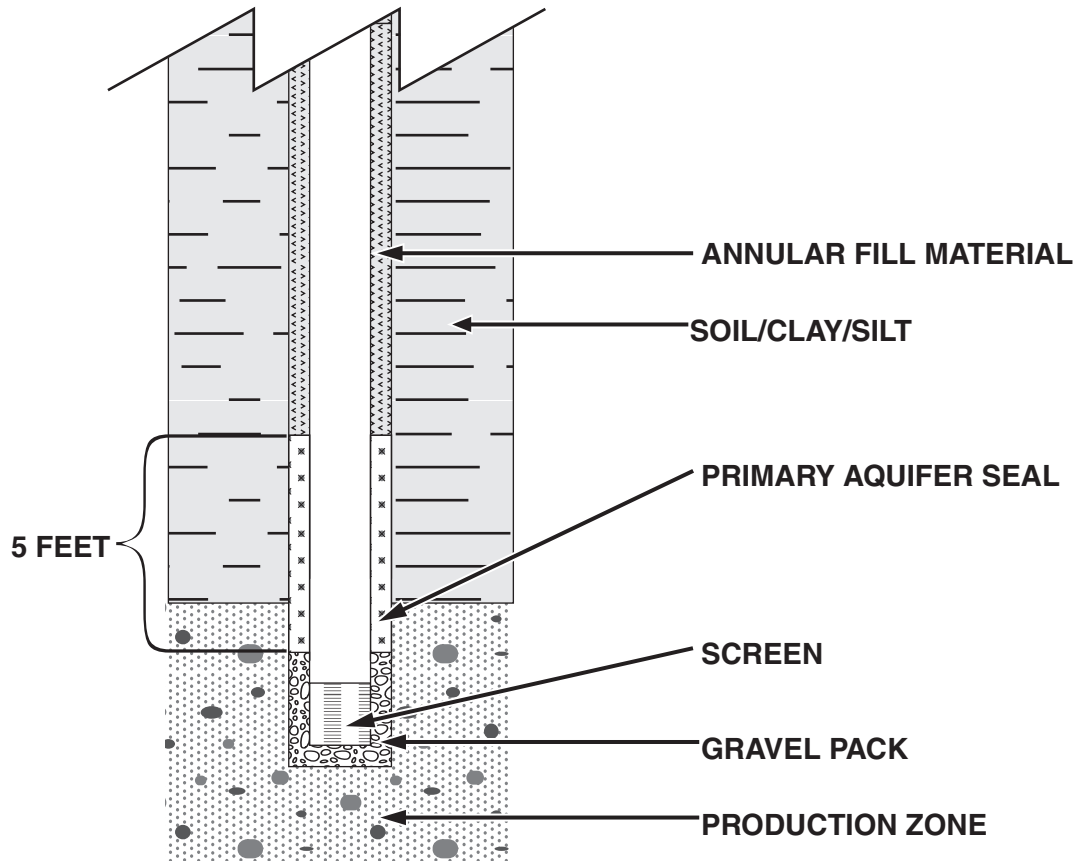
This is to certify that I have been informed by \_\_\_\_\_  
of the advantages of the disinfection of the water well producing water for human consumption  
located at \_\_\_\_\_.

I do not desire to have the well disinfected and hereby waive the disinfection requirement.

\_\_\_\_\_  
Landowner or Owner's Agent

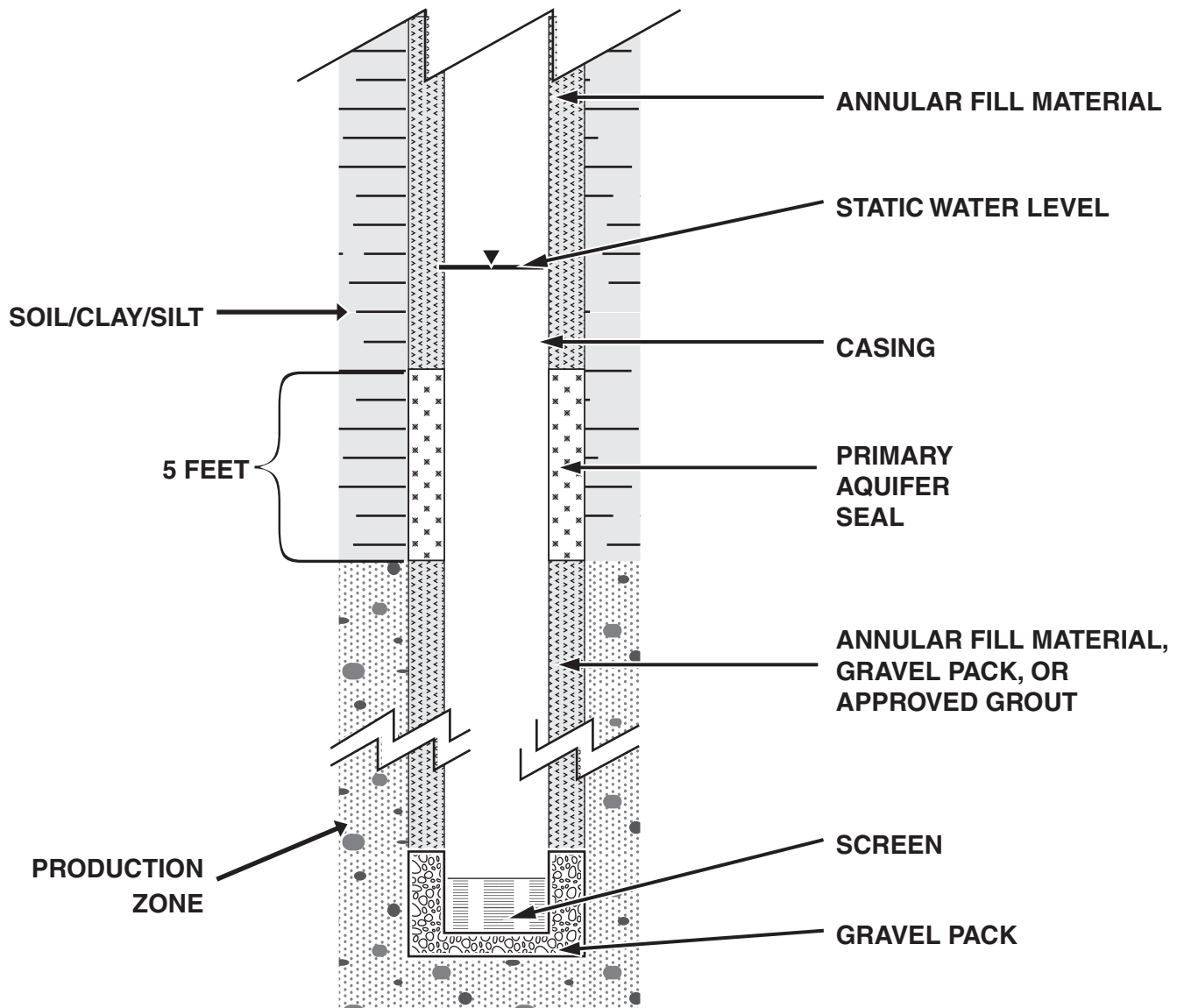
\_\_\_\_\_  
Date

**FIGURE 1A.  
PRIMARY AQUIFER SEAL ON TOP OF  
GRAVEL PACK ABOVE THE WELL SCREEN**



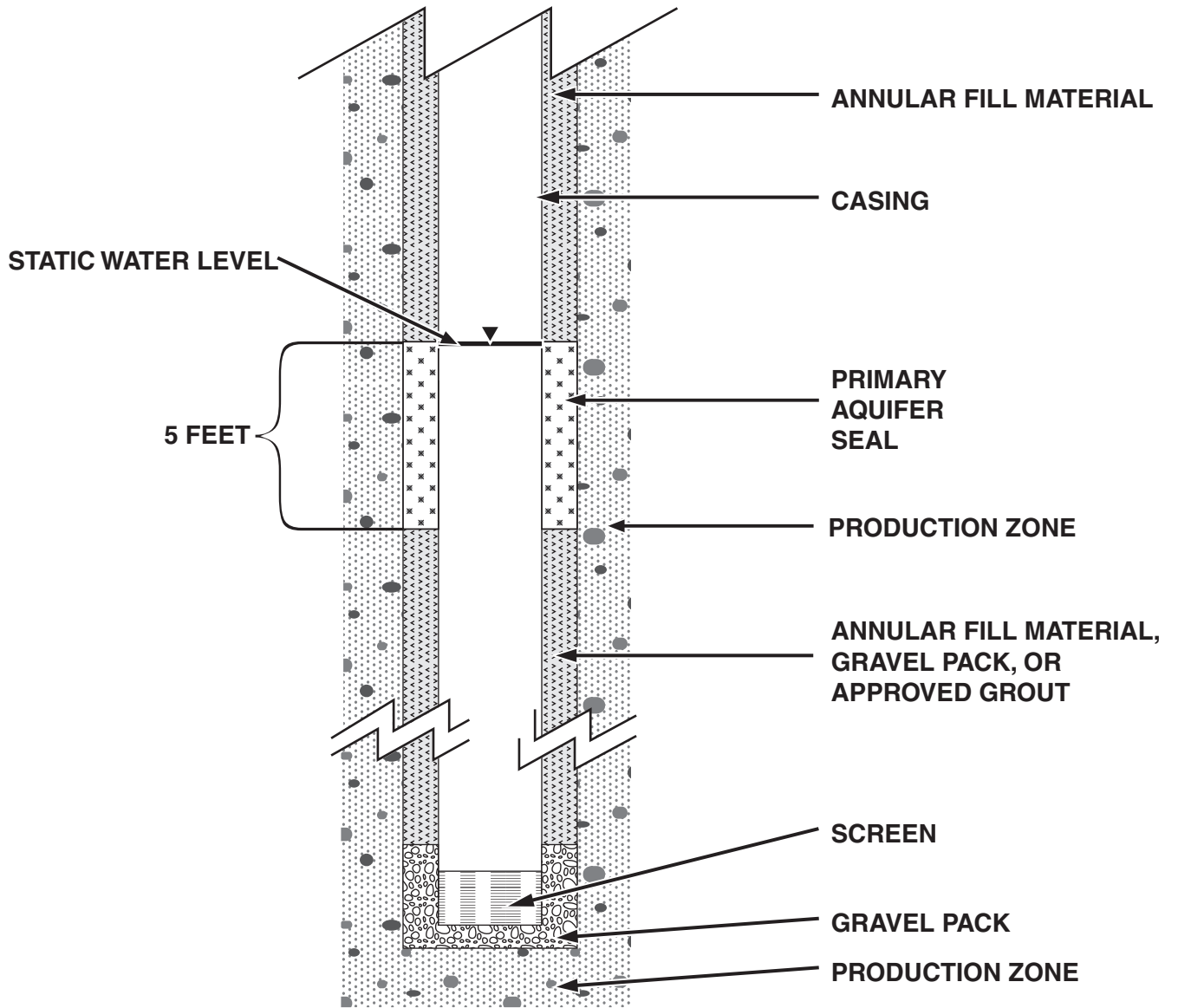
This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 1B.  
PRIMARY AQUIFER SEAL AT THE BASE OF THE  
FIRST SILT/CLAY LAYER ABOVE THE PRODUCTION ZONE**



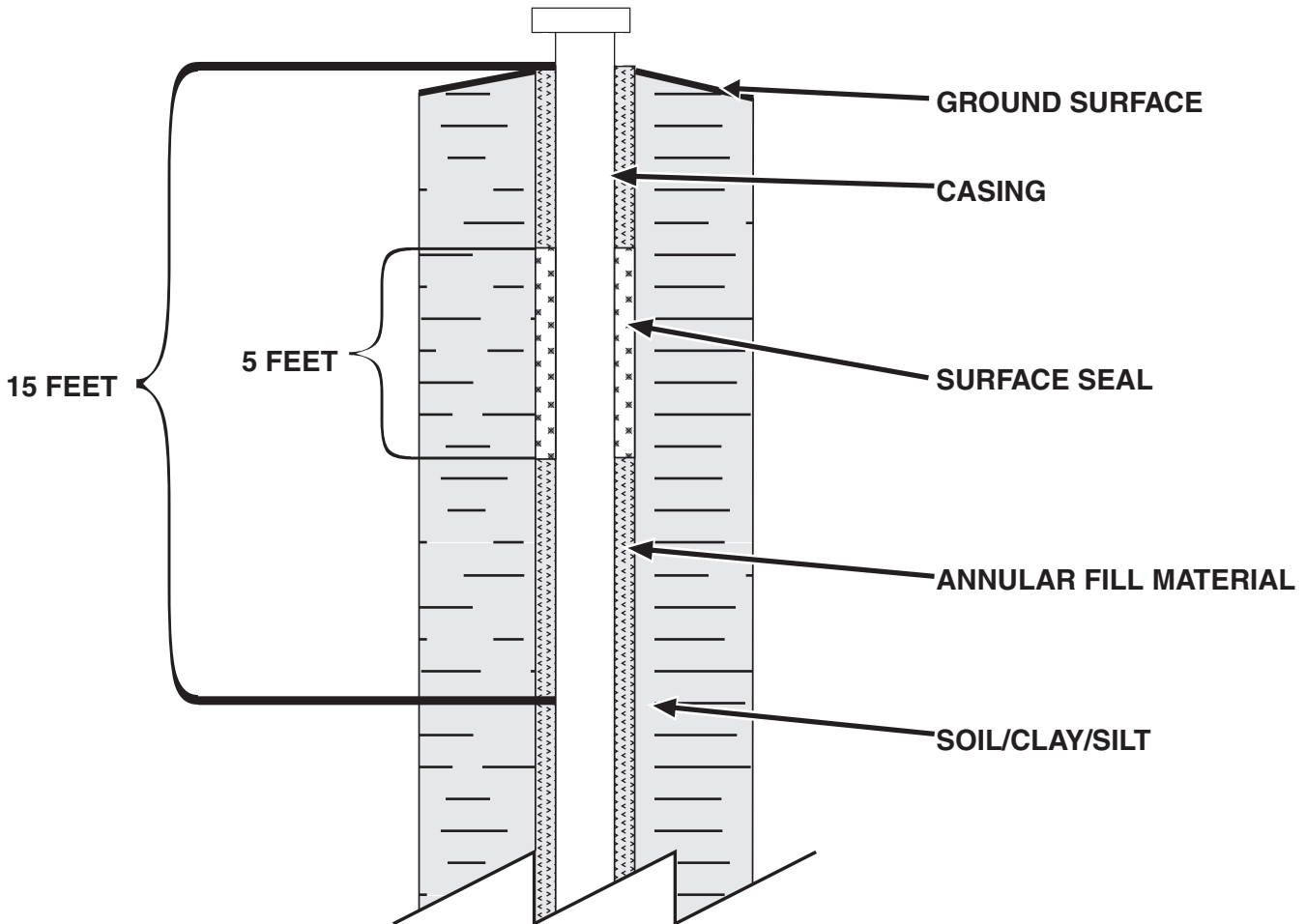
This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 1C.  
PRIMARY AQUIFER SEAL AT/OR IMMEDIATELY  
BELOW THE STATIC WATER LEVEL**



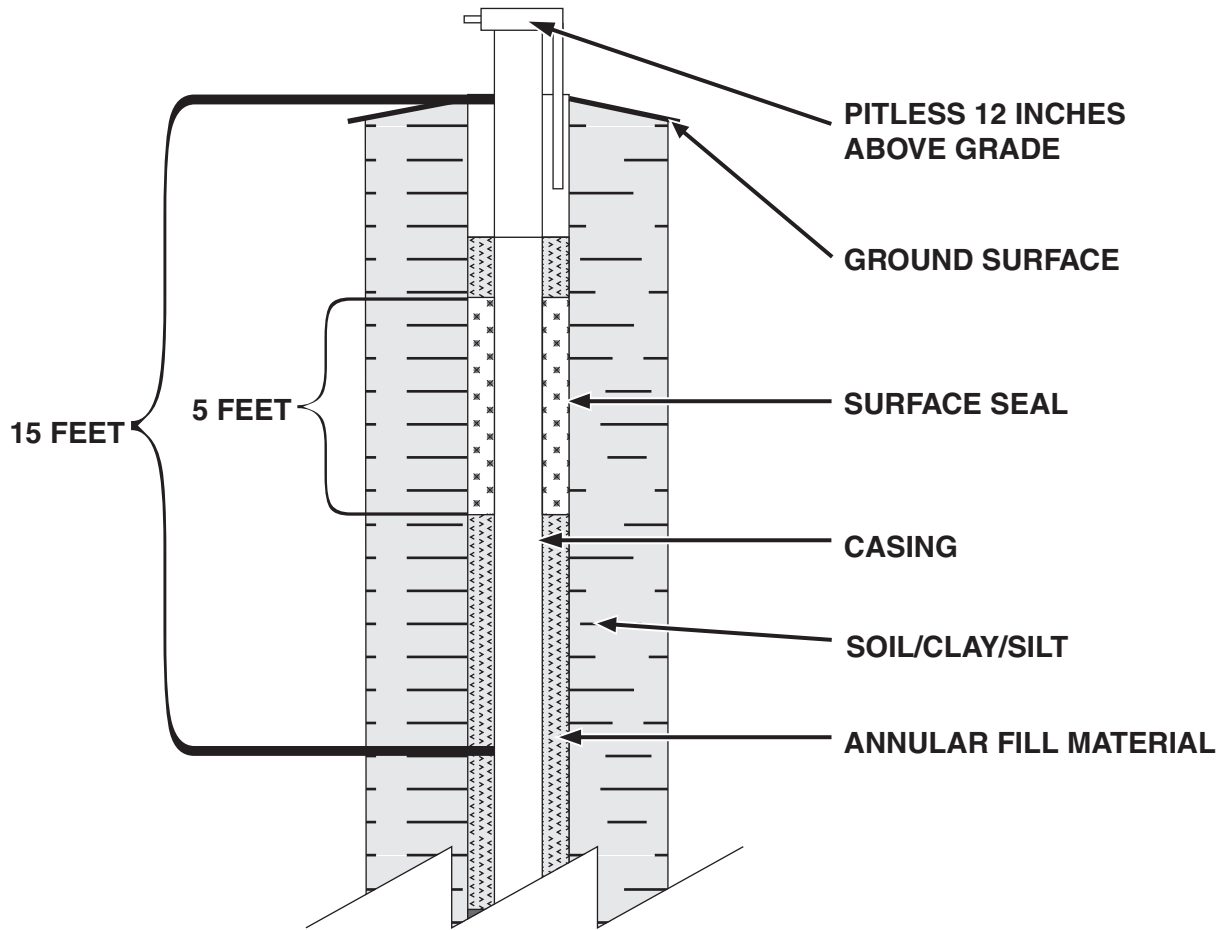
This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 2A.  
SURFACE SEAL FOR ALL WELLS NOT  
EQUIPPED WITH PITLESS UNITS**



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

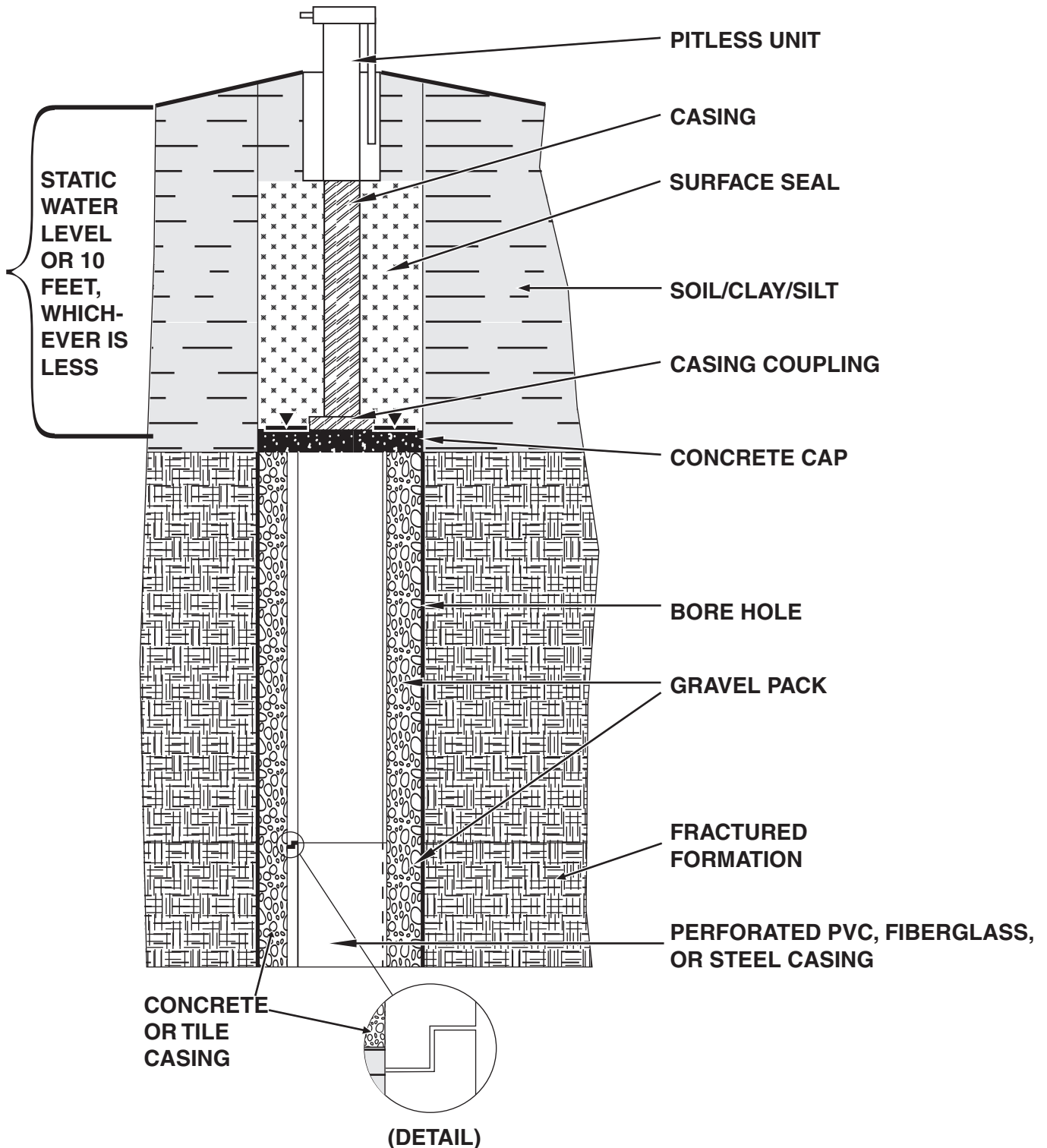
**FIGURE 2B.  
SURFACE SEALS FOR ALL  
WELLS WITH PITLESS UNITS**



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

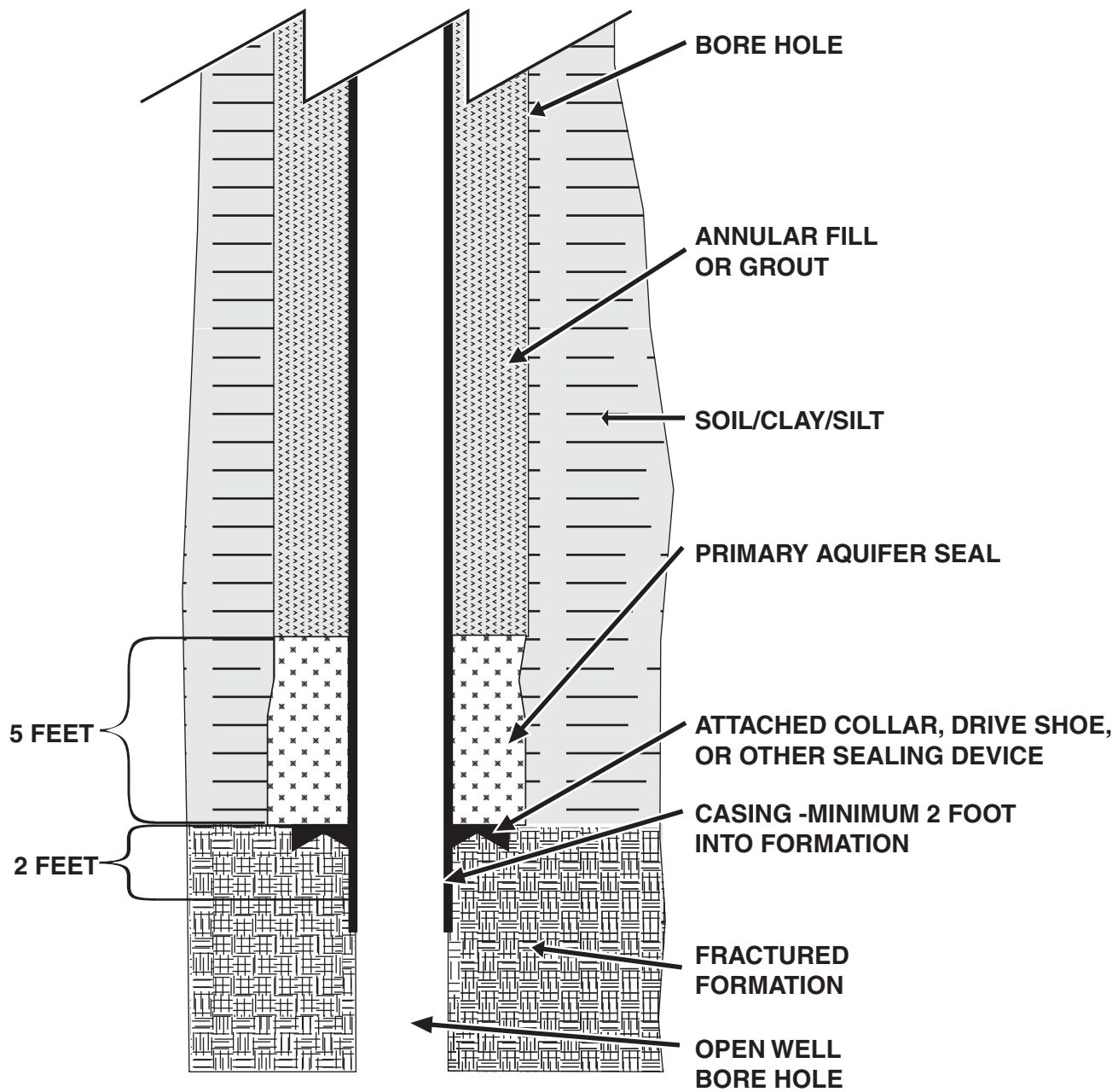
**FIGURE 3.  
CONSTRUCTION AND REPAIRS OF BORED  
AND DUG WELLS**

178 NAC 12-003.11  
12-004.04  
12-005.03



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 4.  
OPEN HOLE WELL CONSTRUCTION**

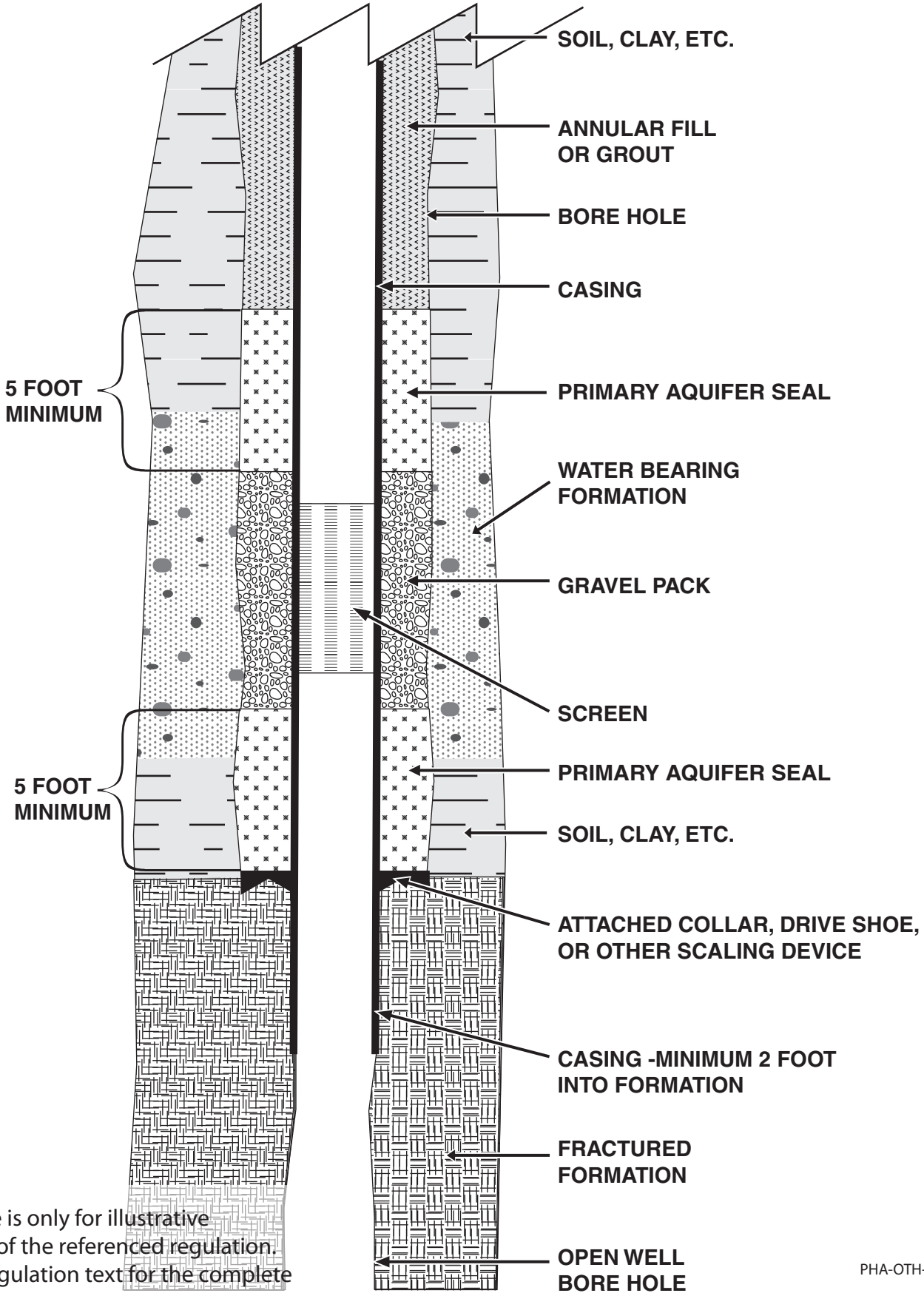


This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.



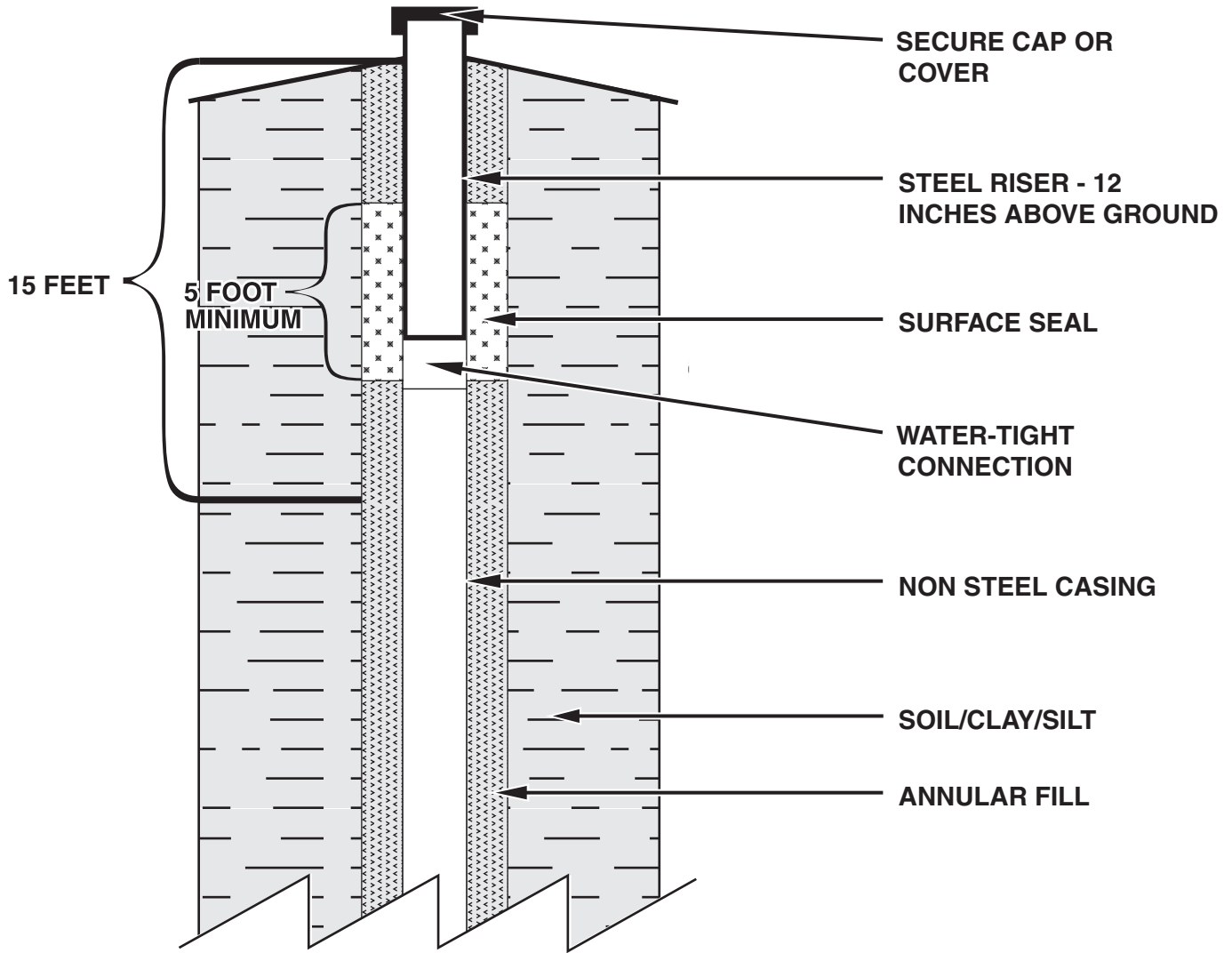
**FIGURE 5.  
OPEN HOLE CONSTRUCTION - MULTIPLE AQUIFERS**

178 NAC 12-004.05C  
12-005.04C



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

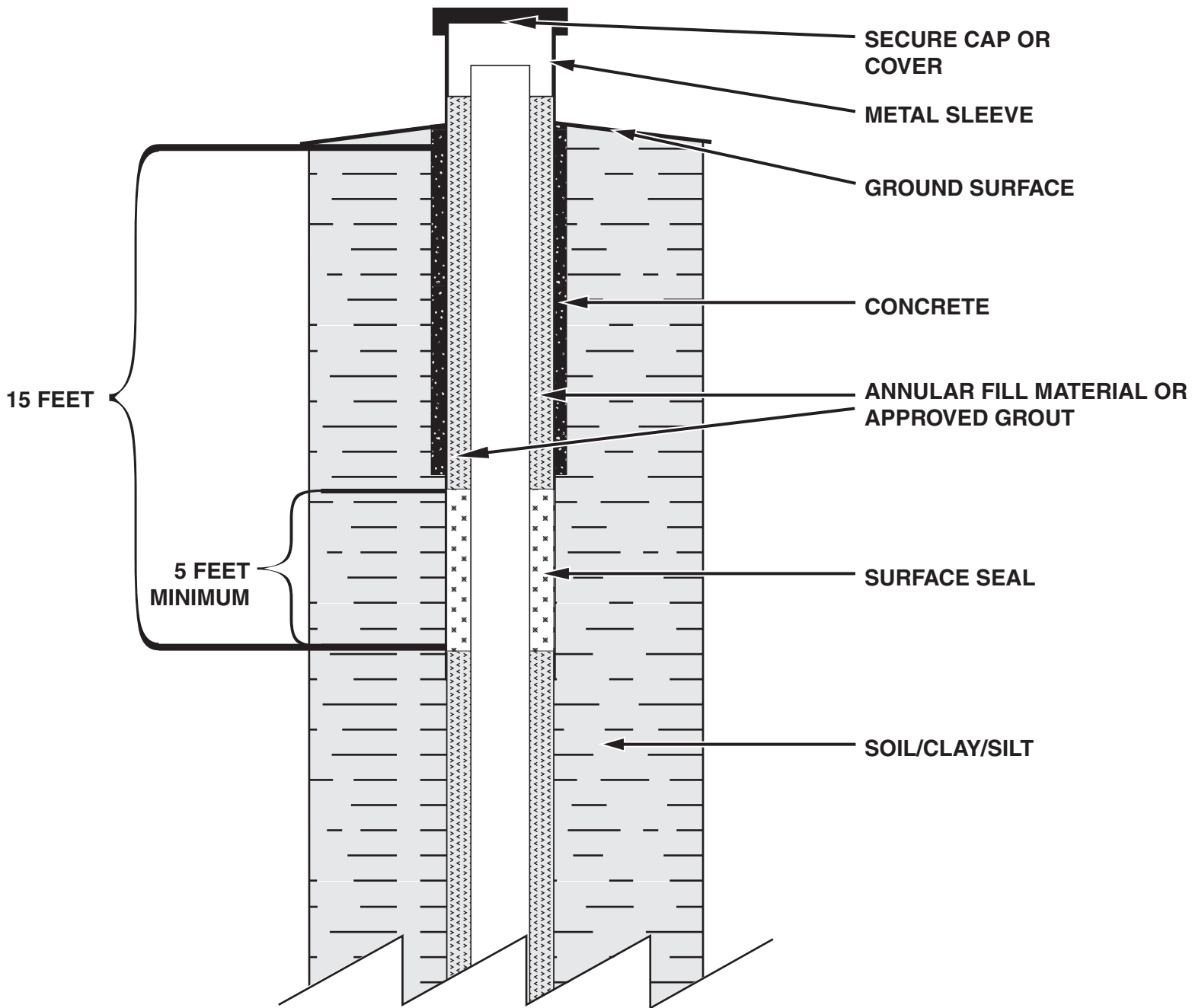
**FIGURE 6.**  
**UPPER PORTION OF NON-POTABLE WELLS 6-5/8 INCH**  
**OD AND LESS WITH STEEL CASING RISER**



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 7.  
NON-POTABLE WELLS 6-5/8 INCH OD AND LESS  
WITH METAL SLEEVE BOLLARD**

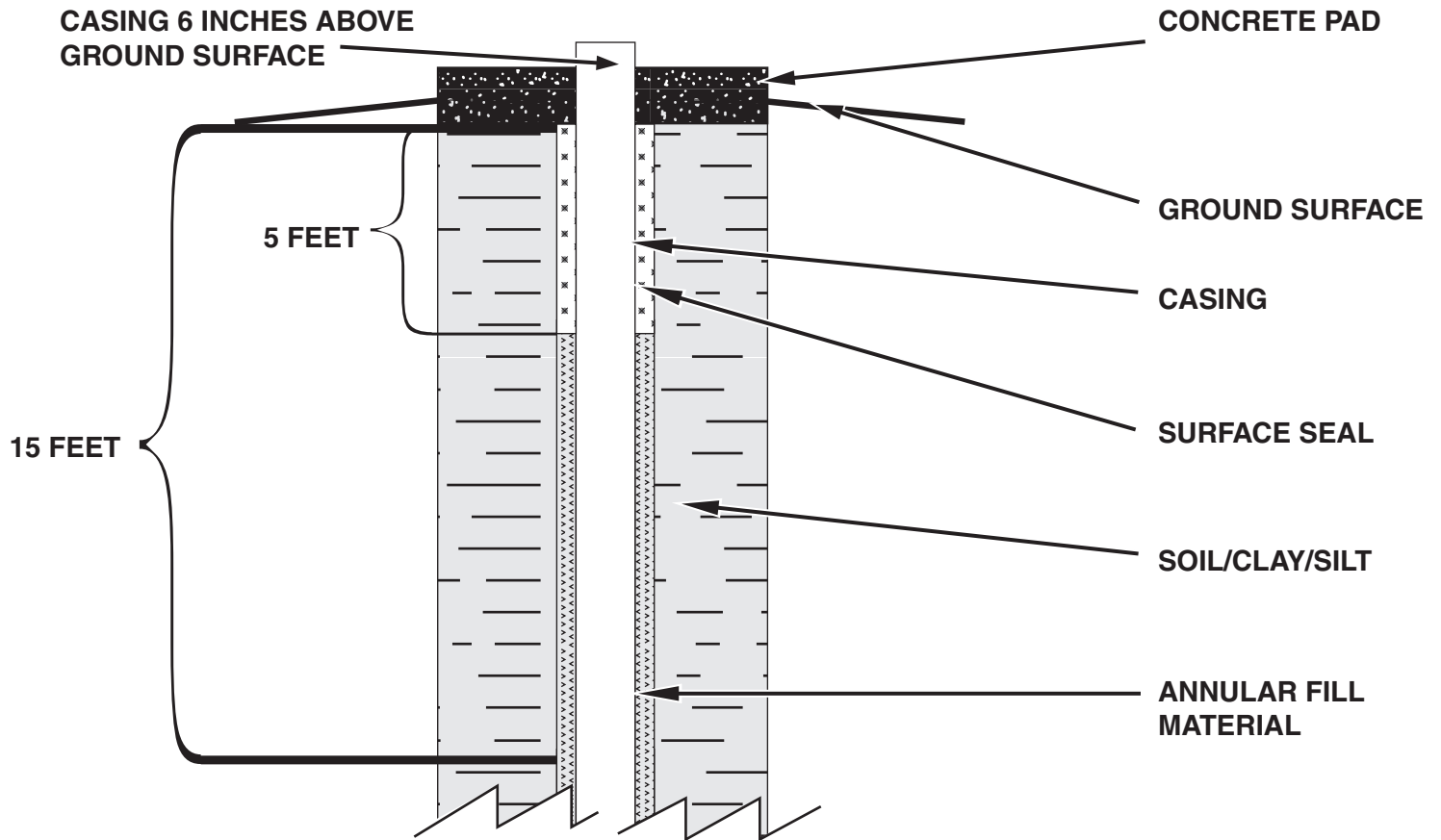
178 NAC 12-005.02A2



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 8.  
CONCRETE PAD FOR NON-POTABLE WELLS  
LARGER THAN 6-5/8 INCHES IN OD**

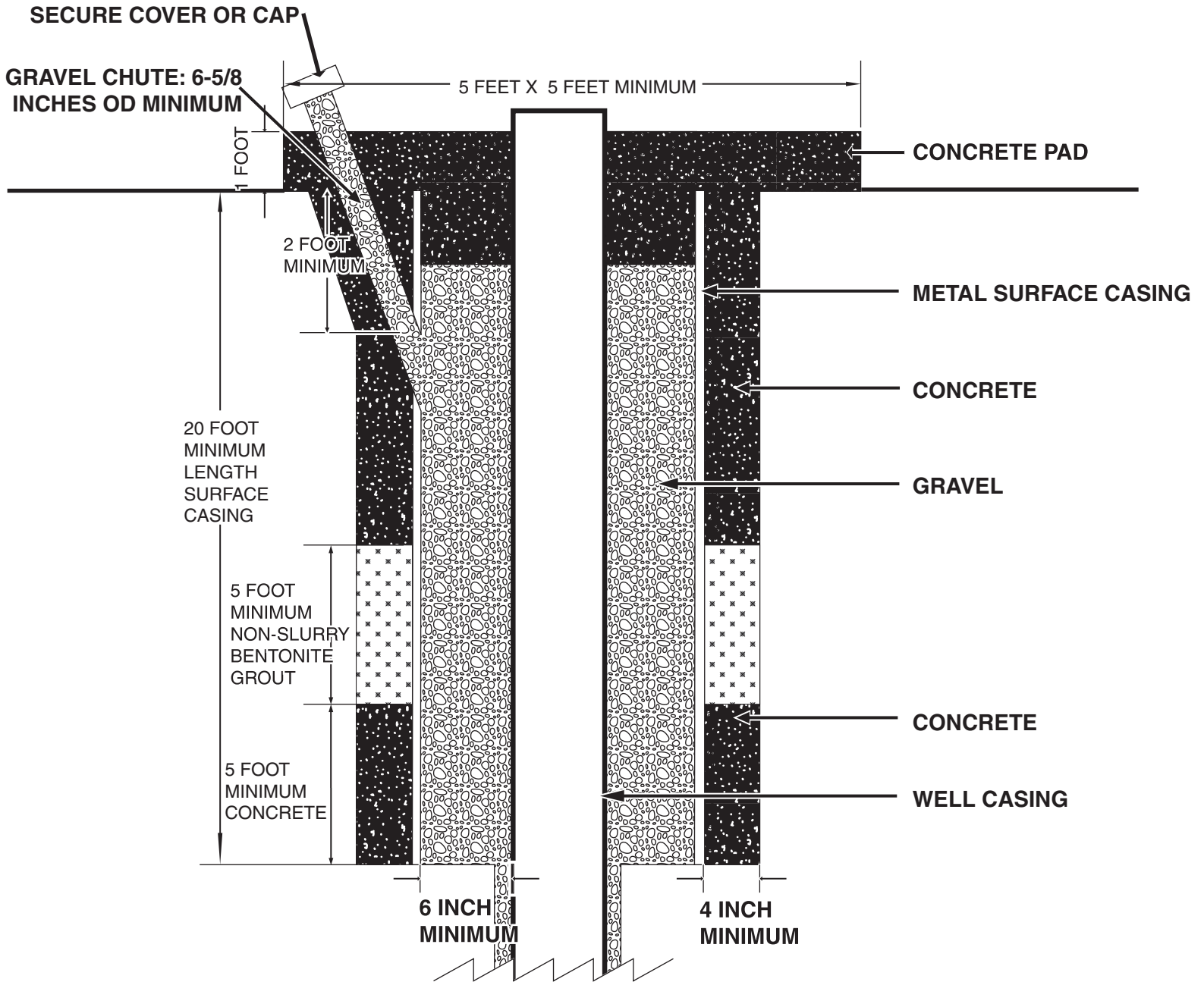
178 NAC 12-005.02B1  
12-005.02B2  
12-005.02C



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

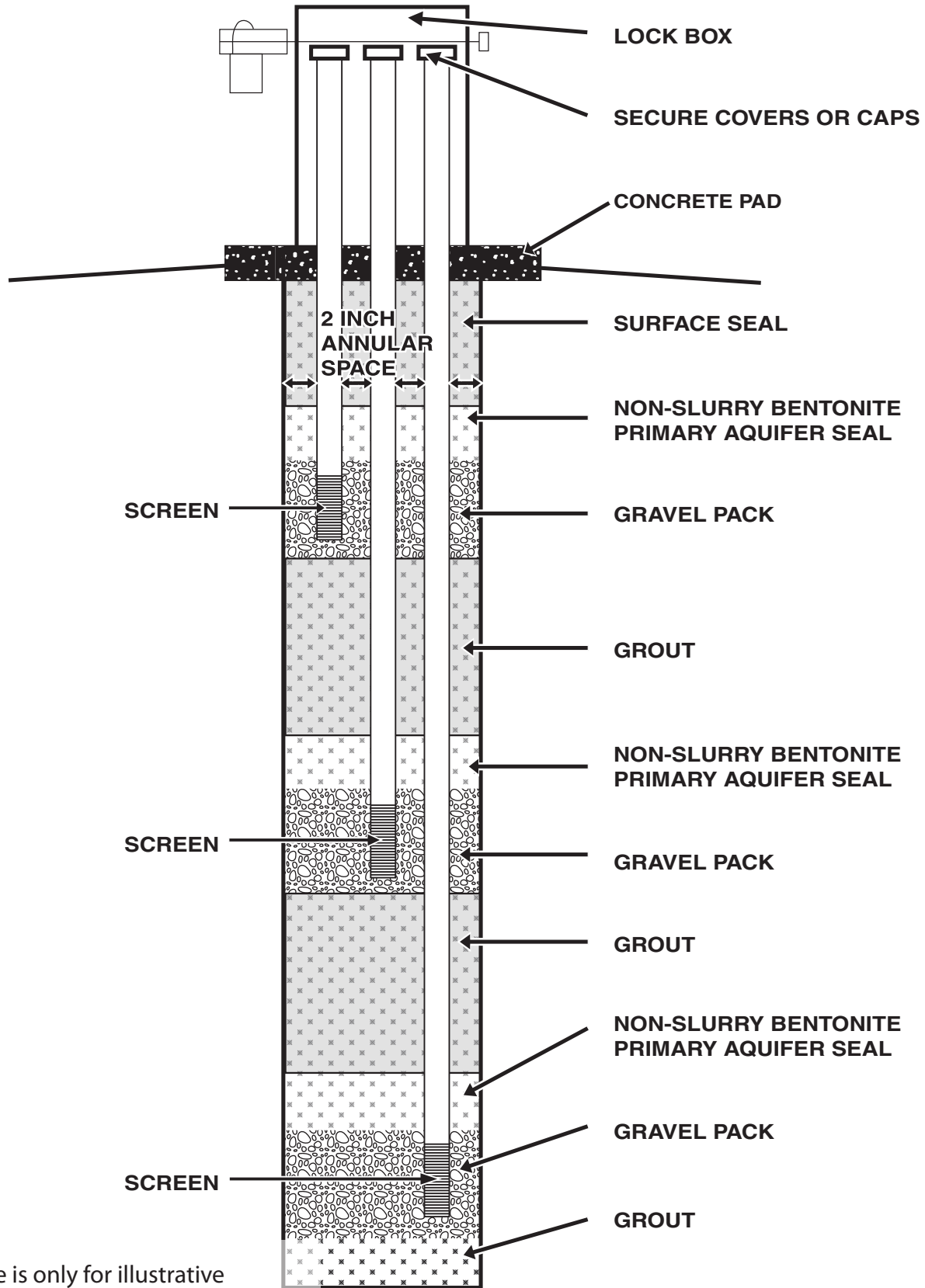
**FIGURE 9  
WELLS LOCATED IN THE ARIKAREE FORMATION  
THAT ARE SUBJECT TO SUBSIDENCE**

178 NAC 12-005.05



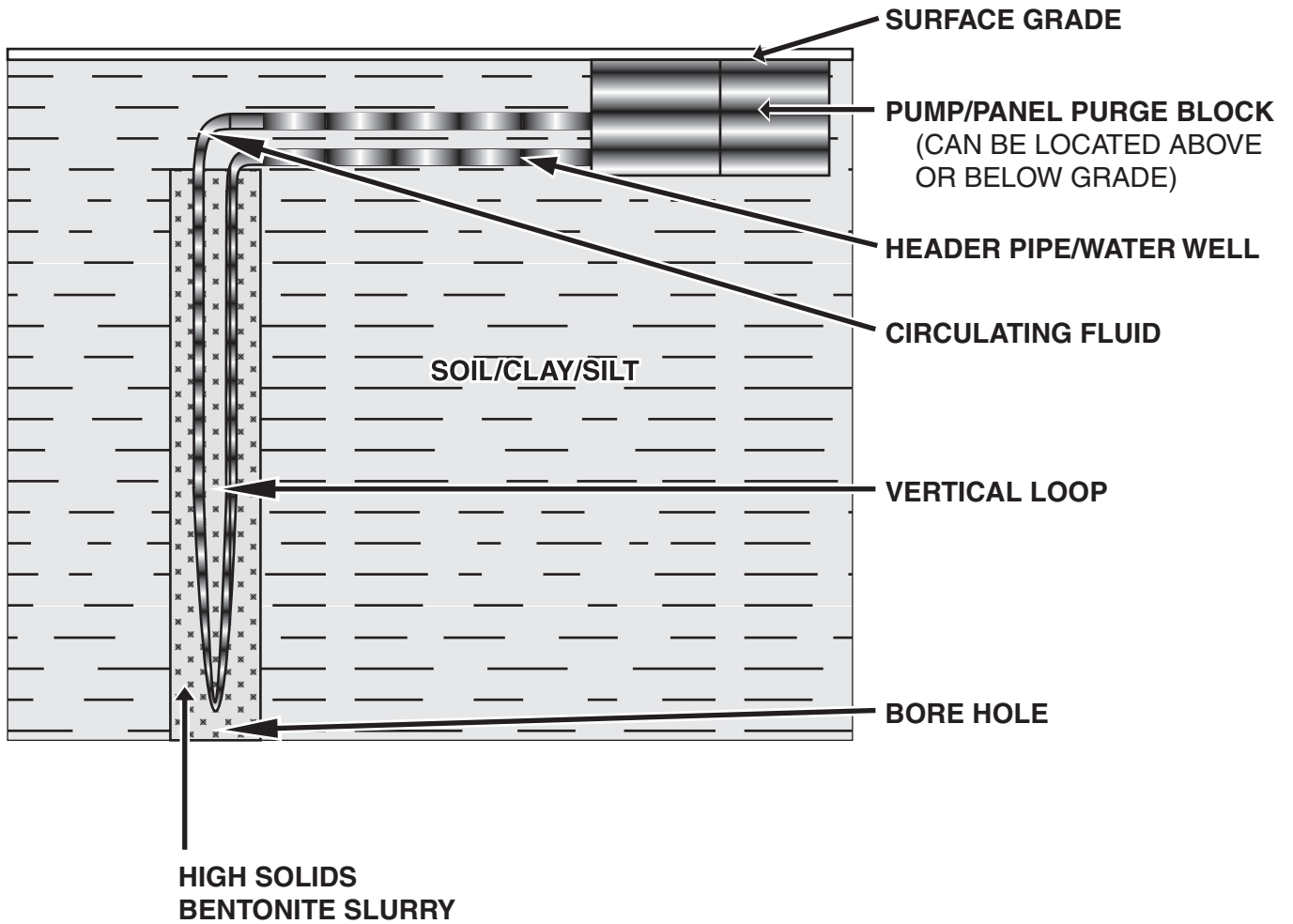
This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 10  
NESTED WELL DESIGN**



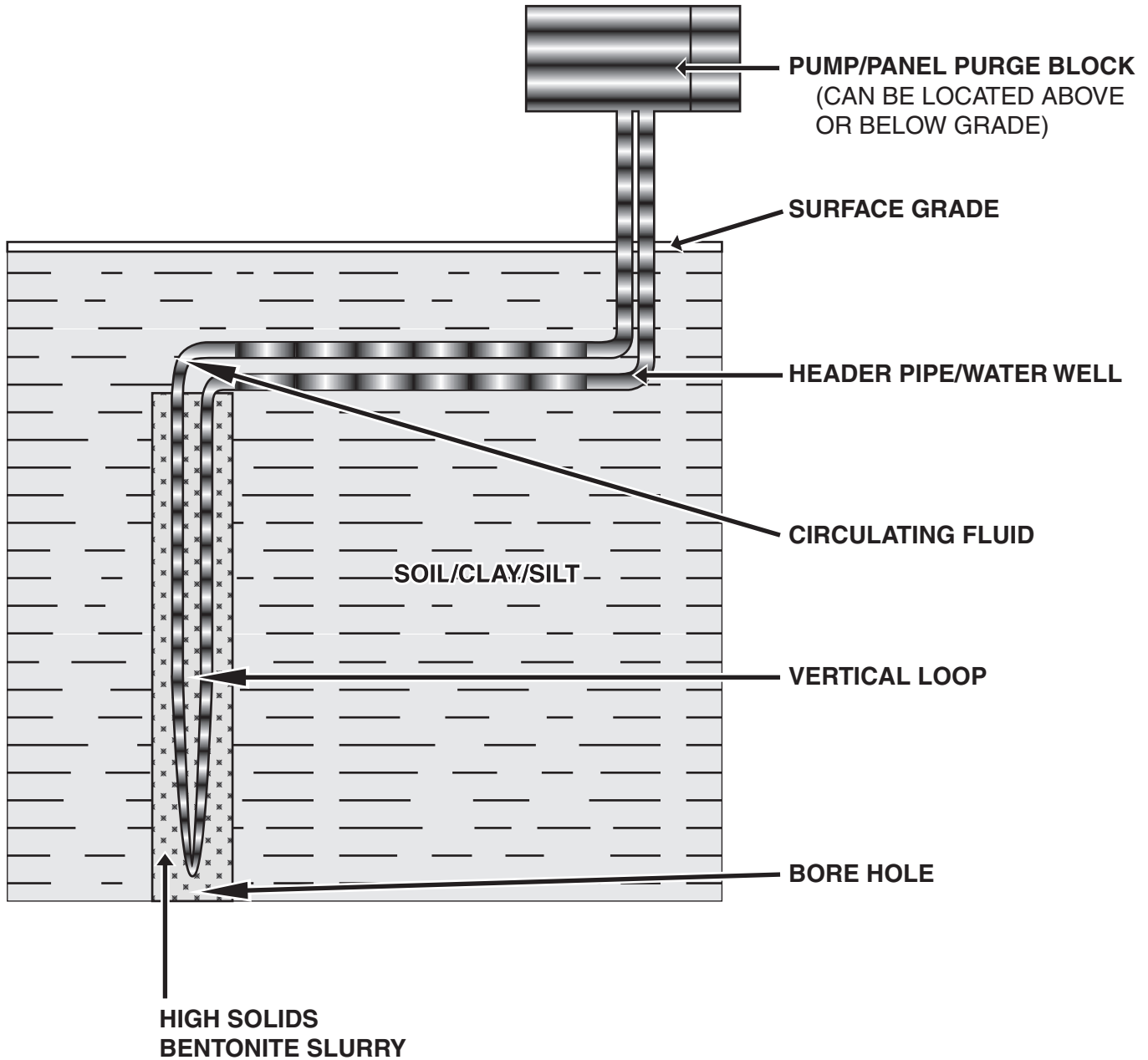
This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 11A.  
CLOSED LOOP WATER WELL AS PER 46-1212  
10 OR MORE BOREHOLES**



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

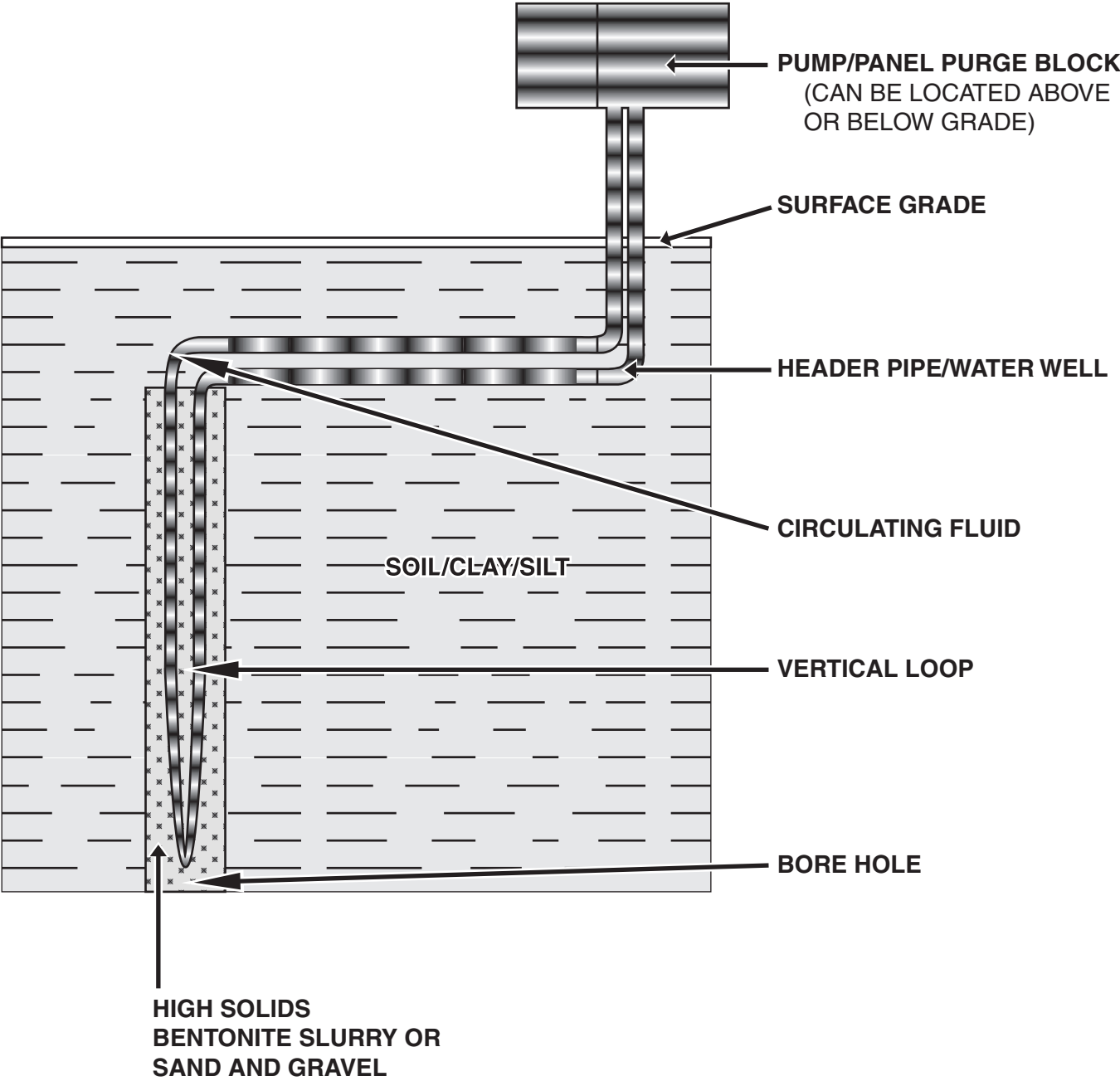
**FIGURE 11B.  
CLOSED LOOP WATER WELL AS PER 46-1212  
LESS THAN 10 BOREHOLES AND LOCATED LESS  
THAN 1000 FEET OF A COMMUNITY PUBLIC WATER WELL**



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

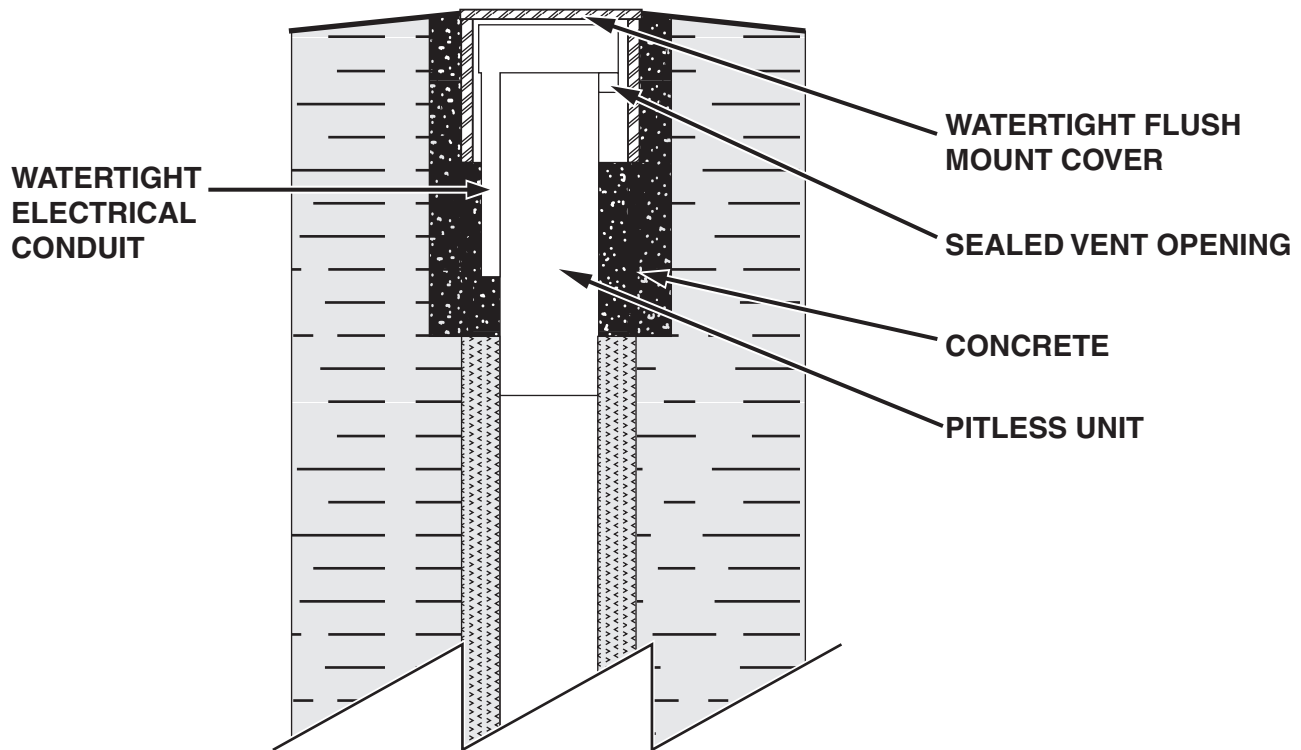


**FIGURE 11C.  
CLOSED LOOP WATER WELL AS PER 46-1212  
LESS THAN 10 BOREHOLES AND LOCATED  
1000 FEET OR MORE OF A COMMUNITY PUBLIC WATER WELL**



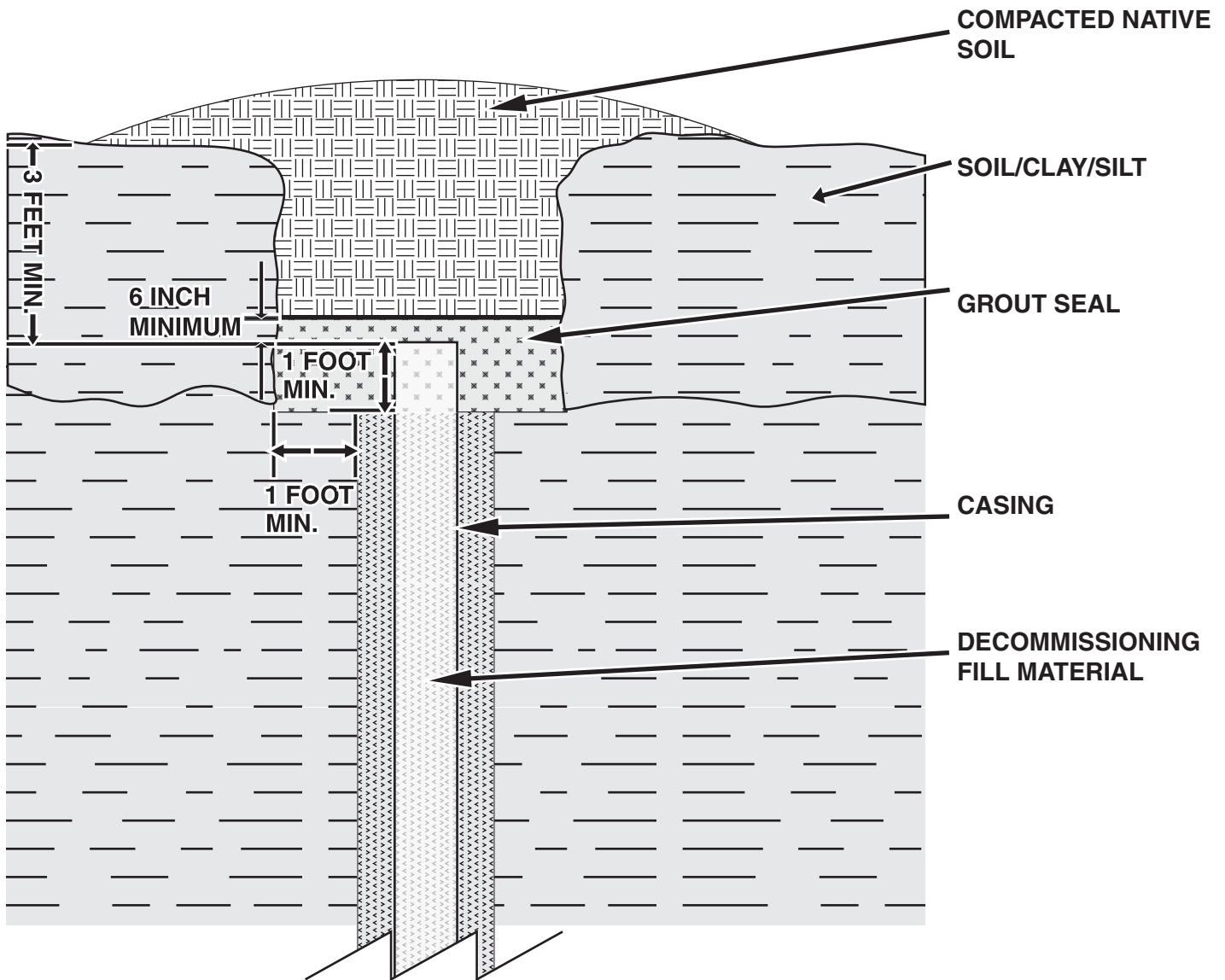
This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 12.  
PITLESS UNITS INSTALLATION  
IN A HIGH TRAFFIC AREA**



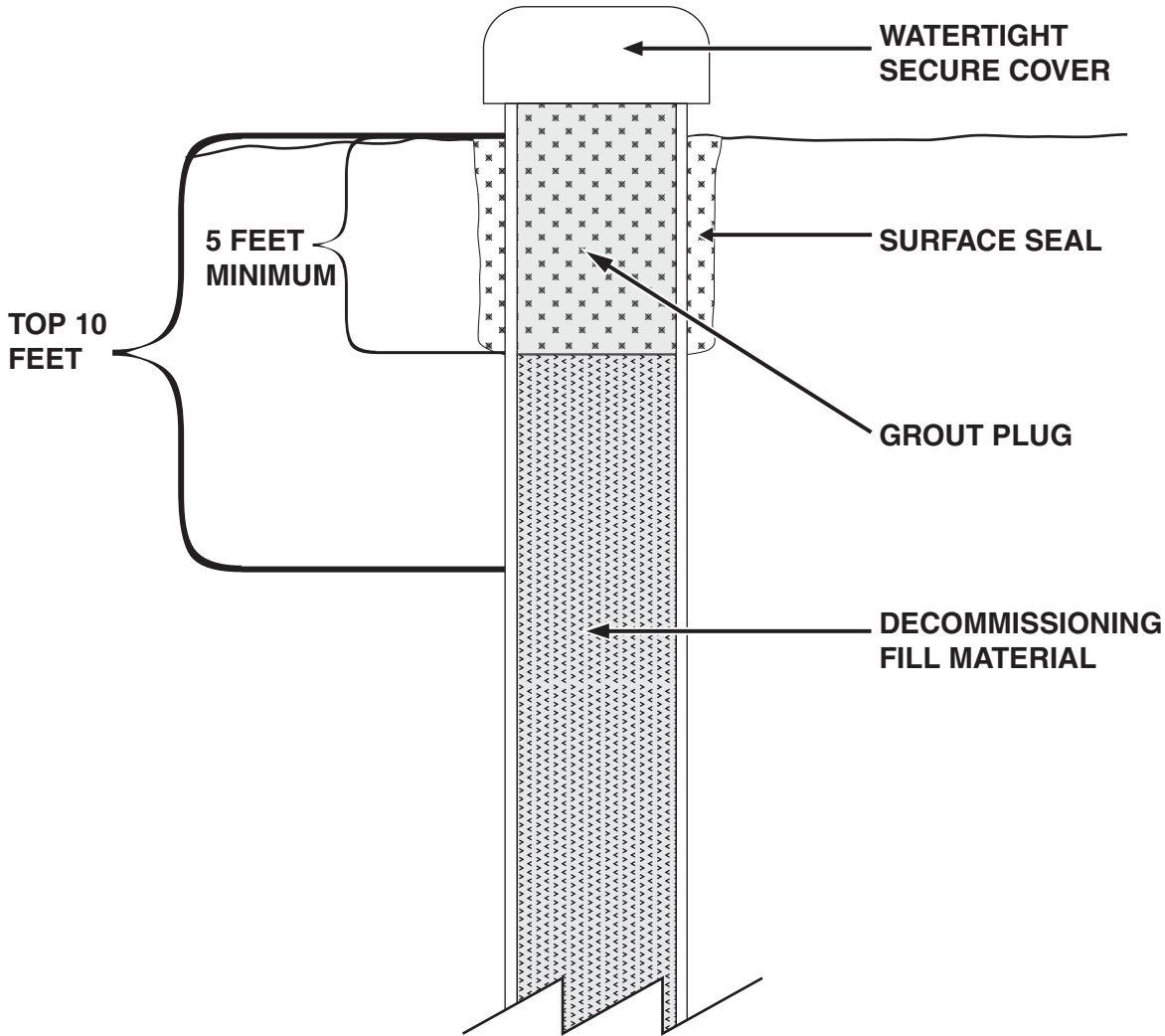
This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 13.  
DECOMMISSIONING THE UPPER PLUG - OPTION 1**



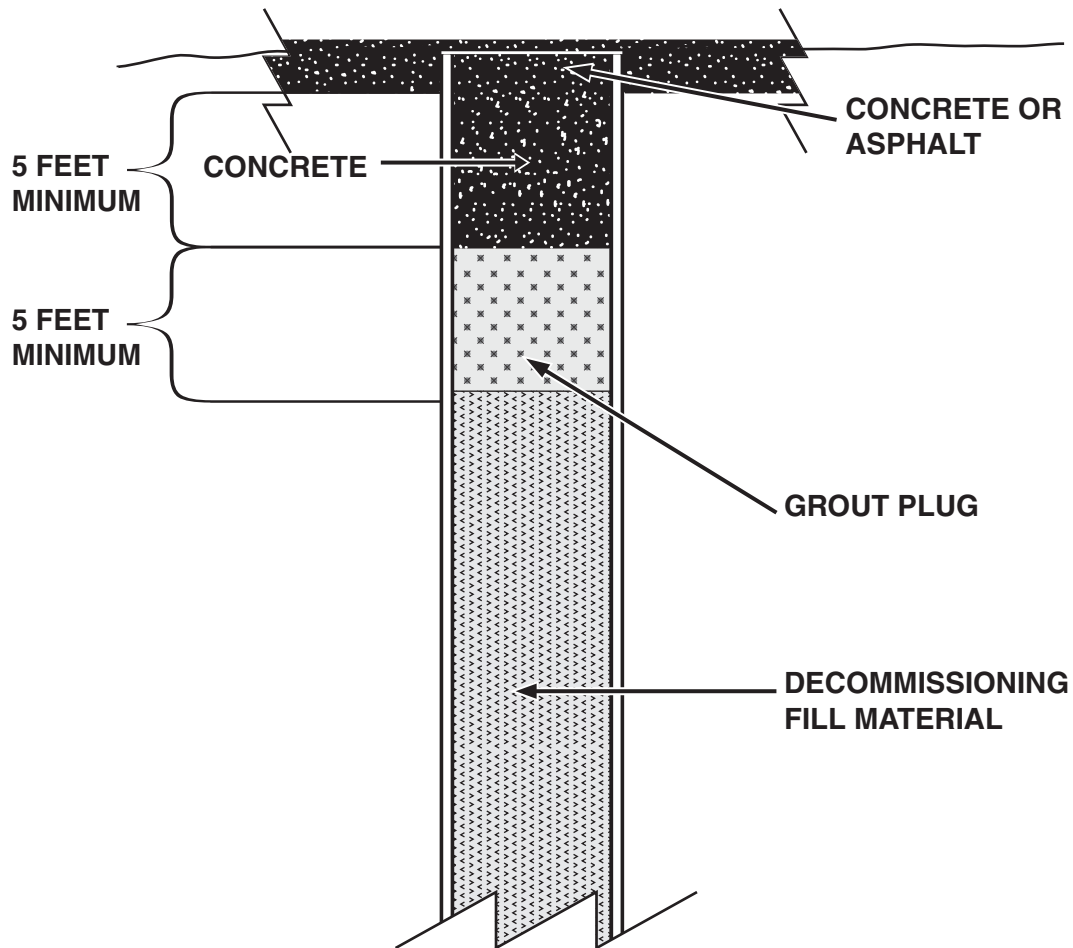
This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 14.  
DECOMMISSIONING THE UPPER PLUG - OPTION 2**



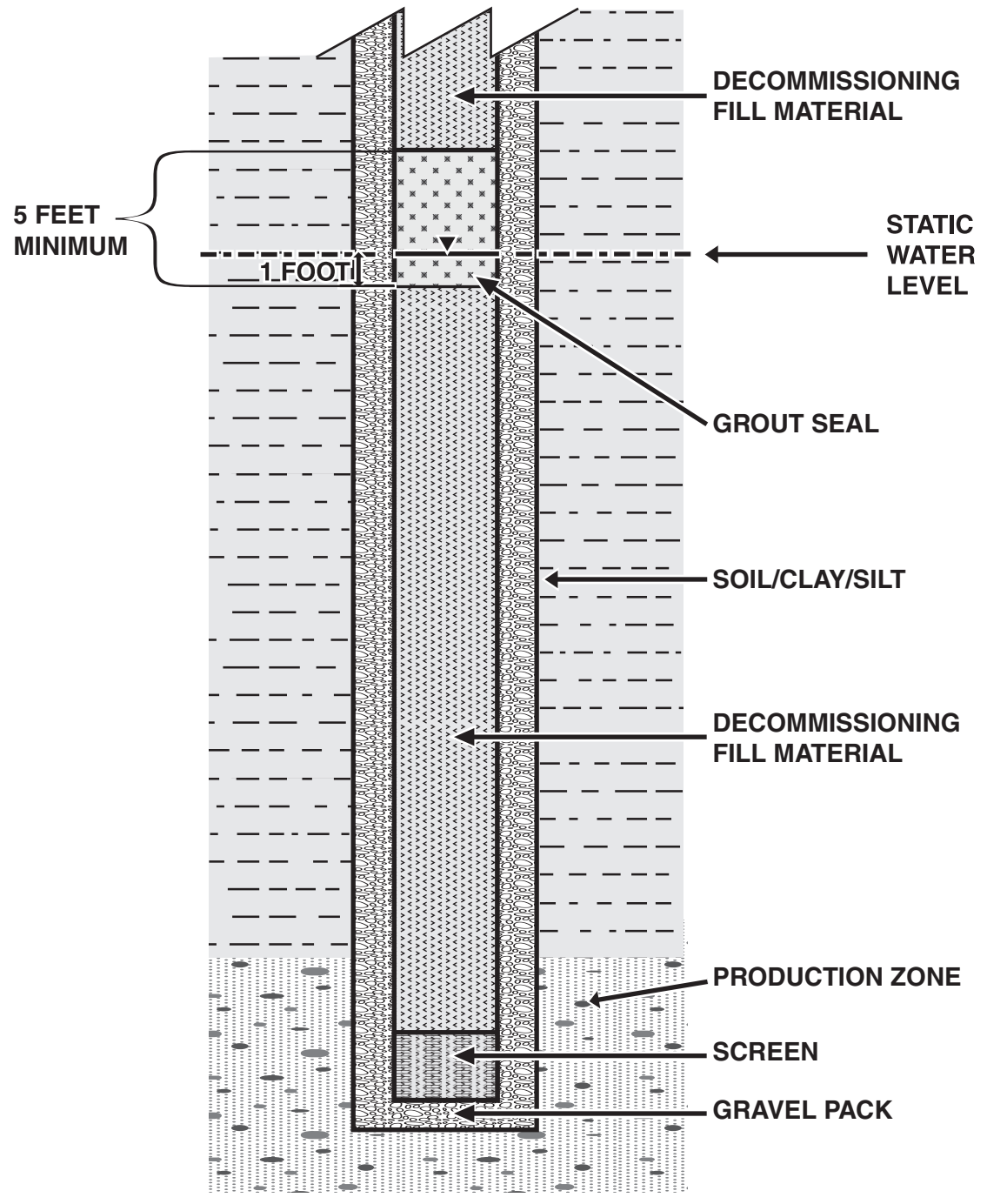
This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 15.  
DECOMMISSIONING THE UPPER PLUG - OPTION 3**



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

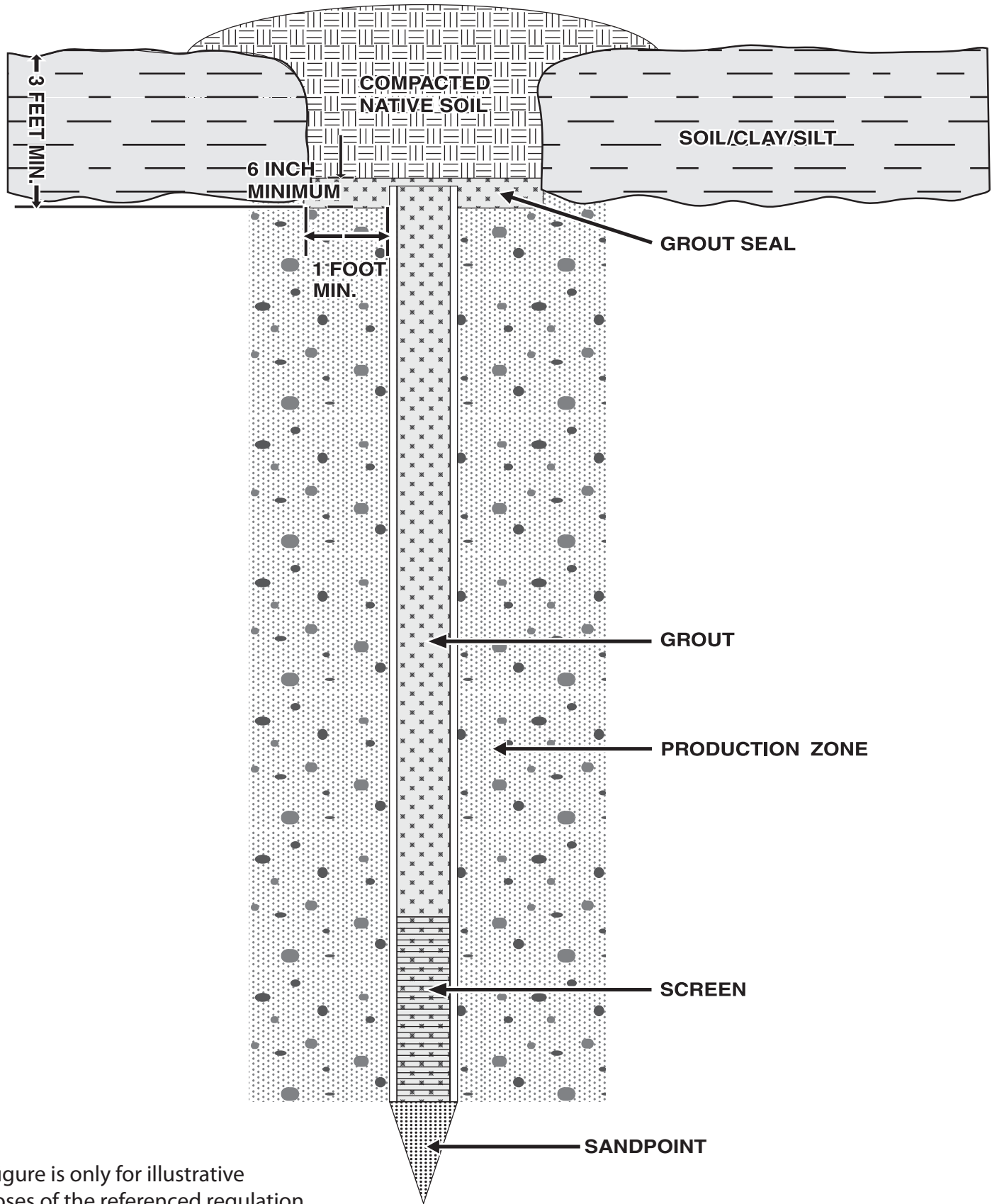
**FIGURE 16.  
DECOMMISSIONING DRILLED WELLS**



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.



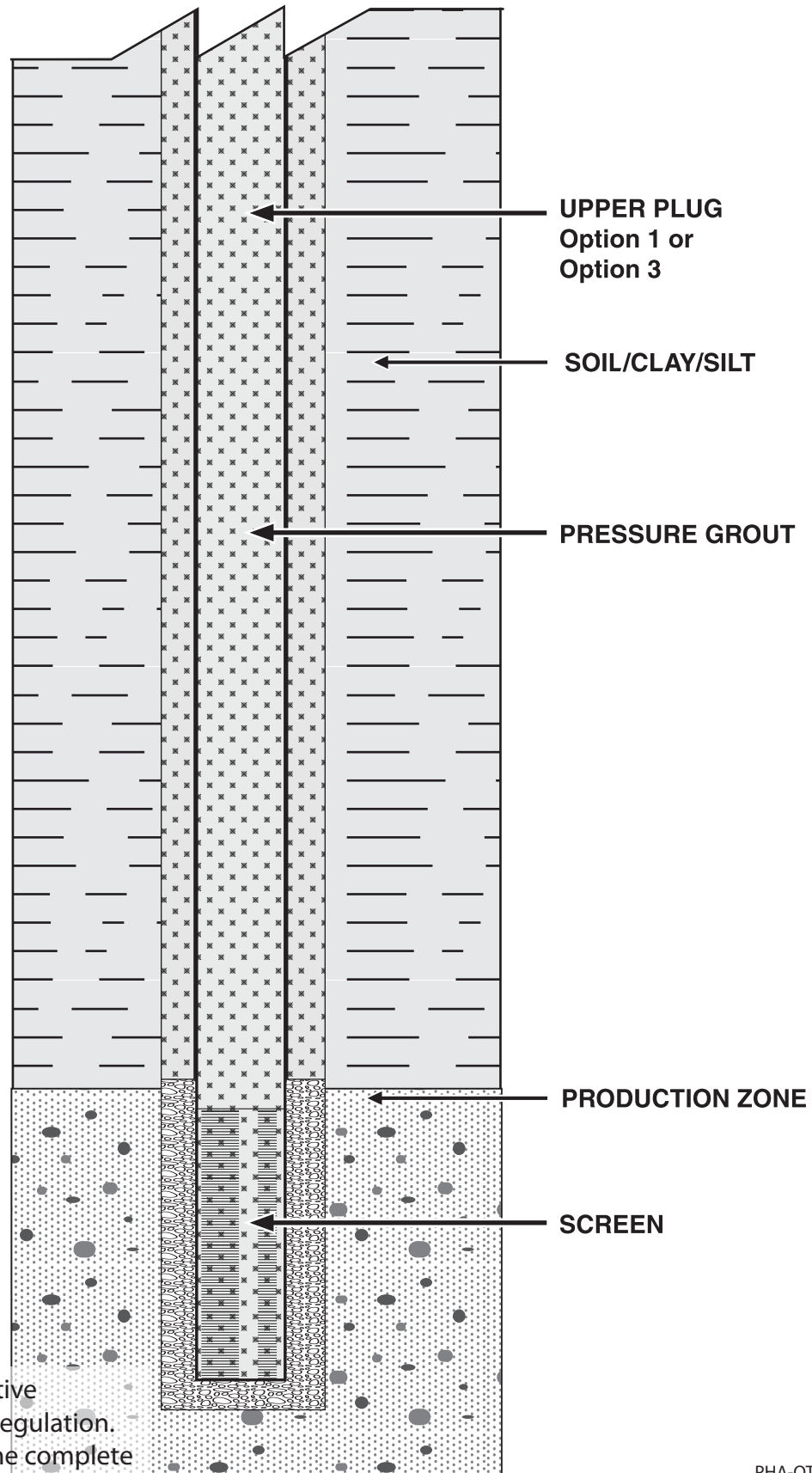
**FIGURE 18.  
DECOMMISSIONING DRIVEN SANDPOINT WELLS  
WHERE THE CASING IS LEFT IN PLACE**



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

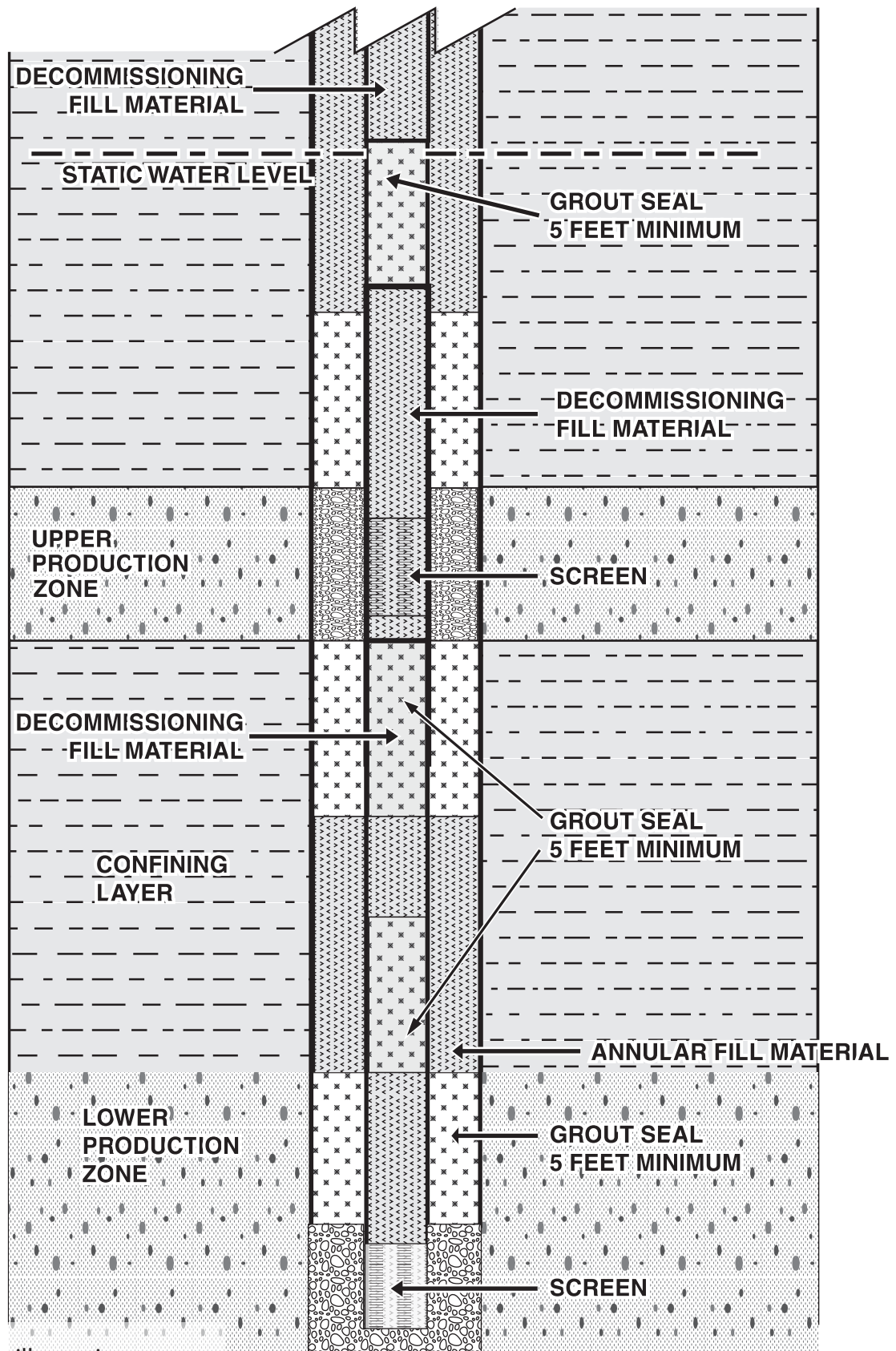


**FIGURE 19.  
DECOMMISSIONING FULL LENGTH  
GROUTED WELLS**



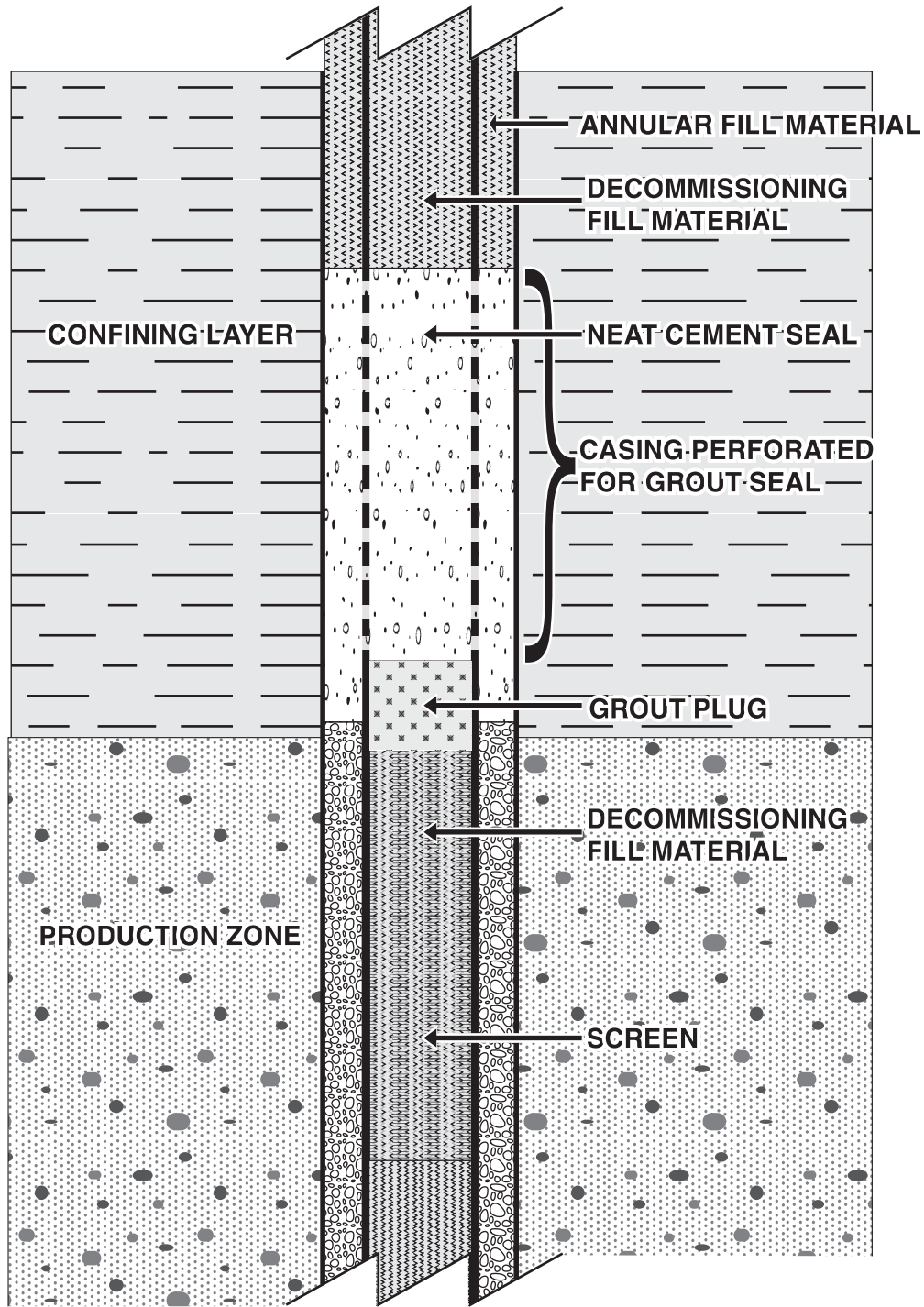
This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 20.  
DECOMMISSIONING MULTIPLE AQUIFER WELLS**



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

**FIGURE 21.  
DECOMMISSIONING FLOWING WATER  
WELLS AND CONFINING LAYERS**



This figure is only for illustrative purposes of the referenced regulation. See the regulation text for the complete standard requirements.

EFFECTIVE DATE  
JUNE 7, 2011

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 13

TITLE 178 ENVIRONMENTAL HEALTH

CHAPTER 13 THE WATER WELL STANDARDS AND CONTRACTORS' LICENSING BOARD

13-001 SCOPE AND AUTHORITY: These regulations define the purpose, membership, duties, and procedural rules for the operation of the Water Well Standards and Contractors' Licensing Board. The authority is found in Neb. Rev. Stat. §§ 46-1201 to 46-1241 and the Uniform Credentialing Act.

13-002 DEFINITIONS

Act means the Water Well Standards and Contractors' Practice Act, Neb. Rev. Stat. §§ 46-1201 to 46-1241.

Board means the Water Well Standards and Contractors' Licensing Board.

Department means the Department of Health and Human Services .

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. (In 178 NAC 10 to 13 it means those licenses issued under the Act.)

UCA means the Uniform Credentialing Act, Neb. Rev. Stat. §§ 38-101 to 38-1,139.

13-003 BOARD PURPOSE: The purpose of the Board is to protect the health, safety, and welfare of the public.

13-004 BOARD DUTIES: The duties of the Board include, but are not limited to:

1. Setting the minimum standards of proficiency and competency,
2. Providing recommendations regarding reinstatement of licenses,
3. Providing recommendations related to the issuance or denial of licenses, disciplinary action, and changes in legislation,
4. Providing the Department with recommendations on regulations to carry out the Act and the UCA,
5. Setting construction standards for water wells,
6. Setting fees, and
7. Approving regulations.

13-005 BOARD MEMBERSHIP

13-005.01 Designation of Members: The Water Well Standards and Contractors' Licensing Board will be composed of ten members, six of whom will be appointed by the Governor as follows: (1) a licensed water well contractor representing irrigation water well contractors, (2) a licensed water well contractor representing domestic water well contractors, (3) a licensed water well contractor representing municipal and industrial water well contractors, (4) a licensed pump installation contractor, (5) a manufacturer or supplier of water well or pumping equipment, and (6) a holder of a license issued under the Water Well Standards and Contractors' Practice Act employed by a natural resources district. The chief executive officer of the Department of Health and Human Services or his/her designated representative, the Director of Environmental Quality or his/her designated representative, the Director of Natural Resources or his/her designated representative, and the Director of the Conservation and Survey Division of the University of Nebraska or his/her designated representative will also serve as members of the Board. Each member shall be a resident of the State of Nebraska. Each industry representative shall have had at least five years of experience in the business of his/her category prior to appointment and shall be actively engaged in such business at the time of appointment and while serving on the Board. Each member representing a category subject to licensing under the Water Well Standards and Contractors' Practice Act shall be licensed by the Department pursuant to the Act.

13-005.01A The appointed members of the board will be appointed for terms of five years except as stated in Neb. Rev. Stat. § 46-1218. No appointed member will be appointed for or serve for more than two consecutive full five-year terms except as otherwise specifically provided in the UCA.

13-005.02 Changes in Membership: State agency representative Board members will serve at the discretion of their respective agency heads. The Board Chairperson must be notified by letter signed by the agency head of his/her designated representative and any changes in such agency's representation on the Board as from time to time may be made. New members will be entitled to vote only after receipt by the Chairperson of such notification. In the absence of the Chairperson, such letters will be transmitted to and received by the Vice Chairperson. For purposes of continuity of action, it is the policy of the Board to encourage each agency to designate only one representative and to discourage frequent substitution of representation.

13-006 COMMITTEES: The Board may establish advisory committees or other advisory bodies as necessary for specific purposes. At least one Board member will serve on each advisory committee or body, and other members may be appointed from outside the Board. No committee thus established will have authority to take final action on any matters assigned to it but will report its findings and make recommendations to the full Board for action as necessary.

### 13-007 CONDUCT OF BUSINESS

13-007.01 Election of Officers: The Board will organize annually at its first meeting subsequent to December 1 and will select a chairperson, a vice-chairperson, and a secretary from its membership.

13-007.02 Quorum Requirements: No action may be taken by the Board unless a quorum is present. A majority of the members of the Board constitutes a quorum for transaction of business. Six affirmative votes will be necessary for the passage of motions. Every act of a majority of the total number of members of the Board will be deemed to be an act of the Board.

13-007.03 Designation of Meeting Dates and Notification Thereof: Meetings of the Board shall be called by the Board Chairperson. Special meetings of the Board shall be called by the Chairperson upon the written request of any three members of the Board. The Board Chairperson will cause due notice to be publicized and transmitted to each Board member no less than ten days prior to the meeting. Board members will simultaneously be provided with copies of a tentative agenda and other relevant material. Notice and conduct of all Board meetings will be in accordance with the Nebraska Open Meetings Act. All meetings will be held at the offices of the Department unless otherwise determined by the Board.

13-007.04 Parliamentary Rules: The Board will at all officially convened meetings conduct its business in accordance with the current edition of Robert's Rules of Order except insofar as they may be inconsistent with these rules and regulations.

13-007.05 Executive Secretary to the Board: The Department will designate an individual with the approval of the Board to serve as Executive Secretary of the Board. The Executive Secretary will act as administrative coordinator of the Board's activities and needs; and, will be responsible for the recording of minutes of meetings and their subsequent distribution to all Board members and other concerned parties consistent with Neb. Rev. Stat. §84-1413. The Executive Secretary to the Board will keep continually current a roster of the members of the Board, including their date of appointment and their term in office; and will be responsible for notifying the Chairperson of the Board and the Governor of any resignations or vacancies on the Board which may occur because of limitation of terms as provided in Neb. Rev. Stat §46-1218.

### 13-008 PUBLIC HEARINGS

13-008.01 Calling Public Hearings: The Board may at any time on its own motion order any public hearing which the Board is authorized, either by law or by inherent authority, to conduct and, after giving notice, conduct such hearing in the manner appropriate to the nature of the hearing as hereinafter provided.

13-008.02 Formal Adjudicatory Hearings: The Board will set a formal adjudicatory hearing when requested by any individual appealing a decision of the Board. The Board hereby

adopts by reference for its rules of practice and procedure in any formal adjudicatory hearing Title 184 NAC 1 - Rules of Practice and Procedure for Administrative Hearings, except that the word "Board" will be substituted for "Department".

13-008.03 Informal, Non-adjudicatory hearings: All hearings set by the Board, not formal adjudicatory hearings, and which may include but not be limited to hearings called for rule making and for public inputs into the Board responsibilities for advising and consenting to Department rules and regulations will be informal, non-adjudicatory hearings governed by this rule and regulation.

13-008.03A Notice: Notice will be given of all public hearings held by the Board. Except as otherwise specified by law, the notice will be published at least once in a newspaper or newspapers of general circulation in the state. The notice may also be published in the area or areas which are affected by the business of the hearing, if regional or local in nature and the publication will be made at least ten days prior to the date of the hearing. The published notice will contain information as to the date, time, place and purpose of the hearing, and as appropriate will include an agenda of the meeting or the place where an agenda is available.

13-008.03B Presiding Officer or Hearing Examiner: The Chairperson of the Board or his/her delegate will serve as presiding officer over the hearing; however, the presiding officer will, in all cases, be a member of the Board. The presiding officer may appoint a hearing examiner for the purpose of assisting in the conduct of the hearing, which person may or may not be a member of the Board.

13-008.03C Powers of Officer or Examiner: The presiding officer or hearing examiner will among other things, open the proceedings; enter into the record the notice given of the hearing; take appearances; accept and see that exhibits are properly numbered; answer questions asked or call upon other persons present to answer questions asked; and close the proceedings. The presiding officer and hearing examiner have no power, acting alone, to take any action involving a final determination from the proceedings when action by law is required of the Board. The record in any hearing will not be affected by any change of presiding officers or examiners during the conduct of that hearing.

13-008.03D Oath Not Required: No person will be required to be sworn or take an oath prior to presenting any comments, which may consist of any oral or written question, statement relevant to the subject of the hearing, and any document.

13-008.03E Receipt of Comments: Comments at a public hearing will ordinarily be received in the following sequence: (1) Board member and staff; (2) other state agencies (3) all other persons in the order the presiding officer, at his/her discretion, chooses. All persons present will be given the opportunity to be heard on matters relevant to the business and purpose of the hearing.

13-008.03F Presentation of Comments: All persons presenting comments at a hearing must first state their full name and address, and declare whether they are appearing on their own behalf or on behalf of another person or organization, in which case the person or organization represented must be named.

13-008.03G Propriety of Comments: All comments presented at the hearing are to be directed at the business and purpose of the hearing. Any comments not directed at the business and purpose of the hearing, or which are cumulative or repetitive, must, at the request of the presiding officer or hearing examiner, be terminated and excluded from the record.

13-008.03H Staff Comments: In addition to comments presented by other persons, the Board may, through the Board staff or otherwise, secure and present such comments as it may consider necessary or desirable. A copy of the notice given for the public hearing and a statement explaining the business and purpose of the hearing will be made as part of the record of the hearing.

13-008.03I Record Made: A record will be made of the hearing proceedings with the comments presented being a part thereof. Such record may consist of written statements and other documents along with tape recordings of oral evidence or transcripts as deemed necessary by the Board.

13-008.03J Record Held Open: The record of public hearings may be held open for a specific period of time at the discretion of the presiding officer for submission of any comments not available or presented at the time of the hearing. At the designated time the hearing will be closed by the presiding officer or hearing examiner after the inclusion of any comments submitted and accepted.

13-009 APPROVAL: The Department, with the approval of the Board, shall adopt and promulgate rules and regulations for the establishment of standards for the:

1. Construction of water wells,
2. Installation of pumps and pumping equipment, and
3. Decommissioning water wells.



EFFECTIVE DATE  
JUNE 7, 2011

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 13

13-010 REQUESTS FOR REPORTING: The Board will routinely, as a part of each meeting, request reports from each agency represented on the Board. In advising the Department as provided under the Act, the Board will, following such reports, assign any subjects or proposals requiring Board advice, consultation, or advice and consent to any standing or special committee of the Board for further investigation or work and will upon report of any such committee to the Board take such further action as deemed appropriate. The Board may take such action at any regular or special meeting of the Board with or without a public hearing.

THESE AMENDED RULES AND REGULATIONS Replace Title 178 NAC 13, Procedural Rules for Operation of the Water Well Standards and Contractors' Licensing Board, effective June 13, 2007.

TITLE 178 ENVIRONMENTAL HEALTH

CHAPTER 22 ASBESTOS PROJECTS

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FIGURES

Figure 1 Decontamination Facility

FORMS

Form 6 Application for Asbestos Occupation Course Approval

EFFECTIVE DATE  
SEPTEMBER 5, 2009

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 22

**Contact the Agency for Forms at:**

Nebraska Department of Health and Human Services  
Division of Public Health  
Environmental Health Unit  
Office of Environmental Health Hazards and Indoor Air  
Asbestos/Lead-Based Paint Program  
301 Centennial Mall South  
P.O. Box 95026  
Lincoln, NE 68509-5026

Phone (402)471-0386  
1-(888)242-1100 Ext. 1  
FAX (402)471-8833

Website: <http://www.dhhs.ne.gov/puh/enh/asbestos>

EFFECTIVE DATE  
SEPTEMBER 5, 2009

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 22

TITLE 178 ENVIRONMENTAL HEALTH

CHAPTER 22 ASBESTOS PROJECTS

22-001 SCOPE AND AUTHORITY

22-001.01 These regulations apply to the following individuals or entities, even if licensure is waived or if an individual or entity is exempt from licensure:

22-001.01A Any private or public business entity as defined in these regulations undertaking an asbestos project in Nebraska;

22-001.01B Any person working on an asbestos project or in an asbestos occupation in Nebraska; and

22-001.01C Any person or entity offering a training course to qualify an individual in an asbestos occupation for license or renewal of a license in Nebraska.

22-001.01D As used in 178 NAC 22-001.01 and 22-001.02, an asbestos project includes the following activities which may only be performed by licensed individuals: Determining whether asbestos containing materials (ACM) exists, assessing the condition of ACM, preparing plans and specifications for an asbestos project, performing the asbestos project, and performing final clearance air sampling or soil sampling at the end of an asbestos project.

22-001.02 These regulations, standards and fees implement the provisions of the Asbestos Control Act, Neb. Rev. Stat. §§71-6301 to 71-6317, and will apply to the licensing of firms involved in asbestos activities in Nebraska; the accreditation of training courses for workers, supervisors, inspectors, project designers, management planner and project monitors engaged in asbestos activities performed in Nebraska; and licensure of asbestos professions in Nebraska.

22-001.03 Additional authority is found in the Uniform Credentialing Act, the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

22-002 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.

Amended water means a water solution containing an effective low sudsing wetting agent.

Appropriate protective clothing means protective outer clothing which is worn by an individual who is engaged in an asbestos project regardless of the concentration of asbestos fibers in the air within the asbestos project. Protective clothing consists of coveralls or similar whole body covering, head covers and foot covers.

Appropriate respirator means an appropriate air purifying respirator providing protection against radionuclides and against dust, fumes and mists in air and which provide the following respiratory protection for airborne concentrations of asbestos fibers:

1. Airborne concentration of asbestos not in excess of one fiber per cubic centimeter will require a half-mask air-purifying respirator, other than a disposable respirator, equipped with high-efficiency filters.
2. Airborne concentration of asbestos not in excess of five fibers per cubic centimeter will require a full facepiece air-purifying respirator equipped with high-efficiency filters.
3. Airborne concentration of asbestos not in excess of ten fibers per cubic centimeter will require a powered air purifying respirator equipped with high efficiency filters or a supplied-air respirator operated in continuous flow mode.
4. Airborne concentration of asbestos not in excess of 100 fibers per cubic centimeter will require a full facepiece supplied-air respirator operated in pressure demand mode.

5. Airborne concentration of asbestos greater than 100 fibers per cubic centimeter will require a full facepiece supplied air respirator operated in pressure demand mode equipped with an auxiliary positive pressure self-contained breathing apparatus.

Appropriate warning sign means a sign not less than 11 inches wide which contains the equivalent of the following legend, printed in letters of sufficient size and contrast to be readily visible and legible:

DANGER  
ASBESTOS  
CANCER AND LUNG DISEASE HAZARD  
AUTHORIZED PERSONNEL ONLY  
RESPIRATORS AND PROTECTIVE CLOTHING ARE  
REQUIRED IN THIS AREA

Approved asbestos waste disposal site means a solid waste disposal area that is operated under a permit issued by the Nebraska Department of Environmental Quality and is authorized to receive asbestos containing solid wastes.

Asbestos means asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite.

Asbestos containing materials or ACM means any material or product which contains more than 1% asbestos.

Asbestos Control Act means §§ 71-6301 to 71-6317.

Asbestos danger label means a label which contains the following legend, printed in letters of sufficient size and contrast to be readily visible and legible:

DANGER  
CONTAINS ASBESTOS FIBERS  
AVOID CREATING DUST  
CANCER AND LUNG DISEASE HAZARD

Asbestos encapsulation project means activities which include the coating of asbestos-containing surface material with a bridging or penetrating type of sealing material for the intended purpose of preventing the continued release of asbestos fibers from the material into the air. Such project does not include the repainting of a previously painted non-friable asbestos-containing surface which is not damaged primarily for improving the appearance of such surface.

Asbestos enclosure project means activities which physically isolate friable asbestos, and which control and contain fibers released from asbestos-containing material by constructing a permanent airtight barrier between the asbestos-containing material and the occupied building space.

Asbestos occupation means an inspector, management planner, project designer, project monitor, supervisor, or worker.

Asbestos project means an asbestos encapsulation project, an asbestos removal project, an asbestos enclosure project, an asbestos related demolition project or an asbestos related dismantling project, but does not include (a) any activities which affect three square feet or less or three linear feet or less of asbestos-containing material on or in a structure or equipment or any appurtenances thereto, or (b) any activities physically performed by a homeowner, a member of the homeowner's family, or an unpaid volunteer on or in the homeowner's residential property of four units or less.

Asbestos related demolition project means activities which include the razing of all or a portion of a structure which contains friable asbestos-containing materials or other asbestos-containing materials which may become friable when such materials are cut, crushed, ground, abraded, or pulverized.

Asbestos related dismantling project means activities which include the disassembly, handling and moving of the components of any structure or equipment which has been coated with asbestos-containing materials without first removing this material from the structure or from the equipment.

Asbestos removal project means activities which include the physical removal of friable asbestos-containing material from the surface of a structure or from equipment which is intended to remain in place after the removal. Such project also includes the physical removal of asbestos from a structure or equipment after such structure or equipment has been removed as part of an asbestos-related dismantling project.

Attest or attestation means that the individual declares that all statements on the application are true and complete. Attestation to meeting continuing competency requirements satisfies the documentation requirement of Neb. Rev. Stat. § 38-142.

Business entity means a partnership, limited liability company, firm, association, corporation, sole proprietorship, public entity or other public or private business concern involved in an asbestos project except an entity solely involved as a management planner or project designer.

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.

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.

Containment area means a negative pressure asbestos project work area and decontamination facility configured so as to isolate asbestos project activities from areas which are to remain uncontaminated.

Control curtain means a closure device constructed of plastic sheeting not less than 6 mil thick and installed in an entryway into an area contaminated or to be contaminated with ACM. A control curtain is intended to restrict the movement of air into, and from, a contaminated area. This curtain consists of three constructed baffles that cover the entire area of the entryway and are fastened securely along the top of the entryway framework and along alternate sides in a manner that will require individuals to walk the entire width of the entryway between adjacent baffles as they pass around the three panels.

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.

Course of study means a program of instruction necessary to obtain a credential meeting the requirements set out for each profession in the appropriate practice act and rules and regulations and includes a college, a professional school, a vocational school, hours of training, or a program of instruction with a similar designation.

Credential means a license, certificate, or registration.

Curriculum means a detailed course outline, description or syllabus submitted to the Department as part of the approval process by an association, educational institution, individual, governmental body or other entity or individual providing an asbestos occupation course.

Decontamination facility means that portion of the containment area containing an equipment room, shower facility and a clean change room (see Figure 1).

Demolition means the wrecking, razing, or removal of any structure or load-supporting structural item of any structure, including any related material handling operations, and includes the intentional burning of any structure.

Department means 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 designee.

Enclosure means the construction of an airtight, impermeable permanent barrier around asbestos-containing material to control the release of asbestos fibers into the air.

EPA means the Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Equipment or equipment item means an item that is designed or intended to perform an operation and includes any attached item, which assists in the operation.

Friable asbestos means asbestos in a form which can be crumbled, pulverized or reduced to powder by hand pressure. CAUTION: NONFRIABLE ASBESTOS WHICH BECOMES FRIABLE IS CLASSIFIED AS FRIABLE ASBESTOS.

Furnishings means removable furniture, draperies, floor coverings and decorative items.

Grade D breathing air means an air supply that contains 19 1/2 - 23 1/2% oxygen on a volumetric basis, not more than 10 volumes of carbon monoxide or 1,000 volumes of carbon dioxide per million volumes of air, not more than 5 milligrams of condensed hydrocarbons per cubic meter of air and no objectionable odors.

HEPA filter means a high efficiency particulate air filter capable of trapping and retaining from an air stream 99.97% of asbestos fibers greater than 0.3 microns in size.

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Inspector means an individual who is licensed by the Department to identify and assess the condition of ACM. Inspectors will perform their duties in accordance with the techniques, knowledge, training and responsibilities outlined in 178 NAC 22-008.04A, item 8.

Instructor means an individual who is approved by the department to teach an asbestos-related training course.

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.

Management planner means an individual who is licensed by the Department to assess the hazard of materials containing asbestos, to determine the appropriate response actions, and to write management plans.

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)

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

Physician means a person authorized to practice medicine and surgery or osteopathic medicine and surgery in the jurisdiction where a physical examination required by 178 NAC 22-004.02A is given.

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

Project designer means an individual who is licensed by the Department to formulate plans and write specifications for conducting asbestos projects.

Project monitor means an individual who is licensed by the Department to observe abatement activities performed by contractors, to represent the building owner to ensure work is completed according to specifications and in compliance with statutes and regulations, and to perform air monitoring to determine final clearance.

Project review means review of a licensed business entity's proposed asbestos project.

Public entity means a state agency, political or taxing subdivision, municipality or any other independent body created by law except a district as defined in Neb. Rev. Stat. §70-601 or a district subject to Neb. Rev. Stat. §§14-2101 to 14-2157.

Removal encapsulant means a penetrating encapsulant specifically designed for removal of ACM rather than for encapsulation of ACM in place.

Renovation means the altering of a structure, one or more structural items, or one or more equipment items in any way, including any asbestos project performed on a structure, structural item, or equipment item.

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

Sealing material means an asbestos-free material used to cover a surface to prevent any asbestos fibers remaining after ACM removal from being dispersed into the air. This term includes sprayed or brushed on decorative and fireproofing materials as well as penetrating or bridging encapsulants.

Structure or structural item means roofs, walls, ceilings, floors, structural supports, pipes, ducts, fittings and fixtures that have been installed as an integral part of any structure.

Supervisor means an individual who is licensed by the Department to supervise and direct an asbestos project in accordance with the Asbestos Control Act and the rules and regulations adopted and promulgated pursuant to this act.

Type-C respirator system means an airline respirator designed for atmospheres not immediately dangerous to life or health. It consists of a source of respirable breathing air, an air hose with a detachable coupling, flow control fittings and a facepiece, helmet or hood.

Wet cleaning means the process of using amended water or a removal encapsulant and a wet brush, mop, cloth, sponge or similar wet cleaning device to remove completely any visible ACM residue from surfaces. This definition does not include the use of a non-HEPA filter-equipped wet vacuum cleaner to pick up wet ACM debris or contaminated wastewater.

Wetting agent means a surfactant or chemical that is added to water to decrease its surface tension and allow it to spread more easily over or penetrate into a surface that is covered with ACM.

Work area means a specific room or physically isolated portion of a room in which ACM is required to be handled in accordance with the requirements 178 NAC 22. These areas are designated as work areas from the time that the room, or portion of it, is being prepared in order to perform the asbestos project until the time the area has been cleaned free of all visible residue in accordance with applicable Department regulations.

Worker means an individual who is licensed by the Department to clean, handle, repair, remove, encapsulate, haul, dispose of or otherwise work with asbestos material in a nonsupervisory capacity.

22-003 BUSINESS ENTITY LICENSE

22-003.01 A business entity, before engaging in an asbestos project, must hold a license issued or renewed by the Department unless a waiver has been granted under 178 NAC 22-003.03.

22-003.01A The Department may waive the requirement for a license temporarily in the event of an emergency in which, in the opinion of the Department Director, a situation of present and severe danger exists which poses an immediate threat to the public health, safety and welfare. An application for an emergency waiver of a license must be made. Such a waiver will be granted only for the specific time required to take protective measures. The emergency waiver of a license application may be on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. The name of the business and mailing address;
2. Contact name and phone number;
3. Location of emergency;
4. Description of emergency situation;
5. What danger or threat to the public health, safety and welfare exists;
6. Anticipated length of time it will take to address the emergency situation;
7. Indicate if any owners or officers of the business entity have ever owned or managed any other asbestos business entity previously licensed in the state of Nebraska. If so, state name of the entity, the last date licensed and the relationship.
8. Indicate if the business entity is licensed in any other state and if so where.
9. Indicate if the business entity will use individuals on the emergency project who hold a current certification from an EPA accredited training course; licensed in Nebraska or hold a waiver of license from the Nebraska Department of Health and Human Services.;
10. Indicate if the project will be conducted in accordance with standard worker protection safety practices, methods and equipment as well as all Department regulations; and
11. Signature of the chief executive officer of the business entity authorized to bind the firm to legal agreements or his/her designee, verifying that the information included in the application and supplemental information attached is true to the best of their knowledge.

22-003.01B The Department may waive the requirement for a license for a business entity not primarily engaged in asbestos projects only when the health, safety and welfare of all classes of asbestos occupations, building occupants and the general public are protected adequately.

22-003.01C The requirement for a license does not apply to a business entity which performs only asbestos projects which are less than 260 linear feet or which are less than 160 square feet and linear feet in any combination.

22-003.01D The requirement for a license does not apply to a business entity which, for the purpose of renovating, maintaining or repairing its own facilities, contracts with a licensee or uses its own employees for an asbestos project.

22-003.01E A business entity as defined in 178 NAC 22-002 including a public entity as defined in 178 NAC 22-002, whether required to be licensed, waived from license or not required to be licensed in accordance with these regulations must nevertheless have employees obtain asbestos occupation licenses in accordance with 178 NAC 22-004, perform asbestos project notifications in accordance with applicable provisions of 178 NAC 22-005 and keep records in accordance with 178 NAC 22-006.01.

22-003.01F A business entity which is licensed or for whom licensure has been waived must follow work practices of 178 NAC 22-011 to 22-022.

22-003.02 To have a license issued, renewed or remain in effect, the business entity must demonstrate that it meets the following requirements:

22-003.02A Be owned by, or employ, at least one supervisor licensed in accordance with 178 NAC 22-004, who will be required to be physically present at, and directly supervise, each asbestos project and who must be responsible for compliance with these regulations.

22-003.02B Ensure that each employee or agent of the business entity who engages in an asbestos project or occupation is licensed in accordance with 178 NAC 22-004.

22-003.02C Designate an individual who is responsible for establishing and maintaining a written respiratory protection program and a medical surveillance program.

22-003.02D Demonstrate access to and use a Nebraska Department of Environmental Quality licensed and approved asbestos waste disposal site for deposit of all ACM waste that the business entity will generate during the term of the license.

22-003.02E Own, or certify immediate and continuing access to, and maintain in operable condition, at least the following equipment for use in each asbestos project in which it proposes to engage:

1. Two HEPA filter-equipped portable exhaust fan units with a minimum rated capacity of 500 cubic feet per minute;

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2. Two HEPA filter-equipped vacuuming devices equipped with hoses and attachments necessary for cleaning wet surfaces;
3. A type-C pressure demand or continuous flow respirator system with:
  - a. An air supply which provides sufficient volume and pressure of Grade D breathing air to accommodate the manufacturers' specifications for all respirators intended to be connected to it; and
  - b. Appropriate respirators, hoses and regulators in sufficient quantities to meet all anticipated requirements; and
4. Appropriate respirators, with a continuing inventory of at least ten HEPA filters specifically designated for use with each, in sufficient quantities to meet all anticipated requirements.

22-003.02F The Department may waive any of the individual requirements of 178 NAC 22-003.02E items 1 through 4 as follows:

1. A waiver may be requested by submitting a completed waiver application. The waiver application may be on a form provided by the Department or constructed by the credential holder, which must include the following information:
  - a. Name of business, address, phone number and contact name;
  - b. Type of waiver requested and describes the waiver and lists the specific regulation number(s) and subsection(s);
  - c. Reason for waiver;
  - d. Describe alternative equipment, work practice or worker protection measure;
  - e. Describe how the alternative meets the requirements of the statutes and regulations to protect the health, safety and welfare of all classes of asbestos occupations, and the general public; and
  - f. Signature of the chief executive officer of the business entity authorized to bind the firm to legal agreements or his/her designee, verifying that the information included in the application and supplemental information attached is true to the best of their knowledge.
2. The request for waiver must include a description of the waiver requested, the reason for requesting the waiver, any alternative equipment or procedure proposed and an explanation of how the alternative meets the requirements 178 NAC 22.
3. A waiver will be granted only when the health, safety and welfare of all classes of asbestos occupations, building occupants and the general public are protected adequately; and the proposed alternative equipment or procedures meet the requirements 178 NAC 22.

4. The Department will approve or deny waiver applications in the form of a written notice to the applicant.

22-003.03 If a license, renewal of a license or waiver from licensing is desired, the business entity must:

22-003.03A To apply for a license a firm must submit to the Department the information listed below: The application may be on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. The name, address, legal structure (e.g., partnership, corporation, individual proprietorship, etc.) and nature of the business entity;
2. The name(s) and current address(es) of the supervisor(s) and designated individual(s) required by 178 NAC 22-003.02A and 22-003.02C;
3. Evidence that the business entity is capable of complying with all applicable requirements, procedures and standards imposed by these regulations. Evidence of such capability must include, but is not limited to:
  - a. A list demonstrating ownership of or immediate and continuing access to the equipment required by 178 NAC 22-003.02E;
  - b. A copy of the business entity's written employee protection plan and written standard operating procedures, which includes, at a minimum, the following:
    - (1) A description of the protective clothing and respirators the business entity intends to use;
    - (2) A description of the respiratory protection program, the respirator training and fit testing programs, and the medical monitoring program;
    - (3) A description of the asbestos related removal, enclosure, encapsulation, demolition, dismantling and maintenance methods that the business entity intends to use;
    - (4) A description of the procedures that the business entity uses for handling ACM waste, and the name and address of at least one approved asbestos waste disposal site the business entity intends to use;
    - (5) A description of the air monitoring procedures the business entity intends to use;
    - (6) A description of the site decontamination procedures that the business entity will use; and
    - (7) A description of the procedures that the business entity will use in cleaning up the asbestos project.

4. Copies of all citations levied against the business entity within the past ten years by any federal, state or local government agency for violations related to asbestos activities, including names and locations of the activities, the dates and a description of how the allegations were resolved.

22-003.03B Have the chief executive officer of the business entity making application or his/her designee sign the application and forward the original to the Department.

22-003.03C Enclose a check or money order for the fee required by 178 NAC 22-009.01.

22-003.04 The Department has 60 days after receipt of an initial application for licensure to determine if a license will be issued.

22-003.04A If an application is deficient or incomplete, the Department will notify the applicant of the information necessary to complete the application and retain the application submitted pending receipt of the additional information. The applicant has 15 days to provide the information necessary to complete the application. If the Department has not received the information within the 15 days, the application will be returned to the applicant.

22-003.04B The Department will approve or deny the application in the form of a written notice to the applicant.

22-003.05 A license will expire on the first anniversary of its effective date unless renewed according to the provisions of 178 NAC 22-003.07.

22-003.06 Prior to the expiration of a license, the Department will send to the licensed business entity at its last known address, a renewal notice which states the following:

1. The date on which the current license expires;
2. The date by which the renewal application must be received by the Department for the renewal to be issued and mailed before the license expires; and
3. The amount of the renewal fee, as provided by 178 NAC 22-009.01.

22-003.07 A licensed business entity applying for renewal of a license must submit a completed application to the Department in accordance with 178 NAC 22-003.03 at least 30, but not more than 60, days prior to the expiration date in order to avoid a lapse in coverage.



22-003.08 The Department will prepare and maintain a list of licensed asbestos business entities which will be available for public inspection at the Department during working hours.

22-003.09 A business entity must be validly licensed by the Department at the time it submits a bid for an asbestos project to any state agency, county, city, village, school district, or other political or taxing subdivision.

22-003.10 Denial, Refusal to Renew, Suspension or Revocation of Licenses: The Department may deny, refuse to renew, suspend or revoke a license, whether initial or renewed, for any of the following reasons:

1. Engaging or attempting to engage in an asbestos project without a license or waiver from licensure unless exempt from licensure;
2. Fraud or misrepresentation in an application;
3. Employing or permitting an unlicensed individual to work on an asbestos project or in an asbestos occupation;
4. Failure to provide notice to the Department of the commencement of an asbestos project as required by 178 NAC 22-005;
5. Failure to maintain or to permit inspection of the records required by 178 NAC 22-006;
6. Failure to permit an on-site inspection of an asbestos project by the Department, as required by 178 NAC 22-006.02 or 22-006.04;
7. Failure to pay any fee assessed under 178 NAC 22; or
8. Failure at any time to comply with requirements of the Asbestos Control Act or Department regulations implementing the Act.

22-003.11 In addition to the disciplinary action provided in 178 NAC 22-003.10 or the citation action provided in 178 NAC 22-003.13, the Department may assess a civil penalty of not less than \$1,000 nor more than \$25,000 for each offense committed by a business entity licensed under the Asbestos Control Act.

22-003.12 Procedure: Should the Department determine to deny, suspend, revoke or refuse to renew a license, it will send to applicant or licensee by mail, a notice setting forth the reasons for the determination. The denial, suspension, revocation or refusal to renew will become final 30 days after the mailing of the notice unless the applicant or licensee within such 30 day period gives written notice of a desire for a hearing. Hearings will be conducted in accordance with the Administrative Procedures Act and 184 NAC 1. If a hearing is requested, the applicant or licensee will be given a hearing before the Department and will have the right to present such evidence as may be

proper. On the basis of such evidence, the determination will be affirmed, modified or set aside, and a copy of such decision setting forth the findings of fact and the particular reasons upon which such decision was based will be sent by certified mail to the applicant or licensee. The decision will become a final decision of the Department and may be appealed in accordance with the Administrative Procedure Act.

22-003.13 Citation in Lieu of Discipline When the Department determines that a licensee has violated the Asbestos Control Act or Department regulations, the Department may, rather than initially instituting disciplinary proceedings in accordance with 178 NAC 22-003.12, within seven working days after finding a violation is made, issue a citation to the licensee.

22-003.13A The citation will be served upon the licensee personally or by certified mail. Each citation will describe specifically the nature of the violation, and identify the statute, rule or regulation violated.

22-003.13B When the citation is served upon the licensee, the licensee will have seven working days to remedy the violation.

22-003.13C If such violation has not been remedied at the end of such time, the Department may take such other action as is deemed appropriate pursuant to the Asbestos Control Act and the Administrative Procedure Act.

22-003.14 The Department will inform the Attorney General of any violation or impending violation of the Asbestos Control Act or Department regulations requiring an action in the name of the State for an injunction or other process against a business entity or individual to restrain or prevent such violation.

## 22-004 ASBESTOS LICENSURE FOR INDIVIDUALS

22-004.01 An individual, before engaging in an asbestos occupation or an asbestos project, must hold a license issued or renewed by the Department unless a waiver has been granted under 178 NAC 22-004.01C. Asbestos occupations are: Asbestos Worker, Asbestos Supervisor, Asbestos Project Designer, Limited Asbestos Project Designer, Asbestos Inspector, Asbestos Management Planner, Limited Asbestos Management Planner, and Asbestos Project Monitor.

22-004.01A In addition to holding a current license, in order to practice an occupation, a licensee must also have:

1. Department approved training in the appropriate occupation within the preceding 12 months. An individual, once licensed, must successfully complete approved annual review courses as required by 178 NAC 22-008.07 to remain current in training requirements throughout the term of his/her license; and
2. A physical examination and physician statement that the licensee is physically capable of working while wearing a respirator within the

preceding 12 months other than a asbestos limited project designer or limited asbestos management planner. An individual, once licensed, must have an annual physical examination and physician statement as required by 178 NAC 004.02A, item 4 to remain current in medical requirements throughout the term of his/her license.

22-004.01B An individual who is working on an asbestos project must follow the work practices of 178 NAC 22-011 to 22-022 to the extent it is within such individual's control.

22-004.01C The Department may waive the requirement for a license temporarily in the event of an emergency in which, in the opinion of the Department, a situation of present and severe danger exists which poses an immediate threat to the public health, safety and welfare. Such a waiver will be granted only for the specific time required to take protective measures.

#### 22-004.02 Initial License

22-004.02A Qualifications: To receive a license to practice an asbestos occupation, 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 Naturalization 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 such employment in the United States.
3. Training: Must have completed an initial training course in the asbestos occupation applied for with proof of scoring at least 70% on the final written examination, and have completed appropriate review course. Such training must be either approved by:
  - a. The Department,
  - b. The Federal Department of Environmental Protection Agency (EPA) under the Asbestos Hazard Emergency Response Act, or
  - c. A State Asbestos Program accredited per 40 CFR 763.
    - (1) An individual who has completed an initial training course must complete approved annual review courses as required by 178 NAC 22-008.07. An individual who fails to complete a review course for a period of one year or longer from the expiration date of any previous course must retake the initial training course.
    - (2) An individual who is fully accredited under an EPA Asbestos Hazard Emergency Response Act course or by an accredited

state asbestos model accreditation plan adopted pursuant to 40 CFR 763 still must fulfill the requirement of state law for instruction on applicable Nebraska health and safety standards for asbestos activities. This requirement can be met for either an initial training course or an annual review course by successfully completing within 12 months from the date of the last training certificate a course approved by the Department of at least four hours duration on the applicable Nebraska law, rules and regulations, and by scoring at least 70% on the final written examination.

4. Physical Examination: Have been examined by a physician within the preceding 12 months and declared by the physician to be physically capable of working while wearing a respirator. An individual applying for a limited asbestos project design or limited management planner is exempt from this requirement but may not enter any active asbestos project worksite.

22-004.02B Application: To apply for a license to practice an asbestos occupation, 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

- Naturalization 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 such employment in the United States;
- b. Practice Before Application: The applicant must state:
    - (1) That s/he has not practiced an asbestos occupation in Nebraska before submitting the application; or
    - (2) If s/he has practiced an asbestos occupation 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; and
    - (3) S/he is of good character.

A complete application includes all required documentation, the required fee required by 178 NAC 22-009.02, and a written application.

- 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;
    - (5) U.S. State identification card;
    - (6) Military identification; or
    - (7) Other similar documentation;
  - (b) Evidence of good character, including:
    - (1) Disciplinary Action: A list of any disciplinary actions taken against any of the asbestos related applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
    - (2) Denial: If the applicant was denied an asbestos related credential or denied the right to take an examination, an explanation of the basis for the denial;
  - (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

- Naturalization 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 such employment 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#"); or
  - (14) A Form I-94 (Arrival-Departure Record);
- (e) Original certificate provided to an individual from a course approved by the Department. See 178 NAC 22-004.02A, item 3.
- (f) Original physician certificate that includes the:
- (1) Individual's:
    - (a) Name,
    - (b) Social security number or other identification per 178 NAC 22-004.02B, item 1. (5), and
    - (c) Home address;
  - (2) Date of the physician examination of the individual;
  - (3) Physicians:
    - (a) Name,
    - (b) License number and jurisdiction issuing the physician's license,
    - (c) Business address and
    - (d) Phone number; and
  - (4) The original signature of the physician that declares that the individual is capable of working while wearing a respirator; and

EFFECTIVE DATE  
SEPTEMBER 5, 2009

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3. Fee: Enclose a check or money order for the appropriate fee required by 178 NAC 22-009.02 for the asbestos occupation applied for.
4. The Department has 150 days after receipt of an initial application for certification to determine if a license will be issued.
  - a. If an application is deficient or incomplete, the Department will notify the applicant of the information necessary to complete the application and retain the application submitted pending receipt of the additional information. The applicant has 15 days to provide the information necessary to complete the application. If the Department has not received the information within 15 days, the application will be returned to the applicant.
  - b. The Department will approve or deny the application in the form of a written notice to the applicant.

22-004.02C Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

22-004.02D Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 178 NAC 22-004.08 or such other action as provided in the statutes and regulations governing the credential.

22-004.02E 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.

22-004.02F Address Information: Each credential holder must notify the Department of any change to the address of record.

22-004.02G 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.

22-004.03 CONTINUING COMPETENCY REQUIREMENTS:

1. An individual, once licensed, must successfully complete approved annual review courses as required by 178 NAC 22-008.07 to remain current in training requirements throughout the term of his/her license. Furnish proof of completion of an approved review course to the Department with renewal

application. Proof of completion must be the original certificate provided to the individual from a course approved by the Department.

2. An individual, once licensed, must be reexamined within 12 months from the date of the last medical examination by a physician as required by 178 NAC 22-004.02A, item 4 to remain current in medical requirements throughout the terms of his/her license. Furnish proof of reexamination to the Department with renewal application.

22-004.04 RENEWAL: An individual who wants to renew his/her asbestos occupation credential must request renewal as specified in 178 NAC 22-004.04B. All asbestos occupation credentials issued by the Department will expire 24 months after the effective date of issuance.

22-004.04A Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder to the last known address of record. The renewal notice states the following:

1. The date on which the current license expires; and
2. The date by which renewal application must be received by the Department for the renewal to be issued and mailed before the license expires.

22-004.04B Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet when available, 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 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) 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) The applicant's telephone number including area code,
    - (5) The applicant's e-mail address (optional); and
    - (6) The applicant's fax number (optional);



- b. Continuing competency: The individual must attest to meeting the continuing competency requirements as specified in 178 NAC 22-004.03; 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; and
    - (3) S/he is of good character.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Disciplinary Action: A list of any disciplinary actions taken against any of the applicant's asbestos related credentials and a copy of the disciplinary action(s), including charges and disposition; other information as requested by the Department;
  - b. Furnish proof of completion of an approved review course to the Department with renewal application. Proof of completion must be the original certificate provided to the individual from a course approved by the Department; and
  - c. Submit physical examination by physician per 178 NAC 22-004.02A, item 4.
3. Fee: Enclose a check or money order for the appropriate fee required by 178 NAC 22-009.02 for the asbestos occupation applied for.
4. Term of licensure: A license is valid for two years from the date it is issued by the Department. The ability to practice is described in 180 NAC 22-004.01A.

22-004.04C Waiver of Fee for Military Service: A credential holder who has served in the regular armed forces of the United State during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service, as defined in 178 NAC 22-002, 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.

22-004.04D Department Review: The Department will act within 150 days upon all completed applications for renewal.

22-004.04E Address Information: Each credential holder must notify the Department of any change to the address of record.

22-004.04F Expiration of a Credential: A credential expires if a credential holder fails to:

1. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
2. Otherwise fails to renew his/her credential.

22-004.04G 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; and/or
2. Submit physical examination by physician per 178 NAC 22-004.02A, item 4; or
3. Pay the required renewal fee.

22-004.04H 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.

22-004.04I Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice asbestos occupations expires.

22-004.04J Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 178 NAC 22-004.08 or such other action as provided in the statutes and regulations governing the credential.

22-004.04K Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of an asbestos occupation after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 178 NAC 22-004.07.

#### 22-004.05 DISCIPLINARY ACTIONS

22-004.05A Grounds for Action Against a License: A license to practice a profession maybe denied, refused renewal or have disciplinary actions taken against it on any of the following grounds:

1. Violation of an order issued by the Department;
2. Fraud or misrepresentation of material facts in procuring or attempting to procure a credential;
3. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
4. 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;
5. 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;
6. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
7. Illness, deterioration, or disability that impairs the ability to practice the profession;
8. 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;
9. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
10. Violations of the Uniform Credentialing Act or the rules and regulations relating to the asbestos profession;
11. 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;
12. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
13. Failure to maintain the requirements necessary to obtain a credential;
14. Engaging or attempting to engage in an asbestos occupation without a license;
15. Failure to pay any fee required by these regulations for licensure or license renewal; or
16. Unprofessional conduct as defined in 178 NAC 22-004.05B.

If the individual was previously certified/licensed in an asbestos occupation, but that certificate/license has lapsed because it was not renewed in time, such fact will not be grounds for denial of a subsequent application for a license where initial training has been retaken and the applicant meets all other requirements 178 NAC 22;

22-004.05B 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. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to:

1. Obtaining any fee for professional services by fraud, deceit, or misrepresentation,
2. Failure to keep and maintain adequate records;
3. In an investigation by the Department of any alleged violation, refusal to cooperate or furnish accurate evidentiary information legally requested;
4. Falsification of records that are required to be kept by 178 NAC 22; and
5. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession.

22-004.05C Temporary Suspension or Limitation

1. 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 178 NAC 22-004.05A 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.
2. 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.
3. A temporary suspension or temporary limitation of a credential under 178 NAC 22-004.05C 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.

22-004.05D Procedure: Should the Department determine to deny, suspend, revoke or refuse to renew a license or a limited license, it will send to the license holder, applicant or individual, a notice setting forth the reasons for the determination. The denial, suspension, revocation or refusal to renew will become final 30 days after the mailing of the notice unless the license holder, applicant or individual, within such 30 day period, gives written notice of a desire for a hearing. Hearings will be conducted in accordance with the Administrative Procedures Act and 184 NAC 1. If a hearing is requested, the license holder, applicant or

individual will be given a hearing before the Department and will have the right to present such evidence as may be proper. On the basis of such evidence, the determination will be affirmed, modified or set aside, and a copy of such decision setting forth the findings of fact and the particular reasons upon which such decision was based will be sent by certified mail to the certificate holder, applicant or individual. The decision will become a final decision of the Department and may be appealed in accordance with the Administrative Procedure Act.

22-004.06 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 the credential holder's signature and date.

22-004.06A 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.

22-004.06B 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.

22-004.06C 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.

22-004.06D A limitation may be placed on the right of the credential holder to practice a profession to the extent, for the time, and under the conditions as imposed by the Director.

22-004.06E 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.

22-004.06F Reinstatement following voluntary surrender is set out in 172 NAC 22-004.07.

22-004.07 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 requirement for renewal. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, or been 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.

22-004.07A Application:

1. The applicant must submit to the Department the written application for renewal as specified in 178 NAC 22-004.04B;
2. Attest
  - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
  - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential; and
3. Pay the renewal per 178 NAC 22-009.02 and reinstatement fees

22-004.07B Department Action:

1. If an applicant has practiced while his/her credential was expired, or voluntarily surrendered, the Department may take one or more of the following actions:
  - a. Assess an administrative penalty pursuant to 178 NAC 22-004.08, in which case a separate notice of opportunity for hearing will be sent to the applicant;
  - b. Deny the application to reinstate the credential;
  - c. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
  - d. Reinstate the credential.
2. The Department will act within 150 days on all completed applications.
3. Procedure: Should the department determine to refuse to renew, procedures set out in 178 NAC 22-004.05D will be followed.
4. 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.

22-004.08 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession. 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.

22-004.08A 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;
4. Service records document the provision of service by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service.

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

22-004.08B 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; 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. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty.
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.

22-004.08C 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.

## 22-005 ASBESTOS PROJECT NOTIFICATION REQUIREMENTS

22-005.01 A business entity proposing to engage in an asbestos project must notify the Department of this intent by submitting a written project notification.

22-005.01A Submit the notice as follows:

1. Submit to the Department an asbestos project notification. Complete an asbestos project notification on a form provided by the Department or constructed by the credential holder, which must include the information below. Submit it at least ten working days, including holidays, in advance of project start. Such asbestos project notice must include, but not be limited to:
  - a. The name, address, and telephone number of the business entity which will carry out the asbestos project;
  - b. The name, address, and telephone number of the owner of the structure on which the asbestos project is to be carried out;
  - c. The building number and street address of the project site, and if either is unavailable, directions to the project site;
  - d. All locations (floor, room number, etc.) where the asbestos project will be carried out;
  - e. The type of ACM in the project (i.e. floor tile, ceiling plaster, pipe wrap, etc);
  - f. The date when the business entity will start the project and the date when the project will be finished;
  - g. The work schedule for the project which must include the work shift hours and work days when active asbestos project work will be carried out by the business entity. If there will be any deviation from this schedule, other than for legal holidays, it should be shown on the project notification, and if changes are made in the work schedule after submitting the project notification, the Department should immediately be notified as provided in 178 NAC 22-005.01D;
  - h. The amount of ACM to be abated.
2. Have the person authorized to make binding legal agreements on behalf of the business entity or his or her designee sign the notification and send by certified mail, return receipt requested or hand deliver the original to the Department.
3. Enclose a check or money order for the fee required by 178 NAC 22-009.03 when applicable.

22-005.01B Submit a separate project notification to the Department in accordance with 178 NAC 22-005.01A for each asbestos project. A separate project notification will be required for each structure where an asbestos project is performed, except that where projects will be performed on or in identical multiple structures, and all of the work will be performed in a continuous manner, then only one project notice will be required.

22-005.01C If the project is not planned, but is an emergency which results from a sudden, unexpected event, written notice is not required by the Department prior to project start, provided that emergency notice is given to the Department as soon as possible; and provided further that notice first is made orally whenever possible. Deliver a completed asbestos project notification to the Department in accordance with 178 NAC 22-005.01A, within 48 hours of project start.

1. For emergency notification, attach a cover letter and include information required for an asbestos project notification in 178 NAC 22-005.01A and state:
  - a. The date and hour that the emergency occurred;
  - b. A description of the sudden, unexpected event; and
  - c. An explanation of why the event required emergency response.
2. Renovation or demolition projects must be inspected for the presence of ACM prior to the beginning of work on the project. If the project is not inspected for ACM prior to beginning renovation or demolition, then ACM discovered after work begins does not meet the sudden, unexpected event criteria for an emergency, and abatement of the ACM cannot be performed as an emergency project.

22-005.01D The Department must be notified of changes to information contained in the project notification within 24 hours of knowledge of such change and 24 hours prior to work being done on the project. Notice may be given by telephone, facsimile (FAX) (402)471-8833, or written letter. If the business entity wishes to have a verified record that such notice was given it must use certified mail, return receipt requested in submitting its written letter. Notice must be given for:

1. A new start date for a project (The Department must receive notification of the new starting date 24 hours before work on the project is begun);
2. A new work schedule for a project, either days, work shift, or both;
3. Typographical or clerical errors which would affect the Department's ability to perform an inspection of the project, such as incorrect street address;
4. Increasing the size of a project by adding a new location within a structure, such as adding work in a new room on the same floor as the original project or adding work on a different floor. Increasing the size of a project will not require a new project review fee unless the original project was too small to require a project review fee under 178 NAC 22-

009.03 and the total of all work done at the project site will now meet or exceed the size requirements for a project review fee set forth in 178 NAC 22-009.03.

22-005.01E If a waiver of any of the work practices of 178 NAC 22-011 through 22-021 is requested by a licensee, include a waiver application in accordance with 178 NAC 22-003.02F, item 1, and with the information required in 178 NAC 22-005.01A for an asbestos project notification.

22-005.01F If a waiver of the ten working day requirement of 178 NAC 22-005.01A, item 1 is requested, include a cover letter explaining the reason for the request, with the information required in 178 NAC 22-005.01A for an Asbestos project notification. No work will be done on a project until the Department has approved the waiver request. A project notification must be received and reviewed by the Department before a ten day waiver will be granted.

22-005.01G Include a description of any planned deviation from the licensee's written employee protection plan or written standard operating procedures as defined by 178 NAC 22-003.03A, item 3. b.

22-005.01H If a project designer or a project monitor is selected by a structure's owner or operator for an asbestos project, the project designer and project monitor must do the following:

1. Project designers must prepare plans and specifications for business entities conducting asbestos projects. The plans and specifications must be consistent with the criteria, requirements and best interest of the structure's owner or operator, and the requirements of the Asbestos Control Act. The project designer must represent the owner or operator and ensure that these objectives are achieved by the business entity conducting the project throughout the duration of the project;
2. Prior to preparing plans and specifications for an asbestos renovation project, a project designer must ensure that the parts of a structure where the asbestos project and the renovation will be performed were inspected and assessed by a licensed inspector. Prior to preparing plans and specifications for an asbestos related demolition projects, a project designer must ensure that the entire structure was inspected and assessed by a licensed inspector.
3. If a project designer or project monitor is selected by the owner or operator of the structure where the asbestos project is conducted, s/he must be independent of the business entity selected to perform the asbestos project.
4. A private or public business entity which uses its own trained and licensed employees to perform asbestos projects may also use its own trained and licensed employees to perform asbestos projects; may also use its own employees who are trained and licensed as project

- designers or project monitors to design and monitor projects conducted on or in its own structures, and
5. A project designer or project monitor must oversee the activities of a business entity conducting an asbestos project to ensure that the requirements of the Asbestos Control Act and the rules and regulations adopted and promulgated pursuant to the act are met. Prior to allowing an asbestos project site to be returned to normal occupancy or function, a project designer or a project monitor must ensure that all waste, debris, and residue have been removed from the site in compliance with the act and the rules and regulations adopted and promulgated pursuant to the act.

### 23-006 RECORDS AND INSPECTIONS

22-006.01 Any business entity performing an asbestos project must keep records as follows:

22-006.01A Retain documents which show:

1. The name and address of the premises at which the ACM waste was generated and the name and address of the owner of the structure in which the project occurred;
2. A description of the asbestos project, including a summary of the procedures that were used to comply with applicable State regulations;
3. The start and completion dates of the asbestos project including the time period over which ACM waste was transported to the approved asbestos waste disposal site;
4. The name, address, and license number of each individual supervising the asbestos project and of each employee or agent who worked on the asbestos project, or who transported or escorted the ACM waste to an approved asbestos waste disposal site;
5. The type and amount of ACM waste generated from the asbestos project expressed in square or linear feet, number of bags, weight or cubic yards;
6. The results of any clearance air sampling and analysis performed; and
7. The name and address of each approved asbestos waste disposal site where ACM waste from the project was deposited and a copy of the receipt.

22-006.01B Keep a separate record for each asbestos project and make documents available in a form suitable for inspection by the Department.

22-006.01C Retain documents for at least 30 years.

22-006.02 At least once a year, the Department will inspect the records of each licensed business entity and, while an asbestos project is in progress, the procedures used for asbestos projects.

22-006.02A Inspections will be on-site and conducted at reasonable times during normal business hours, except that an inspection to investigate an alleged violation of the Asbestos Control Act or Department regulations may be conducted at any time.

22-006.02B Department inspector(s) will abide by all reasonable safety and security rules, regulations, practices and procedures governing the subject premises.

22-006.02C The Department may enter into agreements or contracts with public agencies to conduct these inspections.

22-006.03 The Department may conduct a reinspection of an asbestos project and the business entity must pay a reinspection fee in accordance with 178 NAC 22-009.04 if:

1. Any on-site inspection reveals the necessity for reinspection of an asbestos project for any violation of the Asbestos Control Act or these regulations; or
2. Any on-site inspection was unable to be accomplished because:
  - a. Of an incorrect or inadequate address or failure to provide adequate directions to a project where a building number or street address is unavailable; or,
  - b. The asbestos project was not underway during a time when the notification indicated work would be in progress;
  - c. The actions of the licensed business entity conducting the asbestos project prevented the taking of photographs of the work area or taking bulk samples within the work area; or,
  - d. The actions of the licensed business entity conducting the asbestos project prevented access to the work area.

22-006.04 Any business entity which has submitted a notification for an asbestos project may request the Department to conduct:

22-006.04A A pre-project inspection of a proposed asbestos project by submitting a written request with the project notification; or

22-006.04B A close-out inspection of an asbestos project prior to undertaking the cleaning procedures inside the work area required by 178 NAC 22-012.03 by submitting a written request no less than 48 hours before the requested close-out inspection; provided that any requested close-out inspections will not be considered a final inspection should the Department deem further inspections necessary; and

22-006.04C The business entity will by such pre-project or close-out inspection requests be deemed to have agreed to pay the inspection fees set out in 178 NAC 22-009.04 and the costs set out in 178 NAC 22-009.07 and to waive the application

of the inspection limitations set out in 178 NAC 22-009.04 to such inspections as requested.

22-007 ASBESTOS OCCUPATION TRAINING OR REVIEW COURSES

22-007.01 All asbestos occupation training or annual review courses, including a training course on Nebraska law, rules and regulations, for asbestos occupation licensure or license renewal, including lectures, seminars, course materials and other instructional programs, must be reviewed and approved by the Department before they are offered. All applications for approval of an occupation training or annual review course must be submitted on Form 6. Applicants must comply with the following:

22-007.01A A separate application must be submitted for each course for which approval is sought.

22-007.01B All courses must include instruction on Nebraska law, rules and regulations in accordance with 178 NAC 22-008.07A.

22-007.01C Course providers will use only approved instructors to teach training courses. The Department will approve instructors of training courses. To qualify for approval an individual must meet the following requirements:

1. Graduated from high school or obtained a general education development certificate or equivalent document as determined by the Department;
2. Successfully completed an approved four-hour course on Nebraska law, rules, and regulations; and
3. Work experience of at least one year in the asbestos industry.

22-007.01D The course provider must ensure that participants completing an initial training course, annual review course or course on Nebraska law, rules and regulations demonstrate at least the minimum acceptable proficiency in tasks or duties connected with each unit of the components set forth in 178 NAC 22-008, and that participants completing the course are given a final written examination in that course including at least the following number of multiple choice questions:

1. Asbestos Workers - 50 questions;
2. Asbestos Supervisors - 100 questions;
3. Asbestos Project Designers - 100 questions;
4. Asbestos Inspectors - 50 questions;
5. Asbestos Management Planners - 50 questions;
6. Asbestos Project Monitor - 100 questions; and
7. Nebraska Law, Rules and Regulations - 50 questions.

22-007.01E The course provider must ensure an individual attends all course presentations and passes the final written examination with a score of at least 70% for successful course completion.

22-007.01F The course provider must document an individual's successful completion of a course in a numbered certificate or letter, the original of which must be given to the individual no later than 15 days after the date of the final written examination, containing the following information:

1. The student's name;
2. The date or dates that the course was attended;
3. The name, address and telephone number of the course provider, and the location of the course, if different from that of the course provider;
4. Discipline of the training course completed;
5. A statement that the student passed the final written examination with a score of at least 70% and has completed the requisite training for asbestos accreditation under TSCA Title II and the State of Nebraska asbestos regulations and statutes;
6. A unique certificate number;
7. Date of examination; and
8. An expiration date of one year after the date upon which the person successfully completed the course and examination.

22-007.01G The course provider must submit the information required by 178 NAC 22-007.01F to the Department in a form or letter signed by the administrator or operating officer of the course within 15 days after the date of the final written examination.

22-007.01H The course provider must maintain attendance information for asbestos occupation courses, as stipulated by 178 NAC 22-007.01F, for a minimum of three years from the date of completion of each course. Attendance records are subject to review by the Department upon request. If a training provider ceases to conduct training, the training provider must notify the Department and give it the opportunity to take possession of that provider's asbestos training records,

22-007.01I Courses described in 178 NAC 22-008 must be based on an eight hour day, including time allotted for breaks and one meal.

1. Full day classes must have a minimum of 6.5 hours of contact time and half day classes must have a minimum of 3.75 hours of contact time in instructional, examination, or workshop activities. Activities must follow submitted and approved curriculum.
2. Meal breaks must be offered at about the midpoint of the full day course.

22-007.01J Courses must meet or exceed the minimum number of hours and the training requirements set forth in 178 NAC 22-008.

22-007.01K The training site must accommodate course participants comfortably and provide adequate sanitation and safety.

22-007.01L No correspondence courses will be approved by the Department.

22-007.02 To apply for approval of an individual asbestos occupation course, the applicant must submit the original of a completed application on Form 6, incorporated in these regulations, and provide the following:

22-007.02A A copy of all course materials, including, but not limited to, student manuals, instructor notebooks, handouts and the following:

1. The course provider's name, address and phone number;
2. The title of the course;
3. The asbestos occupation for which the course is developed and whether it's for initial or review training;
4. The locations at which the course is intended to be presented;
5. A list of the individuals who will present the course, including their experience, education and other qualifications;
6. The maximum number of students to be enrolled in each presentation of the course;
7. The specific objectives for the course;
8. The curriculum to be covered for a particular asbestos occupation course as determined by each unit of the components set forth in 178 NAC 22-008, including a general description of the nature of the information to be presented and a list of tasks and duties connected with each unit;
9. The method of instruction and training aids for each unit of 178 NAC 22-007.02A, item 8, e.g., lecture, demonstration, simulation, slide presentation, film strip, etc.;
10. The length of time to be spent on each unit of 178 NAC 22-007.02A, item 8;
11. The names and authors of any text or audiovisual material to be used, including the publisher and edition, or if no text is to be used, a list of any written materials to be used, including the source of such materials;
12. The reading assignment in the text or other materials, if any, for each unit of 178 NAC 22-007.02A, item 8;
13. When required, a description of the practical hands-on training to be provided for each unit of 178 NAC 22-007.02A, item 8 such as working with asbestos-substitute materials, fit testing and using respirators, use of glove bags, donning protective clothing, constructing a decontamination unit, conducting a simulated building walk-through inspection and other hands-on activities;
14. A description and an example of numbered certificates issued to students who attend and pass the course to include items listed in 178 NAC 22-007.01F, item 1 through 5;
15. An explanation of how students will be evaluated by a comprehensive examination at the end of the course, e.g., 50 multiple choice questions;
16. An explanation of the grading system to be used for proficiency evaluations and written examinations; and



17. Guidelines to be used for examinations which must include, at a minimum:
- a. Procedures to be followed in administering an examination;
  - b. Procedures to be followed to ensure security of examinations, both during administration and otherwise, including, but not limited to, the number of times a particular examination will be used;
  - c. Procedures to be followed to validate examinations for testing competency; and
  - d. Procedures to be followed in reporting the grades to the individual and the Department.

22-007.02B The signature of the owner, officer or stockholder authorized to make binding legal agreements on behalf of the applicant of the entity making application; and

22-007.02C A check or money order for the fee required by 178 NAC 22-009.05 or 22-009.06 and 22-009.07.

22-007.03 The Department will process the application as follows:

22-007.03A If an application is deficient or incomplete, the Department will notify the applicant of the information necessary to complete the application and retain the application submitted pending receipt of the additional information. The applicant will have 15 days to provide the information necessary to complete or correct the application. If the Department has not received the information within the 15 days, the application will be returned to the applicant.

22-007.03B Within 30 days of the receipt of a completed course approval application form, the Department will approve or deny the application in the form of a written notice to the applicant.

22-007.04 Once approval for an asbestos occupation course has been granted, the Department need not approve a course for each occasion on which the course is administered, but will make an annual determination of whether or not to extend course approval. If an approved course has not been presented by a training provider in a two year period, that training provider forfeits its Department approval for that particular course two years from the last active course date. Course providers that lose accreditation for particular courses may resubmit an application in accordance with 178 NAC 22-007.02 requirements.

22-007.05 The course provider of an approved course must comply with the following:

22-007.05A Notify the Department in writing at least five working days in advance of the dates, times and location for each presentation of an approved course. Immediately notify the Department by phone or fax if any scheduled course is cancelled.

22-007.05B Submit the following information to the Department annually on the anniversary of course approval:

1. A report to include the number of occasions the course was given and the numbers attending (negative reports are required); and
2. An updated course manual and updates to other course materials.

22-007.06 All presentations of an approved course are subject to on-site inspection by the Department at any reasonable time. When a course is reviewed, the Department will not be assessed an attendance fee.

22-007.07 Prior to a course provider making any change to an approved course on any of the items required to be in the original application as listed in 178 NAC 22-007.02A, items 1 through 17, the course provider must inform the Department immediately, in writing, and reapply for course approval in accordance with 178 NAC 22-007.02.

22-007.08 If individuals taking the examination for worker licensure or renewal have difficulty reading the examination, for whatever reason, the course provider may make special provisions for that individual as follows:

22-007.08A The only occupation eligible for special examination procedures is an asbestos worker. All other asbestos occupations must be able to read project designs, specifications and notifications proficiently.

22-007.08B If an individual desires special accommodations, the request must be made to the course provider in advance and be approved.

22-007.08C To accommodate the individual requesting special accommodations the course provider may allow the individual extra time in which to finish taking the examination.

22-007.08D To accommodate the individual requesting special accommodations, the course provider may provide a reader to read the examination to the individual. Readers may not be provided by the individual taking the examination. In no event will such reader translate or interpret the examination, or indicate the correct answers to the examination questions by voice inflection or any other means. If this method is used, it must be done in a manner or in an area that will not be distracting to other individuals taking the examination.

22-007.09 In order to assure the integrity of training received by individuals, providers of approved training courses may not train or issue training certificates to the owners, officers, or stockholders of the training provider or any affiliated company;

22-007.10 The Department may deny, suspend or revoke approval of an asbestos occupation course, whether initial, renewal or course on Nebraska Law, rules and regulations, for any of the following reasons:

1. Fraud or misrepresentation in an application;
2. Failure to provide notification to the Department of the commencement or cancellation of a training course as required by 178 NAC 22-007;
3. Failure to maintain or submit to the Department course information as required by 178 NAC 22-007;
4. Failure to permit on-site inspections by Department employees or permit inspections of training records;
5. Fraud or misrepresentation in issuing or obtaining training certificates;
6. Failure to pay any fee assessed under these regulations, or
7. Failure at any time to comply with requirements of the Asbestos Control Act or Department regulations implementing the Act.
8. A denial does not preclude an applicant from submitting a new or additional application for approval of an asbestos occupation course.

22-007.11 Procedure: Should the Department determine to deny, suspend, revoke or refuse to renew a training course approval, unless the training course is automatically forfeited under 178 NAC 22-007.04 requirements, it will send to the training provider, applicant or individual by mail, a notice setting forth the reasons for the determination. The denial, suspension, revocation or refusal to renew will become final 30 days after the mailing of the notice unless the training provider, applicant or individual, within such 30 day period gives written notice of a desire for a hearing. Hearings will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1. If a hearing is requested, the training provider, applicant or individual will be given a hearing before the Department and will have the right to present such evidence as may be proper. On the basis of such evidence, the determination will be affirmed, modified or set aside, and a copy of such decision setting forth the findings of fact and the particular reasons upon which such decision was based will be sent by certified mail to the Training provider, applicant or individual. The decision will become a final decision of the Department and may be appealed in accordance with the Administrative Procedure Act.

## 22-008 ASBESTOS OCCUPATION TRAINING AND REVIEW COURSE CURRICULUM

22-008.01 Asbestos Worker Training Course: The asbestos worker training course must include, at a minimum, four days of instruction, including lectures, demonstrations, at least 14 hours of appropriate practical hands-on training, individual respirator fit testing, course review and an examination.

22-008.01A The curriculum for an asbestos worker training course must include, at a minimum, the following components of classroom instruction:

1. Physical characteristics of asbestos: Identification and recognition of asbestos, aerodynamic characteristics, typical uses, physical appearance, and a summary of abatement control options;
2. Potential health effects related to asbestos exposure: The nature of asbestos related diseases, routes of exposure, dose-response relationships and the lack of a safe exposure level, synergism between cigarette smoking and asbestos exposure, and the latency period for disease;
3. Employee personal protective equipment: Classes and characteristics of respirator types; limitations of respirators, and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of nondisposable clothing; and regulations covering personal protective equipment;
4. State-of-the-art work practices: Proper asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination facilities; positioning of warning signs; electrical and ventilation system lock out; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation equipment; use of high efficiency particulate air (HEPA) vacuums; proper cleanup, disposal and waste handling procedures; work practices for removal, encapsulation, enclosure, demolition, dismantling, maintenance and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures; and recommended and prohibited work practices;
5. Personal hygiene: Entry and exit procedures for the work area; use of showers; avoidance of eating, drinking, smoking and chewing (gum or tobacco) in the work area; necessity of good personal hygiene practices; and potential exposures, such as family exposure;
6. Additional safety hazards: Hazards encountered during abatement activities and measures to take to avoid and respond to them, including electrical hazards; heat stress; air contaminants other than asbestos; fire and explosion hazards; scaffold and ladder hazards; slips, trips, and falls; and confined spaces;
7. Medical monitoring: OSHA requirements for a pulmonary function test, chest x-rays, and a medical history for each employee;
8. Air monitoring: Procedures to determine airborne concentrations of asbestos fibers, focusing on how personal air sampling is performed and the reasons for it;
9. Relevant federal, Nebraska, and local regulatory requirements, procedures, and standards: Procedures and standards intended to provide protection to asbestos workers, including information on how

agencies responsible for enforcement may be contacted; regulations governing the work practices given in 178 NAC 22-008.01A, item 4 and 178 NAC 22-011 to 22-021; and requirements for TSCA Title II; 40 CFR Part 61, EPA National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standards for Asbestos); 29 CFR 1910.134, OSHA Standard for Respiratory Protection; 29 CFR 1926.1101, OSHA Asbestos Construction Standard ; and 40 CFR Part 763, Subpart G, EPA Worker Protection Rule;

10. Respiratory protection programs and medical surveillance programs: Components of and procedures to be followed for respiratory protection programs and medical surveillance programs; and
11. Course review: A review of the key aspects of the training course.

22-008.02 Asbestos Supervisor Training Course: The asbestos supervisor training course must include, at a minimum, five days of instruction, including lectures, demonstrations, at least 14 hours of appropriate practical hands-on training, individual respirator fit testing, course review and an examination.

22-008.02A The curriculum for an asbestos supervisor training course must include, at a minimum, the following components of classroom instruction:

1. Physical characteristics of asbestos and ACM: Identification of asbestos, aerodynamic characteristics, typical uses, physical appearance, a review of hazard assessment considerations, and a summary of abatement control options;
2. Potential health effects related to asbestos exposure: The nature of asbestos related diseases; routes of exposure; dose-response relationships and the lack of a safe exposure level; synergism between cigarette smoking and asbestos exposure; latency period for disease;
3. Employee personal protective equipment: Classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of nondisposable clothing; and regulations covering personal protective equipment;
4. State-of-the-art work practices: Proper work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination facilities; positioning of warning signs; electrical and ventilation system lock out; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation equipment; use of high efficiency particulate air (HEPA) vacuums; proper cleanup, disposal and waste handling procedures; work practices for removal, encapsulation,

- enclosure, demolition, dismantling, maintenance and repair; emergency procedures for sudden releases; potential exposure situations; transport, disposal, and waste handling procedures, and recommended and prohibited work practices; and discussion of new abatement related techniques and methodologies;
5. Personal hygiene: Entry and exit procedures for the work area; use of showers; avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area; and potential exposures, such as family exposure;
  6. Additional safety hazards: Hazards encountered during abatement activities and how to deal with them, including electrical hazards; heat stress; air contaminants other than asbestos; fire and explosion hazards; scaffold and ladder hazards; slips, trips, and falls; and confined spaces;
  7. Medical monitoring: OSHA requirements for a pulmonary function test, chest x-rays and a medical history for each employee;
  8. Air monitoring: Procedures to determine airborne concentrations of asbestos fibers, including a description of aggressive sampling, sampling equipment and methods, reasons for air monitoring, types of samples, and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses;
  9. Relevant federal, Nebraska, and local regulatory requirements: Procedures and standards intended to provide protection to asbestos workers, including information on how agencies responsible for enforcement may be contacted; regulations governing the work practices given in 178 NAC 22-008.01A item 4 and 178 NAC 22-011 to 22-021; including requirements for TSCA Title II; 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for Asbestos); OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134); OSHA Asbestos Construction Standard (29 CFR 1926.1101); and EPA Worker Protection Rule, 40 CFR Part 763, Subpart G;
  10. Respiratory protection programs and medical surveillance programs: Components of and procedures to be followed for respiratory protection programs and medical surveillance programs;
  11. Insurance and liability issues: Contractor issues; worker's compensation coverage and exclusions; third-party liabilities and defenses; insurance coverage and exclusions;
  12. Recordkeeping for asbestos abatement projects: Records required by federal, Nebraska, and local regulations; records recommended for legal and insurance purposes;
  13. Supervisory techniques for asbestos abatement activities: Supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices;
  14. Contract specifications: Discussion of key elements that are included in contract specifications; and
  15. Course review: A review of key aspects of the training course.

22-008.03 Asbestos Project Designer Training Course: The asbestos project designer training course must include, at a minimum, three days of instruction, including lectures, demonstrations, a field trip, course review and an examination.

22-008.03A The curriculum for an asbestos project designer training course must include, at a minimum, the following components of classroom instruction:

1. Background information on asbestos: Identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings; physical appearance of asbestos;
2. Potential health effects related to asbestos exposure: Nature of asbestos related diseases; routes of exposure; dose-response relationships and the lack of a safe exposure level; the synergistic effect between cigarette smoking and asbestos exposure; the latency period of asbestos related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of other organs;
3. Overview of abatement construction projects: Abatement as a portion of a renovation project; OSHA requirements for notification of other contractors on a multi-employer site (29 CFR 1926.1101);
4. Safety system design specifications: Construction and maintenance of containment barriers and decontamination facilities; positioning of warning signs; electrical and ventilation system lock out; proper working techniques for minimizing fiber release; entry and exit procedures for the work area; use of wet methods; use of negative pressure exhaust ventilation equipment; use of high efficiency particulate air (HEPA) vacuums; proper cleanup and disposal of asbestos; work practices as they apply to encapsulation, enclosure, and repair; use of glove bags and a demonstration of glove bag use;
5. Field trip: Visit an abatement site or other suitable building site, including on-site discussions of abatement design, building walk-through inspection, and discussion following the walk-through;
6. Employee personal protective equipment: To include the classes and characteristics of respirator types; limitations of respirators; proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of nondisposable clothing; and regulations covering personal protective equipment;
7. Additional safety hazards: Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards;

8. Fiber aerodynamics and control: Aerodynamic characteristics of asbestos fibers; importance of proper containment barriers; settling time for asbestos fibers; wet methods in abatement; aggressive air monitoring following abatement; aggressive air movement and negative pressure exhaust ventilation as a cleanup method;
9. Designing abatement solutions: Discussions of removal, enclosure, and encapsulation methods; asbestos waste disposal;
10. Budgeting/cost estimation: Development of cost estimates; present costs of abatement versus future operations and maintenance costs; setting priorities for abatement jobs to reduce cost;
11. Final Clearance Process: Discussion of the need for a written sampling rationale for aggressive final air clearance; requirements of a complete visual inspection; and the relationship of the visual inspection to final air clearance. EPA and the State of Nebraska recommend that TEM analysis be used for final air clearance samples. These samples should be analyzed by laboratories accredited under NIST NVLAP.
12. Writing abatement specifications: Means and methods specifications versus performance specifications; design of abatement in occupied buildings; modification of guide specifications to a particular building; worker and building occupant health/medical considerations; replacement of ACM with non-asbestos substitutes; clearance of work area after abatement; air monitoring for clearance;
13. Preparing abatement drawings: Use of as-built drawings; use of inspection photographs and on-site reports; particular problems in abatement drawings;
14. Contract preparation and administration: Components of and procedures to prepare and administer a contract;
15. Legal/liabilities/defenses: Insurance considerations; bonding; hold harmless clauses; use of abatement contractor's liability insurance; claims-made versus occurrence policies;
16. Replacement: Replacement of asbestos with asbestos-free substitutes;
17. Role of other consultants: Development of technical specification sections by industrial hygienists or engineers; the multi-disciplinary team approach to abatement design;
18. Occupied buildings: Special design procedures required in occupied buildings; education of occupants; extra monitoring recommendations; staging of work to minimize occupant exposure; scheduling of renovation to minimize exposure;
19. Relevant federal, Nebraska, and local regulatory requirements: procedures and standards: Procedures and standards including requirements of TSCA Title II; 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for Asbestos); OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134); EPA Worker Protection Rule, found at 40 CFR Part 763, Subpart G; and OSHA Asbestos Construction Standard found at 29 CFR 1926.1101; and



20. Course review: A review of key aspects of the training course.

22-008.04 Asbestos Inspector Training Course: The asbestos inspector training course must include, at a minimum, three days of instruction, including lectures, demonstrations, a field trip, at least four hours of appropriate practical hands-on training, individual respirator fit testing, course review and an examination.

22-008.04A The curriculum for an asbestos inspector training course must include, at a minimum, the following components of classroom instruction:

1. Background information on asbestos: Identification of asbestos, and examples and discussion of the uses and locations of asbestos in buildings; physical appearance of asbestos;
2. Potential health effects related to asbestos exposure: The nature of asbestos related diseases; routes of exposure; dose-response relationships and the lack of a safe exposure level; the synergistic effect between cigarette smoking and asbestos exposure; the latency period for asbestos related diseases; a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma, and cancer of other organs;
3. Functions/qualifications and role of inspectors: Discussions of prior experience and qualifications for inspectors and management planners; discussions of the functions of an accredited inspector as compared to those of an accredited management planner; discussion of inspection process including inventory of ACM and physical assessment;
4. Legal liabilities and defenses: Responsibilities of the inspector and management planner; a discussion of comprehensive general liability policies, claims-made and occurrence policies, environmental and pollution liability policy clauses; State liability insurance requirements; bonding and the relationship of insurance availability to bond availability;
5. Understanding building systems: The interrelationship between building systems, including: An overview of common building physical plan layout; heat, ventilation and air conditioning (HVAC) system types, physical organization, and where asbestos is found on HVAC components; building mechanical systems, their types and organization, and where to look for asbestos on such systems; inspecting electrical systems, including appropriate safety precautions; reading blueprints and as-built drawings;
6. Public/employee/building occupant relations: Notifying employee organizations about the inspection; signs to warn building occupants; tact in dealing with occupants and the press; scheduling of inspections to minimize disruption; and education of building occupants about actions being taken;
7. Preinspection planning and review of previous inspection records: Scheduling the inspection and obtaining access; building record review; identification of probable homogeneous areas from blueprints or as-built drawings; consultation with maintenance or building personnel; review of previous inspection, sampling and abatement records of a building; the role of the inspector in exclusions for previously performed inspections;

8. Inspecting for friable and nonfriable ACM and assessing the condition of friable ACM: Procedures to follow in conducting visual inspections for friable and nonfriable ACM; types of building materials that may contain asbestos; touching materials to determine friability; open return air plenums and their importance in HVAC systems; assessing damage, significant damage, potential damage, and potential significant damage; amount of suspected ACM, both in total quantity and as a percentage of the total area; type of damage; accessibility; material's potential for disturbance; known or suspected causes of damage or significant damage; and deterioration as assessment factors;
9. Bulk sampling/documentation of asbestos in schools: Detailed discussion of the "Simplified Sampling Scheme for Friable Surfacing Materials (EPA 560/5-85-030a October 1985);" techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials; sampling of nonfriable materials; techniques for bulk sampling; sampling equipment the inspector should use; patching or repair of damage done in sampling; an inspector's repair kit; discussion of polarized light microscopy; choosing an accredited laboratory to analyze bulk samples; quality control and quality assurance procedures;
10. Inspector respiratory protection and personal protective equipment: Classes and characteristics of respirator types; limitations of respirators; proper selection, inspection, donning, use, maintenance, and storage procedures for respirators; methods for field testing of the facepiece-to-mouth seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of nondisposable clothing;
11. Recordkeeping and writing the inspection report: Labeling of samples and keying sample identification to sampling location; recommendations on sample labeling; detailing of ACM inventory; photographs of selected sampling areas and examples of ACM condition; information required for inclusion in the management plan by TSCA Title II Section 203(i)(1);
12. Regulatory review: EPA Worker Protection Rule found at 40 CFR Part 763, Subpart G; TSCA Title II, OSHA Asbestos Construction Standard 29 CFR 1926.1101; OSHA respirator requirements found at 29 CFR 1910.134; the Friable ACM in Schools Rule found at 40 CFR Part 763, Subpart F; applicable State and local regulations, and differences in Federal/Nebraska requirements, where they apply and the effects, if any, on public and nonpublic schools;
13. Field trip: To include a field exercise including a walk-through inspection; on-site discussion on information gathering and determination of sampling locations; on-site practice in physical assessment; classroom discussion of field exercise; and
14. Course review: A review of key aspects of the training course.

22-008.05 Asbestos Management Planner Training Course: The asbestos management planner training course must include, at a minimum, a three day asbestos inspector

training course as described in 178 NAC 22-008.04 and an additional two days of instruction, including lectures, demonstrations, course review and an examination.

22-008.05A The curriculum for an asbestos management planner training course must include, at a minimum, the following components of classroom instruction:

1. Course overview: The role of the management planner; operations and maintenance programs; setting work priorities; protection of building occupants;
2. Evaluation/interpretation of survey results: Review of TSCA Title II requirements for inspection and management plans as given in Section 203(i)(1) of TSCA Title II; summarized field data and laboratory results; comparison between field inspector's data sheet with laboratory results and site survey;
3. Hazard assessment: Amplification of the difference between physical assessment and hazard assessment; the role of the management planner in hazard assessment; explanation of significant damage, damage, potential damage, and potential significant damage; use of a description (or decision tree) code for assessment of ACM; assessment of friable ACM; relationship of accessibility, vibration sources, use of adjoining space, and air plenums and other factors to hazard assessment;
4. Legal implications: Liability; insurance issues specific to planners; liabilities associated with interim control measures; in-house maintenance, repair, and removal; use of results from previously performed inspections;
5. Evaluation and selection of control options: Overview of encapsulation, enclosure, interim operations and maintenance, and removal; advantages and disadvantages of each method; response actions described via a decision tree or other appropriate method; work practices for each response action; staging and prioritizing of work in both vacant and occupied buildings; the need for containment barriers and decontamination in response actions;
6. Role of other professionals: Use of industrial hygienists, engineers, and architects in developing technical specifications for response actions; any requirements that may exist for architect sign-off of plans; team approach to design of high-quality job specifications;
7. Developing an operations and maintenance (O&M) plan: Purpose of the plan; discussion of applicable EPA guidance documents; what actions should be taken by custodial staff; proper cleaning procedures; steam cleaning and high efficiency particulate air (HEPA) vacuuming; reducing disturbance of ACM; scheduling O&M for off-hours; rescheduling or canceling renovation in areas with ACM; boiler room maintenance; disposal of ACM; in-house procedures for ACM - bridging and penetrating encapsulants; pipe fittings; metal sleeves; polyvinyl chloride (PVC), canvas, and wet wraps; muslin with straps; fiber mesh cloth; mineral wool, and insulating cement; discussion of employee protection

- programs and staff training; case study in developing an O&M plan (development, implementation process, and problems that have been experienced);
8. Regulatory review: Focusing on the OSHA Asbestos Construction Standard found at 29 CFR 1926.1101; the National Emission Standard for Hazardous Air Pollutants (NESHAPS) found at 40 CFR Part 61, Subparts A (General Provisions) and M (National Emission Standard for Asbestos); EPA Worker Protection Rule found at 40 CFR Part 763, Subpart G; TSCA Title II; applicable Nebraska regulations;
  9. Recordkeeping for the management planner: Use of field inspector's data sheet along with laboratory results; ongoing recordkeeping as a means to track asbestos disturbance; procedures for recordkeeping;
  10. Assembling and submitting the management plan: Plan requirements in TSCA Title II Section 203(i)(1); the management plan as a planning tool;
  11. Financing abatement actions: Economic analysis and cost estimates; development of cost estimates; present costs of abatement versus future operations and maintenance costs; Asbestos School Hazard Abatement Act grants and loans; and
  12. Course review: A review of key aspects of the training course.

22-008.06 Asbestos Project Monitor Training Course: The asbestos project monitor training course must include, at a minimum, five days of instruction, including lectures, demonstrations, at least six hours of appropriate practical hands-on training, individual respirator fit testing, course review and an examination.

22.008.06A The curriculum for an asbestos project monitor training course must include at a minimum, the following components of classroom instruction:

1. Roles and responsibilities of the project monitor: Definition and responsibilities of the project monitor, including regulatory/ specification compliance monitoring, air monitoring, conducting visual inspections, and final clearance monitoring.
2. Characteristics of asbestos and asbestos - containing materials: Typical uses of asbestos; physical appearance of asbestos; review of asbestos abatement and control techniques; presentation of the health effects of asbestos exposure, including routes of exposure, dose - response relationship, and latency periods for asbestos - related diseases.
3. Relevant Federal, Nebraska, and local asbestos regulations: Overview of pertinent Nebraska regulations and statutes and EPA regulations, including: This regulation and promulgating statutes §71-6301 through §71-6317; NESHAP, 40 CFR part 61, subparts A and M; AHERA, 40 CFR part 763, subpart G. Overview of Pertinent OSHA regulations, including: Construction Industry Standard for Asbestos, 29 CFR 1926.1101; Respirator Standard 29 CFR 1910.134; and the Hazard Communication Standard, 29 CFR 1926.59. Applicable State and local asbestos regulations; regulatory interrelationships.

4. Understanding building construction and building systems: Building construction basics, building physical plan layout; understanding building systems (HVAC, electrical, etc.); layout and organization, where asbestos is likely to be found on building systems; renovations and the effect of asbestos abatements on building systems.
5. Asbestos abatement contracts, specifications, and drawings: Basic provisions of the contract; relationships between principle parties, establishing chain of command; types of specifications, including means and methods, performance, and proprietary and nonproprietary; reading and interpreting records and abatement drawings; discussion of change orders; common enforcement responsibilities and authority of project monitor.
6. Response actions and abatement practices: Pre-work inspections; pre-work considerations, precleaning of the work area, removal of furniture, fixtures, and equipment; shutdown/ modification of building systems; construction and maintenance of containment barriers, proper demarcation of work areas; work area entry/exit, hygiene practices; determining the effectiveness of air filtration equipment; techniques for minimizing fiber release, wet methods, continuous cleaning; abatement methods other than removal; abatement area clean-up procedures; waste transport and disposal procedures; contingency planning for emergency response.
7. Asbestos abatement equipment: Typical equipment found on an abatement project; air filtration devices, vacuum systems, negative pressure differential monitoring; HEPA filtration units, theory of filtration, design/construction of HEPA filtration units, qualitative and quantitative performance of HEPA filtration units, sizing the ventilation requirements, location of HEPA filtration units, qualitative and quantitative tests of containment barrier integrity; best available technology.
8. Personal protective equipment: Proper selection of respiratory protection; classes and characteristics of respirator types, limitations of respirators; proper use of other safety equipment, protective clothing selection, use, and proper handling, hard/bump hats, safety shoes; breathing air systems, high pressure v. low pressure, testing for Grade D air, determining proper backup air volumes.
9. Air monitoring strategies: Sampling equipment, sampling pumps (low v. high volume), flow regulating devices (critical and limiting orifices), use of fibrous aerosol monitors on abatement projects; sampling media, types of filters, types of cassettes, filter orientation, storage and shipment of filters; calibration techniques, primary calibration standards, secondary calibration standards, temperature/ pressure effects, frequency of calibration, recordkeeping and field work documentation, calculations; air sample analysis, techniques available and limitations of AHERA on their use, transmission electron microscopy (background to sample preparation and analysis, air sample conditions which prohibit analysis, EPA's recommended technique for analysis of final air clearance samples), phase contrast microscopy (background to sample

preparation, and AHERA's limits on the use of phase contrast microscopy), what each technique measures; analytical methodologies, AHERA TEM protocol, NIOSH 7400, OSHA reference method (non-clearance), EPA recommendation for clearance (TEM); sampling strategies for clearance monitoring, types of air samples (personal breathing zone v. fixed-station area) sampling location and objectives (pre-abatement, during abatement, and clearance monitoring), number of samples to be collected, minimum and maximum air volumes, clearance monitoring (post-visual-inspection) (number of samples required, selection of sampling location, period of sampling, aggressive sampling, interpretations of sampling results, calculations), quality assurance; special sampling problems, crawl spaces, acceptable samples for laboratory analysis, sampling in occupied buildings (barrier monitoring).

10. Safety and health issues other than asbestos: Confined-space entry, electrical hazards, fire and explosion concerns, ladders and scaffolding, heat stress, air contaminants other than asbestos, fall hazards, hazardous materials on abatement projects.
11. Conducting visual inspections: Inspections during abatement, visual inspections using the ASTM E1368 document; conducting inspections for completeness of removal; discussion of "how clean is clean."
12. Legal responsibilities and liabilities of project monitors: Specification enforcement capabilities; regulatory enforcement; licensing; powers delegated to project monitors through contract documents.
13. Recordkeeping and report writing: Developing project logs/daily logs (what should be included, who sees them); final report preparation; recordkeeping under Nebraska and Federal regulations.
14. Workshops (six hours spread over three days):
  - a. Contracts, specifications, and drawings: This workshop could consist of each participant being issued a set of contracts, specifications, and drawings and then being asked to answer questions and make recommendations to a project architect, engineer or to the building owner based on given conditions and these documents.
  - b. Air monitoring strategies/ asbestos abatement equipment: This workshop could consist of simulated abatement sites for which sampling strategies would have to be developed (i.e., occupied buildings, industrial situations). Through demonstration and exhibition, the project monitor may also be able to gain a better understanding of the function of various pieces of equipment used on abatement projects (air filtration units, water filtration units, negative pressure monitoring devices, sampling pump calibration devices, etc.).
  - c. Conducting visual inspections: This workshop could consist, ideally, of an interactive video in which a participant is "taken through" a work area and asked to make notes of what is seen. A

series of questions will be asked which are designed to stimulate a person's recall of the area. This workshop could consist of a series of two or three videos with different site conditions and different degrees of cleanliness.

22-008.07 Asbestos Occupation Annual Review Courses: Each asbestos occupation review course must be specific to each occupation and must include, at a minimum, an examination and eight hours of instruction except that a review course for asbestos inspectors must include four hours of instruction.

22-008.07A The curriculum for an asbestos occupation review course must include, at a minimum, the following components of classroom instruction:

1. Current federal, Nebraska and local regulatory requirements, including changes;
2. Review of key elements of each respective asbestos occupation initial training courses as required in these regulations;
3. State-of-the-art developments in work practices and engineering controls related to asbestos activities; and
4. Review of the potential health effects related to asbestos exposure.

22-008.08 Training Course on Nebraska Law, Rules and Regulations: The training course on Nebraska law, rules and regulations must include, at a minimum, four hours of instruction and an examination.

22-008.08A The curriculum for a course on Nebraska law, rules and regulations must include, at a minimum, the following components of classroom instruction:

1. Nebraska law relevant to asbestos projects and asbestos occupations including the Asbestos Control Act and the Environmental Protection Act; and
2. Nebraska rules and regulations including 178 NAC 22-001 through 22-023, 184 NAC 1 and 129 NAC 23, Nebraska Department of Environmental Quality (NDEQ) Hazardous Air Pollutants: Emission Standards .

22-008.09 All asbestos occupation initial, training or annual review courses, including a training course on Nebraska law, rules and regulations, for asbestos occupation licensure or license renewal, must be reviewed and approved by the Department in accordance with 178 NAC 22-007 before they are offered.

## 22-009 SCHEDULE OF FEES

The following fees have been set by the Department:

22-009.01 Issuance of a Business Entity License: For issuance of a license, or renewal of a license to engage in an asbestos project, waiver of a license on an emergency basis

or waiver of a license for a business entity not primarily engaged in asbestos projects, the fee is \$3,000, \$300 of which will be a nonrefundable application fee to be retained by the Department as an administrative fee. The fee covers a 12 month period beginning on the effective date of issuance or renewal or waiver thereof. No portion of the fee will be refunded if the license or waiver is suspended or revoked during the 12 month period or if the business entity otherwise discontinues activity within the State during any portion of the 12 month period.

22-009.02 Issuance and renewal of a individual license:

22-009.02A The initial license, renewal of a license or waiver of license on an emergency basis is listed below which includes a \$1.00 per year for the Licensee Assistance Program:

1.	Worker	\$110.00
2.	Supervisor	\$200.00
3.	Project Designer	\$200.00
4.	Project Monitor	\$200.00
5.	Inspector	\$200.00
6.	Management Planner or Limited Management Planner (Includes Inspector)	\$300.00

The fee covers a 24 month period beginning on the effective date of issuance or renewal thereof. No portion of the fee will be refunded if the license is suspended or revoked during the 24 month period or if the individual no longer engages in an asbestos occupation during any portion of the 24 month period.

22-009.02B The initial limited license, renewal of limited license or waiver of limited license on an emergency basis is listed below:

1.	Project Designer	\$200.00
2.	Management Planner	\$200.00

The fee covers a 24 month period beginning on the effective date of issuance or renewal thereof. No portion of the fee will be refunded if the license is suspended or revoked during the 24 month period or if the individual no longer engages in an asbestos occupation during any portion of the 24 month period.

22-009.02C Certification of Credential Fee: For issuance of a certification of an asbestos credential, the fee of \$25. The certification includes information regarding:

1. The basis on which a asbestos credential was issued;
2. The date of issuance; and
3. Whether disciplinary action has been taken against the asbestos credential; and
4. The current status of the credential.



22-009.02D Verification of License Fee: For issuance of a verification of a credential, the fee of \$5. The verification includes written confirmation as to whether a credential was valid at the time the request was made.

22-009.02E Duplicate License Fee: For a duplicate of original license document or reissued license, the fee of \$10.

22-009.02F Administrative Fee: For a denied credential or a withdrawn application, the administrative fee of \$25 will be retained by the Department.

22-009.02G Reinstatement Fee After December 1, 2008: The Department will collect a reinstatement fee of \$35 in addition to the renewal fee to reinstate an expired credential.

22-009.03 For project review of each asbestos project notification submitted by a licensed business entity for an asbestos project which is equal to or greater than 260 linear feet or any combination which is equal to or greater than 160 square feet and linear feet, including one initial on-site inspection if performed by the Department, the fee is \$200. No portion of the fee will be refunded under any circumstance. Should an initial on-site inspection reveal the need for reinspection, an additional fee will be assessed in accordance with 178 NAC 22-009.04.

22-009.04 For on-site inspections or reinspections other than initial inspections, the fee is \$150. Such fee will not be assessed for more than three on-site inspections per asbestos project per year during the period an actual asbestos project is in progress. No portion of the fee will be refunded under any circumstance.

22-009.05 For approval of a training course for any asbestos occupation, the fee is \$1,000, \$100 of which will be a nonrefundable application fee. No additional fee will be charged for an on-site inspection if such inspection is performed by the Department.

22-009.06 For approval of a review course for any asbestos occupation or a four hour course on Nebraska law, rules and regulations, the fee is \$500. No additional fee will be charged for an on-site inspection if such inspection is performed by the Department.

22-009.07 In addition to all fees herein required, the Department may charge and receive the actual costs for board, room and travel by employees of the Department in excess of \$300, which costs will not exceed the amounts allowable for State employees in Neb. Rev. Stat §§81-1174 to 81-1177.

## 22-010 UNLICENSED PRACTICE

22-010.01 The Department will inform the Attorney General of any violation or impending violation of the Asbestos Control Act or Department regulations requiring an action in the name of the State for an injunction or other process against a business entity or individual to restrain or prevent such violation.

22-010.02 Violations; penalties.

1. A individual or business entity which engages in an asbestos project without a valid license, except as otherwise provided in the Asbestos Control Act, will be assessed a civil penalty of not less than \$5,000 nor more than \$25,000 for the first offense and not less than \$25,000 nor more than \$100,000 for a second or subsequent offense. Each day a violation continues will constitute a separate offense.
2. A individual who engages in an asbestos occupation without a valid license, except as otherwise provided in the act, will be assessed a civil penalty of not less than \$500 nor more than \$5,000 for the first offense and not less than \$1,000 nor more than \$15,000 for the second or subsequent offense. Each day a violation continues will constitute a separate offense.
3. Any business entity which knowingly engages in an asbestos project but which uses employees who do not hold a license will be assessed a civil penalty of not less than \$500 nor more than \$5,000 for the first offense and not less than \$5,000 nor more than \$10,000 for a second or subsequent offense. Each day a violation continues will constitute a separate offense.
4. The civil penalties prescribed in 178 NAC 22-010.02, items 1, 2, and 3 will be assessed in a civil action brought for such purpose by the Attorney General in the district court of the county in which the violation occurred.
5. A individual or business entity which has been assessed a civil penalty under this section and subsequently engages in an asbestos project or an asbestos occupation without a valid license or using employees who do not hold a license, except as otherwise provided in the Asbestos Control Act:
  - a. For a first offense, will be guilty of a Class I misdemeanor; and
  - b. For a second or subsequent offense, will be guilty of a Class IV felony.

22-011 WORK PRACTICES FOR GENERAL SECURITY AND MANAGEMENT OF ASBESTOS PROJECTS: The licensed or waived business entity or licensed individual must establish general security and management work practices for asbestos projects when specified by these regulations as follows:

22-011.01 Prepare the site of the asbestos project as follows:

22-011.01A Demarcate the asbestos project perimeter clearly by roping it off 25 feet outside the work area perimeter.

1. If a 25 foot perimeter is not possible, demarcate as close to the 25 foot limit as possible.
2. If a containment area is established and managed in accordance with the work practices of 178 NAC 22-012, then use the containment perimeter as the project perimeter.

22-011.01B Post appropriate warning signs prominently at all possible points of entry into the project site.

22-011.01C For indoor asbestos projects other than demolition, isolate the ventilation system from the work area.

22-011.02 Ensure that the following requirements are met during performance of asbestos project activity:

22-011.02A Assign a licensed supervisor to manage the asbestos project on-site, serve as point of contact and control access.

22-011.02B Limit project site access only to those individuals whose responsibilities directly require their presence. Require all individuals engaged in or supporting the asbestos project to hold a license in an asbestos occupation in accordance with 178 NAC 22-004. All individuals engaged in or supporting the asbestos project must have copies of their initial and current training certificate on-site.

1. Restrict access of other individuals to those with an immediate need and allow only when under the direct control of a licensed supervisor.
2. Require each individual who enters the project to sign in, by legibly writing or printing their name and license number. Such sign-in sheets must be maintained at the work area daily for the duration of the project and must be available for inspection by the Department for the day on which the inspection is conducted.

22-011.02C Comply with work safety requirements.

22-011.02D Require all individuals who enter the work area to be qualified on, fit-tested and using an appropriate respirator and wearing appropriate protective clothing.

22-011.02E Require all individuals, before leaving the work area, to remove or to clean all outer clothing with a HEPA filter-equipped vacuuming device or by wet cleaning methods.

22-011.03 Perform the following tasks prior to completing the project:

22-011.03A Clean all tools and equipment used in the work area free of all visible residue or seal them in six mil plastic before removal from the work area.

22-011.03B Clean the surfaces of all structures, furnishings, equipment and fixtures located on the project site free of all visible debris and residue, including any which existed prior to the start of the project, with a HEPA filter-equipped vacuuming device or by wet cleaning methods. Treat such debris and residue as ACM. In

demolitions where the building will not be reoccupied, the Department may waive the cleaning requirements of this section as they pertain to non-ACM material in the work area.

22-011.03C Dispose of all removed ACM, plastic sheeting, contaminated materials, waste and debris on the project site in accordance with 178 NAC 22-021.

22-012 WORK PRACTICES TO ESTABLISH AND MANAGE CONTAINMENT AREAS: The licensed or waived business entity or licensed individual must construct and manage a containment area for asbestos projects when specified by these regulations as follows:

22-012.01 Construct and prepare a work area:

22-012.01A Preclean all moveable furnishings, equipment and fixtures in the work area with a HEPA filter-equipped vacuuming device or by wet cleaning methods.

1. After cleaning, remove these items from the work area and store in an area which is not subject to contamination with ACM until the conclusion of the project.
2. If the storage area contains ACM, reclean items prior to returning items at the conclusion of the project.

22-012.01B Isolate the work area completely as follows:

1. Shut down and lock out heating and ventilation and electrical systems serving the work area. If these systems cannot be shut down, make special provisions to assure that:
  - a. Airborne contamination from the work area cannot enter the ventilation system and be carried to other areas.
  - b. Measures to minimize electrical hazards, such as use of ground fault interrupters, are provided.
2. Install airtight temporary barriers to seal doorways, windows, ventilation system openings and other openings in the work area. If plastic sheeting is not supported by the structure or structural items, such as walls or pipes, construct and install airtight temporary barriers around the work area.
  - a. Use plastic sheeting not less than 6 mil thick.
  - b. Face smooth surface of barrier wall to interior of work area.
3. Install a control curtain in the doorway between the work area and the decontamination facility.

22-012.01C Prepare the work area as follows:

1. Preclean the surfaces of all structures, other than those from which ACM is to be removed or those which are to be encapsulated, and all nonmoveable furnishings, equipment and fixtures remaining in the work area with a HEPA filter-equipped vacuuming device or by wet cleaning methods.
2. Cover and completely seal cleaned surface areas and nonmoveable items with one or more layers of plastic sheeting not less than 6 mil thick.
  - a. Seal all plastic sheeting seams and all openings around structures, equipment and fixtures penetrating into the perimeter of the work area.
  - b. Use fire retardant sheeting if a fire hazard exists and in fire egress areas.
3. Cover floors with at least two layers of plastic sheeting not less than 6 mil thick such that both layers extend up the wall at least 12 inches.
4. Securely affix plastic sheeting not less than 6 mil thick on walls to ensure that it will remain in position throughout the length of the project.
  - a. Place wall sheeting to the interior of the work area (i.e., over both layers of floor sheeting), so that moisture is shed to the interior of the work area.
  - b. Ensure that wall sheeting overlaps the floor sheeting and seal wall sheeting to floor sheeting to provide a leak-proof barrier.
5. Walls or floors from which ACM is to be abated need not be covered with plastic sheeting as otherwise required.
6. Repair any tears noted in the protective sheeting immediately.

22-012.01D Install HEPA filter-equipped ventilation fans so that air will be continually removed from all locations within the work area.

1. Ensure that the fans have the capacity to replenish the entire volume of air contained in the work area every 15 minutes or less, unless a longer time period is permitted specifically by waiver by the Department.
2. Discharge the air to be removed from the work area through a duct penetrating the airtight barrier.
  - a. Provide an airtight seal between the duct and the barrier.
  - b. Discharge the air to be removed from the work area outside of the building in an area remote from the air intake and not into an area of the building that is occupied by individuals other than those directly engaged in the project unless such a discharge is permitted specifically by waiver by the Department.

3. Operate the fans in a manner that will establish and maintain a flow of air into the work area from all adjacent areas.
  - a. Demonstrate proper air flow by use of smoke producing tubes, pressure differential readings or other appropriate means.
  - b. Make these determinations and record the results before starting an asbestos project and at the start of each day of operation.
4. Operate the ventilation fans continually throughout the duration of the project until the procedures of 178 NAC 22-012.06 have been completed.

22-012.02 Provide a decontamination facility as follows (see Figure 1):

22-012.02A Make all decontamination facility areas contiguous to each other and the work area unless connected to one another by enclosed passageways that are isolated effectively from areas intended to remain free from asbestos contamination.

22-012.02B Seal decontamination facility areas completely to ensure that the sole source of airflow through these areas originates from uncontaminated areas outside the facility area.

22-012.02C Install control curtains in all connecting doorways and at the entrance to the decontamination facility.

22-012.02D Construct and operate an equipment room as follows:

1. Locate the equipment room so that it must be traversed before the shower room can be entered from the work area.
2. Construct the equipment room using the same requirements as for the work area in 178 NAC 22-012.01A through 22-012.01C.
3. Require all individuals, before leaving the work area to enter the equipment room, to remove or to clean all outer clothing with a HEPA filter-equipped vacuuming device or by wet cleaning methods.
4. Provide facilities in the equipment room for temporary storage of tools and equipment used in the work area.

22-012.02E Construct and operate a shower room as follows:

1. Locate the shower room so that it must be traversed before any individual can move into the clean room from the work area.
2. Construct the shower enclosures to be leak-proof and use easily washable or disposable units.
3. Provide the shower room with at least one showerhead that is supplied with hot and cold or warm water. Provide adequate quantities of soap,

and towels to accommodate each individual who emerges from the work area.

4. Require all individuals to shower before entering the clean room.
5. Drain, collect and filter shower water through a system with the capability to collect particles 5.0 microns in size, at a minimum, and discharge into a sanitary sewer or other State or federally approved waste disposal system. Assure that an air gap is present between the shower water discharge line and any sanitary sewer or approved disposal system.
6. Remove filter cartridges from respirators before leaving the shower and dispose of in accordance with 178 NAC 22-021.

22-012.02F Construct and operate a clean room as follows:

1. Locate the clean room so that it will be the last room traversed by any individual exiting the work area.
2. Provide facilities in the clean room for removing or donning street clothing, donning respirators, performing positive and negative pressure checks of respirator fit, and donning clean disposable protective clothing or other protective equipment required to be worn in the work area.
3. Provide facilities in the clean room if it will be used as a rest and eating area for employees after they have passed through the decontamination process.
4. Do not permit smoking in this room.

22-012.03 After ACM removal or encapsulation is complete, perform the first cleaning step as follows:

1. Clean all plastic sheeting and surfaces in the work area and decontamination facility, and clean equipment used on the asbestos project free of all visible residue with a HEPA filter-equipped vacuuming device or by wet cleaning methods.
2. If more than one layer of plastic sheeting has been used on walls, this additional layer of sheeting and one layer of sheeting from the floors may be removed and disposed of instead of being cleaned.
3. Remove any liquid or material that has leaked through these additional layers of sheeting with a HEPA filter-equipped vacuuming device or by wet cleaning methods.
4. Dispose of the removed plastic sheeting in accordance with 178 NAC 22-021.
5. Examine the work area and check behind the airtight temporary barriers to determine whether ACM, dust or debris has been removed. If any ACM, dust or debris is found, the work area must be recleaned. If an airtight temporary barrier must be breached for cleaning or recleaning purposes, the area behind the breach must be cleaned and the barrier immediately repaired.

6. For asbestos removal projects, coat cleaned surfaces from which ACM has been removed with an effective color-tinted sealing material.
  - a. Before applying the sealing material, examine the cleaned surface from which ACM has been removed to ensure that removal has been complete. Reclean all surfaces where debris and residue are found and reexamine, and reclean if required.
  - b. After the color-tinted sealing material has been applied and dried on the cleaned surfaces from which ACM has been removed, visually examine the coated surfaces to ensure complete coverage and effective sealing.
  - c. Color-tinted sealing material must be applied in sufficient quantity to effectively prevent residual fibers from becoming airborne as a result of future maintenance, renovation, demolition or functional uses of the building, and so that the sealed surface can be detected readily by building occupants and by visual examination.
  - d. After the sealant has dried completely, proceed to the second cleaning step.

22-012.04 After the first cleaning step required by 178 NAC 22-012.03 is complete, perform the second cleaning step as follows:

1. Remove plastic sheeting from everything except the control curtains, the airtight temporary barriers around the work area, and the airtight seals over doorways, windows, ventilation system openings and other openings.
2. Clean all previously covered surfaces free of all visible residue with a HEPA filter-equipped vacuuming device or by wet cleaning methods.

22-012.05 For projects which are equal to or greater than 260 linear feet or any combination which is equal to or greater than 160 square feet and linear feet, have a third party, in accord with 178 NAC 22-023, perform final clearance air sampling after the second cleaning step required by 178 NAC 22-012.04 is complete and the work area is dry.

22-012.06 Retain the airtight seals for the containment area in place and operate the associated HEPA filter-equipped ventilation fans until the results of clearance air sampling under Phase Contrast Microscopy (PCM) show that the airborne contamination level within the work area is not greater than 0.01 fibers per cubic centimeter (0.01 f/cc) as determined by the NIOSH 7400 method or not greater than 70 structures per square millimeter (70 s/mm<sup>2</sup>) as determined by the EPA Transmission Electron Microscopy (TEM) method;

22-012.07 When the actions required by 178 NAC 22-012.06 are complete, disassemble the remaining elements of the containment area and ensure that the surfaces of all structures, furnishings, equipment and fixtures are free of all visible residue, including any which existed prior to the start of the project; and,



22-012.08 Treat all removed plastic sheeting, all filters, waste and debris as ACM and dispose of in accordance with 178 NAC 22-021.

22-013 WORK PRACTICES TO KEEP ACM WET: The licensed or waived business entity or licensed individual must use wet methods for asbestos projects when specified by these regulations as follows:

22-013.01 Saturate all exposed surfaces of the ACM to be removed with a water solution that contains an effective wetting agent or with a removal encapsulant.

22-013.01A Apply the wetting solution with a low pressure spraying system.

22-013.01B Determine the effectiveness of the solution in penetrating the ACM by applying it to a small representative sample of the material before the asbestos project is initiated.

22-013.02 Maintain all ACM removed, including any fallen residue, in an adequately wet condition to prevent the release of any fibers. Do not allow any visible debris or residue to accumulate.

22-013.03 If ACM does not absorb water or amended water or otherwise must be removed dry:

22-013.03A Obtain approval for dry removal in writing from the Department and the EPA.

22-013.03B Remove ACM using a type-C respirator or a self-contained breathing apparatus.

#### 22-014 WORK PRACTICES TO BE FOLLOWED FOR ASBESTOS REMOVAL PROJECTS

22-014.01 Work Practices to be Followed for Indoor Asbestos Removal Projects: The licensed or waived business entity or licensed individual responsible for an asbestos project to remove ACM in an area which can be expected to be reoccupied or in an area which is or will be only directly accessible from an occupied area must comply with the following unless other applicable work practices outlined in these regulations are followed:

1. Establish general security and management work practices in accordance with 178 NAC 22-011.
2. Establish and manage a containment area in accordance with the work practices of 178 NAC 22-012.
3. Remove ACM wet in accordance with the work practices of 178 NAC 22-013.

4. Coat cleaned surfaces from which ACM has been removed with an effective color-tinted sealing material.

22-014.02 Work Practices to be Followed for Outdoor Asbestos Removal Projects: In addition to the requirements of 129 NAC 12 "Operating Permit Renewal and Expiration," Nebraska Department of Environmental Quality, the licensed or waived business entity or licensed individual responsible for removing ACM in outdoor areas must comply with the following unless other applicable work practices outlined in these regulations are followed:

1. Establish general security and management work practices in accordance with 178 NAC 22-011.
2. To preclude spread of contamination to nearby indoor areas, securely cover each door, window, ventilation duct or other opening into such areas within 25 feet of the work area with plastic sheeting not less than 6 mil thick.
3. Remove ACM wet in accordance with the work practices of 178 NAC 22-013.
4. Coat cleaned surfaces from which ACM has been removed with an effective color-tinted sealing material.

22-014.03 Work Practices to be Followed for Removal of ACM Using a Glove Bag: The licensed or waived business entity or licensed individual using a glove bag for removal of ACM from the surface of pipes or other similar conduits must comply with the following:

1. Establish general security and management work practices in accordance with 178 NAC 22-011.
2. Use plastic leak-proof glove bags not less than 6 mil thick in accordance with the manufacturer's instructions.
3. Use glove bags only once. Do not "slide" glove bags. Do not reuse for any purpose.
4. Avoid damaging or disturbing any other ACM within the work area that is not intended to be removed using the glove bag.
5. Install the glove bag so as to provide an airtight seal around the area from which the ACM is to be removed. Maintain this seal continually until all ACM has been removed and the surface of the item enclosed within the glove bag has been cleaned.
6. Saturate ACM to be removed with a water solution that contains an effective wetting agent or with a removal encapsulant. Maintain removed ACM within the glove bag in a water-saturated condition.

7. Discontinue activity in the work area immediately if there is any ACM contamination of the general work area resulting from damage to or improper use of the glove bags, or damage to other ACM located within the area.
  - a. Do not resume project activities until all surfaces in the work area that possibly have become contaminated with ACM have been cleaned thoroughly with a HEPA filter-equipped vacuuming device or by wet cleaning methods.
  - b. Notify the Department as specified in 178 NAC 22-005.01C of the date and nature of such occurrence and of the cleanup measures that were used.
8. After the necessary ACM has been removed, clean surfaces from which ACM has been removed.
9. Coat cleaned surfaces from which ACM has been removed with an effective color-tinted sealing material.
10. Remove the glove bag, seal tightly and dispose of in accordance with 178 NAC 22-021.
11. Recover or restore cleaned surfaces or securely enclose rough edges of ACM which remain after glove bag removal. Such action will not be satisfied with the use of duct tape.

22-015 WORK PRACTICES TO BE FOLLOWED FOR ASBESTOS ENCLOSURE PROJECTS:

To use enclosure as a method of controlling asbestos fiber release from ACM, the licensed or waived business entity or licensed individual must comply with the following:

1. Establish general security and management work practices in accordance with 178 NAC 22-011.
2. Preclean the area to be enclosed with a HEPA filter-equipped vacuuming device or by wet cleaning methods.
3. Ensure that the area containing the ACM to be enclosed can be sealed airtight within the enclosure and that the underlying structure can support the weight of the enclosure.
4. Install the enclosure in such a manner as to minimize disturbance of ACM.
5. Designate enclosed ACM by labels, signs, charts or color codes in order to warn building maintenance personnel in the event the enclosure must be disturbed.

22-016 WORK PRACTICES TO BE FOLLOWED FOR ASBESTOS ENCAPSULATION PROJECTS: To use encapsulation as a method of controlling asbestos fiber release from ACM, the licensed or waived business entity or licensed individual must comply with the following:

1. Establish general security and management work practices in accordance with 178 NAC 22-011. Require use of respirators that provide protection against any potentially hazardous chemicals contained in the encapsulant as well as protection required by the definition given in 178 NAC 22-002.
2. Establish and manage a containment area in accordance with the work practices of 178 NAC 22-012.
3. Use of encapsulation is subject to the following:
  - a. Do not apply encapsulant to fibrous sprayed-on ACM or to cementitious ACM that evidences poor adhesion to the surface to which it is to be applied.
  - b. Do not apply encapsulant to ACM installed on surfaces subject to frequent abrasion or other physical damage.
4. Use an encapsulant with flame retardant characteristics.
5. Prior to starting the project, demonstrate adhesive and penetrating characteristics of a penetrating encapsulant or adhesive characteristics of a bridging encapsulant as follows:
  - a. Conduct testing at one or more randomly selected locations within the structure.
  - b. Apply the encapsulant to the surface of the material in the prescribed manner.
  - c. Remove a core sample and examine for adequate penetration and/or adhesion.
  - d. Repair test core holes immediately after the inspection.
  - e. Document results of the testing.
6. Repair damaged portions of a surface to which the encapsulant is to be applied with asbestos-free patching material. Ensure the patching material adheres to existing surfaces and provides a base for application of the encapsulant.
7. Apply encapsulant in accordance with the manufacturers' instructions and in such a manner as to minimize release of ACM.
8. Repair immediately any damage to the encapsulant that occurs when fixtures or other items are reinstalled. Clean any ACM that is released by this damage immediately with a HEPA filter-equipped vacuuming device or by wet cleaning methods.

9. Designate encapsulated ACM by labels, signs, charts or color codes in order to warn building maintenance personnel in the event the encapsulated material must be disturbed.

22-017 WORK PRACTICES TO BE FOLLOWED FOR ASBESTOS RELATED DISMANTLING PROJECTS: If structural or equipment items covered with ACM are intended to be moved without first removing the ACM, the licensed or waived business entity or licensed individual must comply with the following:

1. Do not remove ACM or dismantle items containing ACM until a work area is established.
2. Establish general security and management work practices in accordance with 178 NAC 22-011.
3. Remove ACM to expose the surface to be cut using wet methods in accordance with the work practices of 178 NAC 22-013.
4. Securely enclose in two layers of plastic sheeting not less than 6 mil thick any exposed ACM remaining on structural items or equipment items before removing from the work area.
  - a. Remove material as intact sections or components whenever possible.
  - b. Lower the enclosed items carefully to ground level and do not drop, throw or slide while handling.
5. Remove all ACM from dismantled structural items or equipment items in accordance with 178 NAC 22-014 unless item is to be disposed of with ACM left in place in accordance with 178 NAC 22-021.
6. Before reuse or sale of structural items or equipment items for any purpose, clean all surfaces from which ACM has been removed free of all visible residue and coat with an effective color-tinted sealing material.

22-018 WORK PRACTICES TO BE FOLLOWED FOR ASBESTOS RELATED DEMOLITION PROJECTS: A licensed or waived business entity or licensed individual must not demolish a structure containing friable ACM or other ACM which may become friable when cut, crushed, ground, abraded, pulverized, or burned until such material has been removed from the structure. To remove ACM from a structure scheduled to be demolished, the licensed or waived business entity or licensed individual must comply with the following unless other applicable work practices outlined in these regulations are followed:

1. Establish general security and management work practices in accordance with 178 NAC 22-011.

2. Seal airtight each window, door and other direct opening between the work area from which ACM is to be removed and other areas of the structure which are not to be demolished. Use and securely fasten plastic sheeting not less than 6 mil thick.
3. Install a control curtain in the entryway designated for access.
4. Install and operate HEPA filter-equipped ventilation fans so that air will be discharged continually from all locations within the work area in accordance with 178 NAC 22-012.01D for all projects equal to or greater than 260 linear feet or any combination which is equal to or greater than 160 square feet and linear feet.
5. Construct and operate the following:
  - a. A change room where clothing can be removed before showering in accord with 178 NAC 22-012.02D;
  - b. A shower room in accord with 178 NAC 22-012.02E; and,
  - c. A clean room in accord with 178 NAC 22-012.02F.
  - d. Tools will not be required to be kept in the change room, but tools must be cleaned and free of all visible residue or sealed in 6 mil plastic before removal from the work area in accord with 178 NAC 22-011.03A.
6. Remove ACM wet in accordance with the work practices of 178 NAC 22-013.
7. If any non-essential structural item, equipment, or furnishing which is not a part of the ACM project is to be salvaged, reused or sold in any manner, clean all surfaces with a HEPA filter-equipped vacuuming device or by wet cleaning methods and remove from the building prior to ACM removal.
8. If any non-essential structural item or equipment which is a part of the ACM project is to be salvaged, reused or sold in any manner, clean all surfaces from which ACM has been removed free of all visible residue and coat with an effective color-tinted sealing material before removing from the work area.
9. If any essential structural items, such as windows, doors, support columns, etc. are to be removed in order to be salvaged, reused or sold in any manner, remove the item only after final inspection in 178 NAC 22-018.11 has been performed.
10. While the control curtains and airtight seals over windows, doors, and other openings are still in place, clean all visible ACM debris and residue with a HEPA filter-equipped vacuuming device or by wet cleaning methods.
11. At the conclusion of the project, the licensed or waived business entity or licensed individual responsible for the project must have a third party who is licensed by the Department as a supervisor, inspector, management planner, project monitor, or

project designer, and who is independent of the contractor and selected by the owner or operator of the structure on or in which the asbestos project is conducted examine the work area to determine whether ACM debris has been removed. The individual who examined the work area must provide, prior to demolition of the building, a written report to both the contractor and the Department setting forth their findings along with their name, address and license number.

22-019 WORK PRACTICES TO BE FOLLOWED FOR PROJECTS IN TUNNELS AND CRAWL SPACES: The licensed or waived business entity or licensed individual responsible for an asbestos abatement project in a tunnel or crawl space which is or will be directly accessible from an occupied area must comply with the following:

1. Establish general security and management work practices in accordance with 178 NAC 22-011.
2. Establish and manage a containment area in accordance with the work practices of 178 NAC 22-012. Such work practices need not include the use of plastic sheeting for walls or floors within the containment area as required by 178 NAC 22-012.01B and 22-012.01C but will require the use of plastic sheeting drop cloths on the floor immediately beneath the location where ACM is being actively removed. Such work practices will not include the requirement for performing final clearance air sampling as required by 178 NAC 22-012.05. Preclean all gross contamination and ACM debris on the floor of the tunnel or crawl space by wet cleaning methods and place directly into 6 mil thick ACM waste disposal bags in accordance with 178 NAC 22-021 before starting removal.
3. Remove ACM wet in accordance with 178 NAC 22-013. Place all ACM and visible debris and residue removed from surfaces during the project directly into 6 mil thick ACM waste disposal bags in accordance with 178 NAC 22-021.
4. At the conclusion of the project, the licensed or waived business entity or licensed individual responsible for the project must have a third party who is licensed by the Department as a supervisor, inspector, management planner, project monitor, or project designer, and who is independent of the contractor and selected by the owner or operator of the structure on or in which the asbestos project is conducted examine the work area to determine whether ACM debris has been removed.
  - a. The individual who examined the tunnel must provide within seven days, a written report to both the contractor and the Department setting forth their findings along with their name, address and license number.

22-020 WORK PRACTICES TO BE FOLLOWED FOR PROJECTS INVOLVING ACM FLOOR TILE, SHEET FLOORING, SHINGLES OR SIDING

22-020.01 Asbestos projects, other than Asbestos Related Demolition Projects regulated under 178 NAC 22-018, that involve only ACM floor tile, sheet flooring, shingles, or siding, may be performed using the lesser work practice requirements 178 NAC 22-020.

178 NAC 22-020 does apply to any individual other than a homeowner performing the work on or in the homeowner's residential property. Projects involving ACM floor tile, sheet flooring, shingles, or siding, require notification in accordance with 178 NAC 22-005 whether performed in a friable or non-friable manner. Non-friable projects will not be subject to the notification fee set in 178 NAC 22-009.04.

22-020.01A Projects performed in a non-friable manner

1. Non-friable vinyl asbestos floor tile, asbestos sheet flooring, asbestos adhesive (mastic), asbestos shingles, and asbestos siding can be removed by anyone and is not subject to the work practice regulations, providing the materials remain non-friable during the removal process. Any process that cuts, crushes, grinds, abrades, pulverizes, or burns, including dropping from a height, will make the non-friable asbestos material friable and regulated.
2. It is recommended that non-friable asbestos material be placed in boxes and then in 6 mil thick plastic bags or other type of container that can be sealed so that it is air tight, and asbestos fibers can not escape into the atmosphere. Asbestos floor tile, mastic, shingles, and siding removed by non-friable methods do not have to be disposed of in licensed asbestos landfills. Contact the landfill operator to find out if they accept the material and how they would require it to be packaged.
3. If an amount of non-friable ACM that equals three square feet has become friable, discontinue removal activity immediately.
  - a. Do not resume removal activity until all surfaces in the work area that possibly have become contaminated with ACM have been cleaned thoroughly with a HEPA filter-equipped vacuuming device or by wet cleaning methods.
  - b. The Department will accept an amendment to the notification previously submitted indicating the ACM has become friable and the project will be performed in accordance with 178 NAC 22-020.01.
  - c. If the project is equal to or greater than 260 linear feet or any combination which is equal to or greater than 160 square feet and linear feet, it will be subject to the fee requirements set out in 178 NAC 22-009.03. Such project may also be subject to the notification requirements of the NESHAP regulations of the Nebraska Department of Environmental Quality.

22-020.01B Projects performed in a friable manner: If a project will be performed in a friable manner, only the following requirements will apply to the licensed or waived business entity or licensed individual:

1. For indoor projects:



- a. Security: Establish general security and management work practices in accordance with 178 NAC 22-011.
- b. Containment:
  - (1) Seal airtight each window, door and other direct opening between the work area from which ACM is to be removed and other areas of the structure which are not to be impacted.
  - (2) Use and securely fasten plastic sheeting not less than 6 mil thick extending up the wall no less than four feet around the perimeter of the work area as a splashguard.
  - (3) Install and operate HEPA filter-equipped ventilation fans so that air will be discharged continually from all locations within the work area for all projects equal to or greater than 260 linear feet or any combination which is equal to or greater than 160 square feet and linear feet.
- c. Decontamination:
  - (1) For worker protection use a double suit and air-lock decontamination method.
  - (2) Tools are not required to be kept in the work area but must be cleaned and free of all visible residue or sealed in 6 mil plastic before removal from the work area.
- d. Removal: Remove and maintain ACM in an adequately wet condition to prevent the release of any fibers.
- e. Disposal: After removal of the ACM, and clearance if required under 178 NAC 22-020.01B, item 1.f., is complete, disassemble the containment area and ensure that the surfaces of all structures, furnishings, equipment and fixtures are free of all visible residue, including any which existed prior to the start of the project; *except* mastic which is to remain and be covered with material. Treat all removed plastic sheeting, all filters, waste and debris as ACM and dispose of in accordance with 178 NAC 22-021.
- f. Clearance: For projects which are equal to or greater than 260 linear feet or any combination which is equal to or greater than 160 square feet and linear feet, have a third party, in accord with 178 NAC 22-023, perform final clearance air sampling after the work area is dry. Retain the airtight seals for the containment area in place and operate the associated HEPA filter-equipped ventilation fans until the results of clearance air sampling under Phase Contrast Microscopy (PCM) show that the airborne contamination level within the work area is not greater than 0.01 fibers per cubic centimeter (0.01 f/cc) as determined by the NIOSH 7400 method or not greater than 70 structures per square

millimeter (70 s/mm<sup>2</sup>) as determined by the EPA Transmission Electron Microscopy (TEM) method.

2. For outdoor projects:
  - a. Security: Establish general security and management work practices in accordance with 178 NAC 22-011.
  - b. Containment: To preclude spread of contamination to nearby indoor areas, securely cover each door, window, ventilation duct or other opening into such areas within 25 feet of the work area with plastic sheeting not less than six mil thick.
  - c. Decontamination:
    - (1) For worker protection use a disposable coveralls and half-face respirator.
    - (2) Tools must be cleaned and free of all visible residue or sealed in 6 mil plastic before removal from the work area.
  - d. Removal: Remove and maintain ACM in an adequately wet condition to prevent the release of any fibers.
  - e. Disposal: After removal of the ACM is complete, ensure that the surfaces of all structures, furnishings, equipment and fixtures are free of all visible residue, including any which existed prior to the start of the project. Treat all removed plastic sheeting, all filters, waste and debris as ACM and dispose of in accordance with 178 NAC 22-021.

22-021 ASBESTOS WASTE DISPOSAL: The licensed or waived business entity or licensed individual will handle all ACM waste in accordance with the requirements of 129 NAC 23, Nebraska Department of Environmental Quality (NDEQ) Hazardous Air Pollutants: Emission Standards and the following:

22-021.01 The business entity or individual performing an asbestos project must:

1. Maintain all ACM solid waste in a wet condition and immediately place in tightly sealed containers.
  - a. Use clear plastic bags not less than 6 mil thick for waste containers unless the waste contains rigid or heavy objects likely to tear the bags. Use clear plastic bags only once.
  - b. If bag damage is likely to occur, place the waste in fiber or metal containers lined with plastic bags not less than 6 mil thick and having tight-fitting lids which can be fastened firmly in position.
  - c. For large sections of structural materials, such as pipe or duct work, that have been removed with ACM left in place and that cannot be placed in containers, tightly wrap the sections in two layers of clean plastic sheeting not less than 6 mil thick for disposal.

2. Dispose of wastewater and other liquid waste that contains ACM as follows:
  - a. Mix with solid waste materials and place the mixture in tightly sealed containers that comply with the requirements of 178 NAC 22-020.01, item 1.a. or 1.b.; or
  - b. Filter through a system with the capability to collect particles 5.0 microns in size or larger and discharge into a sanitary sewer or other State or federally approved waste disposal system.
  - c. Use any other method of disposal of contaminated wastewater or liquid waste only at a location and in a manner specifically approved in writing by the Nebraska Departments of Health and Human Services and Environmental Quality.
3. Clean the exterior surface of each container or individually wrapped object free of all visible residue by wet cleaning methods before removing from the work area.
  - a. Attach an asbestos danger label securely to each container or wrapping before removing from the work area.
4. Handle each waste container carefully to prevent damage, breakage or opening.
  - a. If a waste container breaks or becomes unable to completely contain the waste:
    - (1) Transfer the waste immediately into another container that complies with the requirements of 178 NAC 22-020.01, item 1.a., b. or c.;
    - (2) Immediately saturate with water any ACM waste that escapes from the original container and place in the replacement container; and
    - (3) Clean contaminated areas free of all visible residue.
5. Store any ACM removed from the work area but not yet delivered to an approved asbestos waste disposal site in a secure holding facility or location accessible only to persons licensed in an asbestos occupation in accordance with 178 NAC 22-004.
6. Transport waste in vehicles operated by or escorted by a licensed asbestos worker or supervisor.
  - a. Use vehicles with completely enclosed cargo areas or completely enclose the cargo area with two layers of plastic sheeting not less than 6 mil thick while the waste is being transported.

- b. Immediately clean the vehicle cargo area free of all visible residue using a HEPA filter-equipped vacuuming device or by wet cleaning methods after the waste has been deposited at an approved asbestos waste disposal site.
  - c. Alternatively, if the cargo area has been lined with a disposable plastic liner not less than 6 mil thick, cleaning is not required if the vehicle cargo area is free of all visible residue after the plastic liner is removed.
  - d. Treat all removed plastic sheeting, waste and debris as ACM and dispose of in accordance with these regulations.
7. Retain handling responsibility for ACM waste until the waste is delivered to and accepted by the operator of a Nebraska Department of Environmental Quality licensed and approved asbestos waste disposal site and a written receipt is received and made a part of the project file.

22-021.02 The business entity performing an asbestos project will maintain in their records, required under 178 NAC 22-006, the following information:

1. The name and address of the following:
  - a. Premises at which the ACM waste was generated;
  - b. Building owner;
  - c. Business entity performing the asbestos project;
  - d. Each employee or agent who transported or escorted the ACM waste to an approved asbestos waste disposal site; and
  - e. Each approved asbestos waste disposal site to which the ACM was transported.
2. The type and amount of ACM waste designated for disposal, expressed in square or linear feet, number of bags, weight or cubic yards.
3. The time period over which ACM waste was transported to the approved asbestos waste disposal site.

22-022 WAIVER OF PRESCRIBED WORK PRACTICES AND APPROVAL OF ALTERNATIVE WORK PRACTICES: The Department may waive any of the specific requirements established by 178 NAC 22-011 through 22-021 and 22-023 and approve an alternative work practice.

22-022.01 General requirements

22-022.01A Waivers will be considered only when the health, safety and welfare of all classes of asbestos occupations, building occupants and the general public are protected adequately by the alternative work practice.

22-022.01B A waiver may be requested for an individual asbestos project by attaching a completed waiver application according to 178 NAC 22-003.02F, item 1

and the information required in 178 NAC 22-005.02A for a asbestos project notification.

22-022.01C A waiver may be requested for an individual asbestos project by the project designer or by the owner or operator of the structure in which the asbestos project is planned prior to the selection of a licensed business entity to conduct the asbestos project by completion of waiver including the requirements of 178 NAC 22-003.02F, item 1 and submission of that form with such other information as the Department deems necessary to evaluate the request. A copy of all waivers granted under 178 NAC 22-022 must be submitted with the project notification for the project to which it applies.

22-022.01D A waiver may be requested for approval of an alternative work practice on a continuing basis for a business entity or individual, or for a particular facility belonging to that business entity or individual, by submitting a completed waiver according to 178 NAC 22-003.02F, item 1.

22-022.01E A waiver may be requested for approval of an exception to a specific worker protection requirement on a case-by-case basis if a business entity submits a written description of the alternative procedure and demonstrates to the Department's satisfaction that the proposed alternative procedure provides equivalent protection to the health, safety, and welfare of all classes of asbestos occupations and the general public. Any such request must be submitted by completing a waiver according to 178 NAC 22-003.02F, item 1.

22-022.02 The business entity or individual requesting a waiver must provide:

1. A reference to the requirement by section number for which waiver is requested;
2. A narrative explanation of rationale for requesting the waiver; and
3. A description of the procedure proposed as an alternative work practice.
4. The Department will approve or deny waivers in the form of a written notice to the applicant.

22-023 FINAL CLEARANCE AIR SAMPLING

22-023.01 All persons performing final clearance air sampling must wear protective clothing and be licensed by the Department as a supervisor, inspector, management planner, project monitor or project designer. All persons performing final clearance air sampling must be independent of the contractor and selected by the owner or operator of the structure on or in which the asbestos project is conducted.

22-023.02 Final clearance air sampling must not be performed until after the contractor has completed the second cleaning step required by 178 NAC-22-012.04 and until the work area is dry.

22-023.03 When final clearance air sampling is performed, the following procedures must be used:

22-023.03A With only airtight temporary barriers in place, the person conducting final clearance air sampling must visually observe the work area and must observe behind the airtight temporary barriers to verify that the business entity has removed all ACM, dust and debris in the work area as required by 178 NAC 22-012.03E. If any ACM, dust or debris is found by the person conducting final clearance air sampling, the work area must be recleaned by the licensed or waived business entity or licensed individual conducting the project. If an airtight temporary barrier must be breached for cleaning or recleaning purposes, the area behind the breach must be cleaned and the barrier immediately repaired.

22-023.03B Once the work area has passed a visual observation, the person performing final clearance air sampling must sweep an air stream from a high speed leaf blower or equivalent device across all surfaces.

22-023.03C Immediately following the activity in 178 NAC 22-022.03B, final clearance air sampling must be performed in the work area.

1. Air samples must be collected by a pump capable of drawing a volume which is equal to or greater than 1,199 liters of air through each 25 millimeter filter at a rate equal to or greater than one liter and less than ten liters per minute if using the Transmission Electron Microscopy (TEM) Method or the NIOSH 7400 method may be utilized if using the Phase Contrast Microscopy (PCM) method. The flow rate for the pump must be calibrated by a primary or secondary source at the beginning and end of the sampling period.
2. A minimum of five air samples must be taken inside the containment area.
3. In order to collect the samples, cassettes must be placed 5 to 6 feet above the floor at a 45-degree angle down. Cassettes must be uniformly distributed throughout the work area. If the work area contains more than one room, place at least one cassette in each room, if the work area contains more than five rooms, select a representative sample of rooms. Each cassette will be subject to normal air circulation, avoiding room corners, obstructed locations, and sites near windows, doors, or vents.

22-023.03D Air samples will be analyzed for Transmission Electron Microscopy (TEM) using the EPA method set forth in Appendix A to 40 CFR 763 or an equivalent method, or will be analyzed for Phase Contrast Microscopy (PCM) using the NIOSH 7400 method or an equivalent method. The analyst doing an PCM analysis must be NIOSH 582 or 582E trained.

EFFECTIVE DATE  
SEPTEMBER 5, 2009

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 22

22-023.03E Final clearance air sampling results must be provided within 30 days to the Department by the person who performed the sampling. When the results are submitted, the person who performed the sampling must, in addition, certify the following to the Department:

1. A visual inspection of the work area was performed prior to final clearance air sampling and the work area was free of ACM, dust and debris from the material intended to be removed before the samples were taken;
2. The sampling was performed according to the regulations;
3. The PCM air samples were analyzed by a person who has been NIOSH 582 or 582E trained. In order that this information may be verified, the name and address of the person, or laboratory, performing the analysis must also be included.

THESE AMENDED RULES AND REGULATIONS Replace Title 178 Chapter 22, Asbestos Projects, effective April 10, 2005.

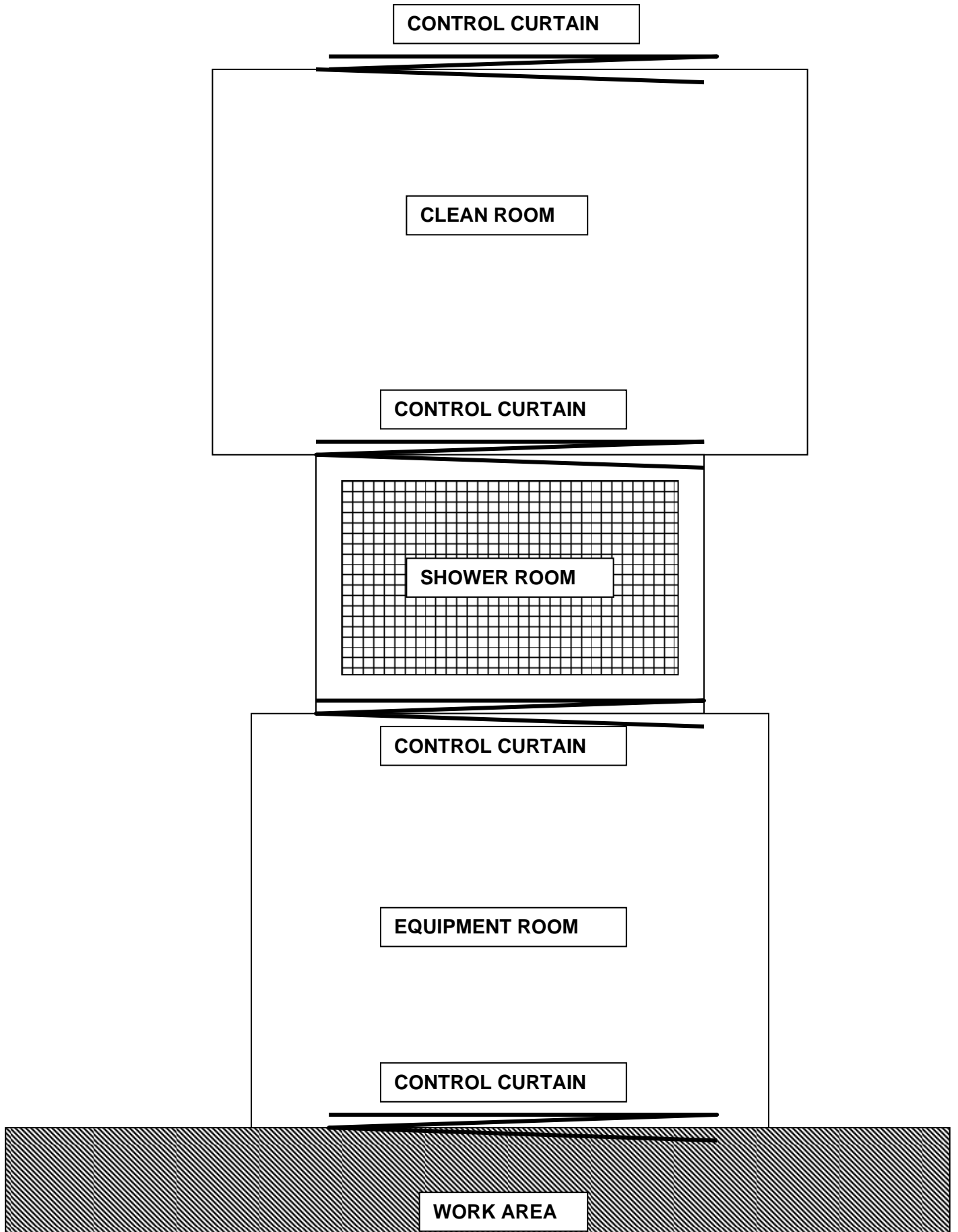


Figure 1: Decontamination Facility



EFFECTIVE DATE  
SEPTEMBER 5, 2009

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 22

EFFECTIVE DATE  
SEPTEMBER 5, 2009

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 22

**NEBRASKA DEPARTMENT OF HEALTH & HUMAN SERVICES  
ASBESTOS CONTROL PROGRAM**

**APPLICATION FOR INITIAL LICENSE OR RENEWAL OF LICENSE  
NEBRASKA DEPARTMENT OF HEALTH & HUMAN SERVICES  
ASBESTOS CONTROL PROGRAM**

**APPLICATION FOR  
ASBESTOS OCCUPATION COURSE APPROVAL**

**General Instructions:** Use this form to apply for Department approval to provide training courses for each classification of asbestos occupation licensure in Nebraska. Use a separate form for each course for which approval is sought.

Where the application requests information on a separate page, attach the separate page to the application, indicate the part and item number in the upper right-hand corner and number the pages consecutively in the bottom right-hand corner.

Applications will not be considered which are incomplete, unsigned, or fail to enclose the appropriate fee required by 178 NAC 22-009 payable by check or money order to the Nebraska Department of Health & Human Services.

Applicants are advised that the Department will audit at least one presentation of a course for which approval has been granted. Course approval may be revoked if an on-site audit discovers any deficiencies.

Prior to applying for training course approval, applicants should review the requirements of 178 NAC 22-007 and 22-008.

Complete applications will be processed within 30 days of receipt. Courses should not be scheduled until Department approval has been received.

Mail the completed application and the fee to the following address:

Asbestos Control Program Manager  
Nebraska Department of Health & Human Services  
Division of Public Health  
Asbestos Control Program  
301 Centennial Mall South  
P.O. Box 95026  
Lincoln, NE 68509-5026

EFFECTIVE DATE  
SEPTEMBER 5, 2009

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 22

NEBRASKA DEPARTMENT OF HEALTH & HUMAN SERVICES  
ASBESTOS CONTROL PROGRAM

PLU #2832

APPLICATION FOR  
ASBESTOS OCCUPATION COURSE APPROVAL  
PART A  
GENERAL INFORMATION

1. Name of Applicant: \_\_\_\_\_  
Address Street: \_\_\_\_\_  
City: \_\_\_\_\_  
State/Zip: \_\_\_\_\_  
Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_  
Fax \_\_\_\_\_

PART B  
COURSE ADMINISTRATION

1. Title of Course: \_\_\_\_\_
2. The asbestos occupation for which the course is developed and whether initial or review training.

<u>Occupation</u>	<u>Initial</u>	<u>Review</u>
Worker	_____	_____
Supervisor	_____	_____
Project Designer	_____	_____
Project Monitor	_____	_____
Inspector	_____	_____
Management Planner	_____	_____
Nebraska Law, Rules, and Regulations	_____	_____

3. Indicate the location(s) at which this course is intended to be presented.
4. Individuals who will present the course, including their experience, education and other qualifications.
5. Maximum number of students allowed to attend each scheduled course.

## PART C – CURRICULUM

Provide a copy of all course materials, including, but not limited to, student manuals, instructor notebooks, handouts and the following items required by 178 NAC 22-007.02A7 through 007.02A, item 17.d. of Department regulations;

22-007.02A A copy of all course materials, including, but not limited to, student manuals, instructor notebooks, handouts and the following:

1. The course provider's name, address and phone number;
2. The title of the course;
3. The asbestos occupation for which the course is developed and whether initial or review training;
4. The locations at which the course is intended to be presented;
5. A list of the individuals who will present the course, including their experience, education and other qualifications;
6. The maximum number of students to be enrolled in each presentation of the course;
7. The specific objectives for the course;
8. The curriculum to be covered for a particular asbestos occupation course as determined by each unit of the components set forth in 178 NAC 22-008, including a general description of the nature of the information to be presented and a list of tasks and duties connected with each unit;
9. The method of instruction and training aids for each unit of 178 NAC 22-007.02A, item 8, for example, lecture, demonstration, simulation, slide presentation, film strip, etc.;
10. The length of time to be spent on each unit of 178 NAC 22-007.02A, item 8;
11. The names and authors of any text or audiovisual material to be used, including the publisher and edition, or if no text is to be used, a list of any written materials to be used, including the source of such materials;
12. The reading assignment in the text or other materials, if any, for each unit of 178 NAC 22-007.02A, item 8;
13. When required, a description of the practical hands-on training to be provided for each unit of 178 NAC 22-007.02A, item 8 such as working with asbestos-substitute materials, fit testing and using respirators, use of glove bags, donning protective clothing, constructing a decontamination unit, conducting a simulated building walk-through inspection and other hands-on activities;
14. A description and an example of numbered licenses issued to students who attend and pass the course to include items listed in 178 NAC 22-007.01F, item 1 through 5;
15. An explanation of how students will be evaluated by a comprehensive examination at the end of the course, for example, 50 multiple choice questions;
16. An explanation of the grading system to be used for proficiency evaluations and written examinations; and
17. Guidelines to be used for examinations which must include, at a minimum:
  - a. Procedures to be followed in administering an examination;
  - b. Procedures to be followed to ensure security of examinations, both during administration and otherwise, including, but not limited to, the number of times a particular examination will be used;
  - c. Procedures to be followed to validate examinations for testing competency; and
  - d. Procedures to be followed in reporting the grades to the individual and the Department.

**PART D - VERIFICATION**

Note: The chief executive officer of the business entity must sign the following statement.

I hereby verify that the information included in this application and any supplemental information attached to it is true and accurate to the best of my knowledge.

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Date

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Signature of Chief Executive Officer

---

Print or Type Name

---

Title



EFFECTIVE DATE  
APRIL 10, 2005

NEBRASKA HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE

178 NAC 23

CHAPTER 23 LEAD-BASED PAINT ACTIVITIES

TITLE 178 ENVIRONMENTAL HEALTH

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23-007	Work Practice Standards .....	27
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**Contact the Agency for forms at:**  
Nebraska Department of Health and Human Services  
Division of Public Health Assurance  
Lead-Based Paint Program  
301 Centennial Mall South  
P.O. Box 95007  
Lincoln, NE 68509-5007

Phone (402)471-0386  
FAX (402)471-8833  
1-(888)242-1100 Ext. 1  
Website: <http://www.hhs.state.ne.us/puh/enh/leadpaint/leadindex.htm>



EFFECTIVE DATE  
APRIL 10, 2005

NEBRASKA HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE

178 NAC 23

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EFFECTIVE DATE  
APRIL 10, 2005

NEBRASKA HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE

178 NAC 23

TITLE 178 ENVIRONMENTAL HEALTH

CHAPTER 23 LEAD-BASED PAINT ACTIVITIES

23-001 SCOPE AND AUTHORITY: These regulations, standards and fees implement the provisions of the Residential Lead-based Paint Professions Certification Act, Neb. Rev. Stat. §§71-6318 to 71-6331.01, and will apply to the certification of firms involved in lead-based paint activities in Nebraska; the accreditation of training courses for workers, supervisors, inspectors, elevated blood lead level inspector, visual lead hazard advisors and project designers engaged in lead-based paint activities performed in Nebraska; and the certification of lead-based paint professions in Nebraska.

Additional authority is found in the Uniform Licensing Law at, Neb. Rev. Stat. §§71-162 to 71-162.05, the Administrative Procedure Act and 184 NAC 1.

23-002 EXEMPTIONS: These regulations, standards and fees will not apply in the following circumstances or to the following individuals: Persons who perform lead-based paint activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed or unless a child residing in the building has been identified as having an elevated blood-lead level.

#### 23-003 DEFINITIONS

Abatement or abatement project means any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

1. The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil;
2. All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures; and
3. Projects for which there is a written contract or other documentation which provides that a firm or an individual will be conducting activities in or to a residential dwelling or child-occupied facility that (i) will result in the permanent elimination of lead-based paint hazards or (ii) are designed to permanently eliminate lead-based paint hazards and are described in 178 NAC 23-003, items 1. And 2. under abatement or abatement project;

4. Projects resulting in the permanent elimination of lead-based paint hazards conducted by firms or individuals certified in accordance with the Department unless such projects are excluded from the definition of abatement or abatement project under 178 NAC 23-003;
5. Projects resulting in the permanent elimination of lead-based paint hazards conducted by firms or individuals who or which, through company name or promotional literature, hold themselves out to be in the business of performing lead-based paint activities unless such projects are excluded from the definition of abatement or abatement project under 178 NAC 23-003; or
6. Projects resulting in the permanent elimination of lead-based paint hazards that are conducted in response to state or local abatement orders.

Abatement does not include renovation, remodeling, landscaping, or other activities when such activities are not designed to permanently eliminate lead-based paint hazards but instead are designed to repair, restore, or remodel a structure or dwelling even if such activities may incidentally result in a reduction or elimination of lead-based paint hazards. Abatement does not include interim controls, operations, and maintenance activities or other measures and activities designed to temporarily but not permanently reduce lead-based paint hazards.

Accredited review course means a review course that has been accredited by the Department to provide review training for individuals engaged in lead-based paint activities.

Accredited training program means a training program that has been accredited by the Department to provide training for individuals engaged in lead-based paint activities.

Accredited training provider means a company, partnership, corporation, sole proprietorship, association, or other business entity that conducts an accredited training program or accredited review course.

Certificate of accreditation means a letter from the Department signed by the Director or the director's designee allowing a training program to provide accredited training for the lead-based paint professions specified on the certificate.

Certification examination for elevated blood lead level inspector and visual lead hazard advisor means an examination written and administered by the Department or an authorized representative of the Department.

Certification examination for lead-based paint inspector, risk assessor, and abatement supervisor means the US Environmental Protection Agency National Certification Examination administered by the Department or an authorized representative of the Department.

Certified abatement worker means an individual who has been trained by an accredited training program and certified by the Department to perform abatement projects.

Certified elevated blood lead level inspector means an individual who has been trained by an accredited training program and certified by the Department to perform elevated blood lead level investigations.

Certified firm means a firm to which the Department has issued a certificate of approval.

Certified inspector means an individual who has been trained by an accredited training program and certified by the Department to conduct inspections and sample for the presence of lead in dust and soil for the purposes of abatement clearance testing.

Child-occupied facility means a building or portion of a building, constructed prior to 1978, visited regularly by the same child six years of age or under, on at least two different days within any seven-day period running from Sunday through Saturday, if each daily visit lasts at least three hours, the combined weekly visits last at least six hours, and the combined annual visits last at least sixty hours. Child-occupied facility may include, but is not limited to, a day-care center, a preschool, or a kindergarten classroom.

Clearance examination means an activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or surface dust-lead hazards, as defined in this part, exist in the dwelling unit or worksite. The clearance process includes a visual assessment and collection and analysis of environmental samples.

Clearance levels means the maximum allowable concentrations of lead on environmental surfaces. For post-abatement clearance the maximum level of lead in dust on horizontal surfaces are as follows: floors 40 micrograms per square foot, interior window sills 250 micrograms per square foot, and window troughs into which the sash fits and exterior surfaces 400 micrograms per square foot using dust wipe sampling methodology.

Common area means a portion of a building that is generally accessible to all occupants and may include, but is not limited to, a hallway, stairway, laundry or recreational room, playground, community center, garage, or boundary fence.

Component or building component means a specific design or structural element or a fixture of a building, residential dwelling, or child-occupied facility that is distinguished from others by form, function, and location and may include, but is not limited to, interior components such as ceilings, crown moldings, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim including sashes, window heads, jambs, or sills or stools and troughs, built-in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascia, rake boards, cornerboards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes, and wells, and air conditioners.

Containment means a process to protect workers and the environment by controlling exposure to the lead-contaminated dust and debris created during an abatement project.

Course test blueprint means a written document identifying the proportion of the course test questions devoted to each major topic in the course curriculum.

Department means the Department of Health and Human Services Regulation and Licensure.

Deteriorated paint means paint that is cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.

Director means the Director of Regulation and Licensure or his/her designee.

Elevated blood-lead level means a confirmed concentration of lead in whole blood of twenty micrograms of lead per deciliter of whole blood for a single venous test or of fifteen to nineteen micrograms of lead per deciliter of whole blood in two consecutive tests taken three to four months apart.

Encapsulant means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials, or an adhesively bonded covering material.

Encapsulation means the application of an encapsulant.

Enclosure means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

EPA means the United States Environmental Protection Agency.

Firm means a company, partnership, corporation, sole proprietorship, association, or other business entity that conducts lead-based paint abatement or abatement projects.

Guest instructor means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

Inspection means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

Interim controls means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter or more than five-tenths of one (0.5%) percent by weight in a residential dwelling or child-occupied facilities.

Lead-based paint activities means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement.

Lead-based paint hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated paint or is present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the Director.

Lead-based paint profession means one of the specific types or categories of lead-based paint activities identified in the Residential Lead-Based Paint Professions Certification Act for which individuals may receive training from an accredited training program and become certified by the Department.

Lead-contaminated dust means surface dust in a residential dwelling or child-occupied facility that contains an area or mass concentration of lead at or in excess of levels identified by the Director.

Lead-contaminated soil means bare soil on residential real property or on the property of a child-occupied facility that contains lead at or in excess of levels identified by the Director.

Permanently covered soil means soil which has been separated from human contact by the placement of solid barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass mulch, and other landscaping materials are not considered permanent coverings.

Person means any natural or judicial person, including any individual, corporation, partnership, or association, any state, or political subdivision thereof, any interstate body, and any Department, agency, or instrumentality of the United States Government.

Principal instructor means the individual who has the primary responsibility for organizing and teaching a particular course.

Reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

Residential dwelling means a detached single-family dwelling unit, including attached structures such as porches and stoops, or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit which is used or occupied or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

Risk assessment means an onsite investigation to determine the existence, nature, severity, and location of lead-based paint hazards and the provision of a report by the individual or the

firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

Successfully pass means answering correctly seventy percent of the exam questions on either the certification examination or the end of course examination.

Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities unless one or more children six years of age or under resides or is expected to reside in such housing for the elderly or persons with disabilities or any zero-bedroom dwelling.

Training curriculum means an established set of course topics for instruction in an accredited training program for a particular lead-based paint profession designed to provide specialized knowledge and skills.

Training program manager means the individual responsible for administering an accredited training program and monitoring the performance of principal instructors and guest instructors.

Visual assessment means looking for, as applicable: deteriorated paint, visible surface dust, debris and residue as part of a clearance examination.

Visual lead-hazard screen means a visual assessment to determine the presence of deteriorated paint or other potential sources of lead-based paint hazards in a residential dwelling or child-occupied facility. Visual lead-hazard screen includes a written report explaining the results and limitations of the assessment. The written report will be provided to the person requesting the inspection, the residents of the dwelling, and the owner of the dwelling or child-occupied facility. A certified visual lead-hazard advisor shall retain a copy of the report in his/her files for three years

## 23-004 ACCREDITATION OF TRAINING PROVIDERS, TRAINING PROGRAMS AND REVIEW COURSES

### 23-004.01 General Procedures for Training Providers

23-004.01A A training provider may seek accreditation to offer lead-based paint professions programs in any of the following disciplines: certified inspector, certified risk assessor, certified supervisor, certified project designer, certified visual lead hazard advisor, certified elevated blood lead level inspector, and certified abatement worker. A training provider may also seek accreditation to offer review courses for each of the above listed disciplines.

23-004.01B A training provider must not provide, offer, or claim to provide the Department accredited lead-based paint professions programs without applying for and receiving accreditation from the Department.

23-004.01C The training provider must notify the Department in writing within 30 days of changing the address specified on its training provider accreditation application or transferring the records from that address.

23-004.01D The training provider must notify the Department in writing, or by fax, of lead-based paint activities courses offered. The notification must include the date, time, instructor, and location of any scheduled lead professions training initial program or review course.

23-004.01E The training provider must provide notice of all lead-based paint activities courses offered. The original notification must be received by the Department at least five business days prior to offering any lead-based paint activities course. If notification is not made within five days the training certifications issued by the training provider will not be accepted by this Department.

23-004.01F The training provider must provide the Department updated notices when lead-based paint activities courses will begin on a date other than the one specified in the original notification, as follows:

1. For lead-based paint activities courses beginning prior to the original start date an updated notice must be received by the Department at least five business days before the revised start date.
2. For lead based paint activities courses beginning after the original start date an updated notice must be received by the Department at least two business days before the revised start date.

23-004.01G The training provider must update the Department of any change in location of lead-based paint activities courses at least five business days prior to the scheduled course start date.

23-004.01H The training provider must also update the Department regarding any course cancellations, or any other changes to the original notice. Update notices, must be received by the Department at least 24 hours prior to the scheduled start date.

#### 23-004.02 Training Provider Application Process

23-004.02A A training provider seeking accreditation must submit a written application to the Department containing the following information:

1. The training provider's name, address, and telephone number.
2. A list of programs and or review courses for which it is applying for accreditation.
3. A statement signed by the training provider manager certifying that the training provider meets the requirements established in 178 NAC 23-004.03. If a training provider uses EPA-recommended model-training



- materials, or training materials approved by a State or Indian Tribe that has been authorized by the EPA the training provider manager must include a statement certifying that, as well.
4. If a training provider does not use the EPA-recommended model training materials or training materials approved by a State or Indian Tribe that has been authorized by the EPA, its application for accreditation must also include:
    - a. A copy of the student and instructor manuals, or other materials to be used for each program.
    - b. A copy of each program agenda.

23-004.02B All training providers must include in their application for accreditation the following:

1. A description of the facilities and equipment to be used for lecture and hands-on training including the street address the facilities to be used for lecture and hands-on training.
2. A copy of the course test blueprint for each program or review course.
3. A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each program.
4. A copy of the quality control plan as described in 178 NAC 023-004.03F.
5. The prescribed fee of \$1,000 for each lead-based paint professions program and the fee of \$500 for each review training course to be accredited.

23-004.02C If a training provider meets the requirements in 178 NAC 23-004.03, then the Department will approve the application for accreditation no more than 90 days after receiving a complete application from the training provider.

1. In the case of approval, a certificate of accreditation will be sent to the applicant.
2. In the case of disapproval, a letter describing the reasons for disapproval will be sent to the applicant. Prior to disapproval, the Department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The Department may also request additional materials. If a training provider's application is disapproved, the provider may reapply for accreditation at any time.

23-004.02D A training provider may apply for accreditation to offer initial lead-based paint professions program or review courses in as many program disciplines as it chooses. An accredited training provider may seek accreditation for additional lead-based paint professions programs or review courses at any time as long as the provider can demonstrate that it meets the requirements.

23-004.03 Requirements for the Accreditation of Training Providers

23-004.03A For a training provider to obtain accreditation from the Department to offer lead-based paint professions training programs or review courses, the provider must meet the following requirements:

1. The training provider must employ a training program manager who has demonstrated experience, education, or training in the construction industry including: lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene and one of the following:
  - a. At least two years of experience, education, or training in teaching workers or adults; or
  - b. A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or provider management or a related field; or
  - c. Two years of experience in managing a training provider specializing in environmental hazards.
2. The training program manager must designate a qualified principal instructor for each professions training programs or review courses who has:
  - a. Demonstrated experience, education, or training in teaching workers or adults; and
  - b. Successfully completed at least 16 hours of lead-specific training from any training provider that is EPA-accredited or State-accredited by an EPA authorized state; and
  - c. Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.
3. The principal instructor will be responsible for the organization of the professions training programs or review course and oversight of the teaching of all course material. The training program manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a program or course.

23-004.03B The following documents will be recognized by the Department as evidence that training managers and principal instructors have the education, work experience, training requirements or demonstrated experience, specifically listed in 178 NAC 23-004.03A items 1. and 2. This documentation need not be submitted with the accreditation application, but, if not submitted, must be retained by the

training provider as required by the record keeping requirements contained in 178 NAC 23-004.08. Those documents include the following:

1. Official academic transcripts or diploma as evidence of meeting the education requirements.
2. Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.
3. Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.

23-004.03C The training provider must ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.

23-004.03D For each program offered, the training provider must conduct a course test at the completion of the program, and a hands-on skills assessment, for that discipline. Each individual must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any program.

1. The training program manager is responsible for maintaining the validity and integrity of the hands-on skills assessment or proficiency test to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the program topics contained in 178 NAC 23-004.05.
2. The training program manager is responsible for maintaining the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the program topics.
3. The course test will be developed in accordance with the test blueprint submitted with the training accreditation application.

23-004.03E The training provider must issue unique program or review course completion certificates to each individual who passes the training program or review course. The certificate must include:

1. The name, a unique certificate identification number, and address of the individual.
2. The name of the particular program or review course that the individual completed.
3. Dates of program completion/test passage.
4. The name, current address, and telephone number of the training provider.

23-004.03F The training program manager must develop and implement a quality control plan. The plan will be used to maintain and improve the quality of the training provider over time. This plan must contain at least the following elements:

1. Procedures for periodic revision of training materials and the course test to reflect innovations in the field.
2. Procedures for the training manager's annual review of principal instructor competency.

23-004.03G The training provider must teach the work practice standards for conducting lead-based paint professions contained in 178 NAC 23-007, and other standards developed by the Department. These standards must be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities they are responsible for conducting.

23-004.03H The training program manager will be responsible for ensuring that the training provider complies at all times with all of the requirements in 178 NAC 23-004.

23-004.03I The training program manager must allow the Department to audit the training provider to verify the contents of the application for accreditation as described in 178 NAC 23-004.

#### 23-004.04 Program Accreditation

23-004.04A To receive program accreditation for the following disciplines lead-based paint professions training programs, the training provider must provide training programs that meet the minimum training curriculum requirements contained in 178 NAC 23-004.05 and the following training hour requirements:

1. The inspector initial program must last a minimum of 24 training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the inspector initial program are contained in 178 NAC 23-004.05A item 1.
2. The risk assessor initial program must last a minimum of 16 training hours, with a minimum of four hours devoted to hands-on training activities. The minimum curriculum requirements for the risk assessor initial program are contained in 178 NAC 23-004.05A item 2.
3. The supervisor initial program must last a minimum of 32 training hours, with a minimum of eight hours devoted to hands-on activities. The minimum curriculum requirements for the supervisor initial program are contained in 178 NAC 23-004.05A item 3.

4. The project designer initial program must last a minimum of eight training hours. The minimum curriculum requirements for the project designer initial program are contained in 178 NAC 23-004.05A item 4.
5. The abatement worker initial program must last a minimum of 16 training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the abatement worker initial program are contained in 178 NAC 23-004.05A item 5.
6. The visual lead hazard advisor initial program must last a minimum of eight training hours, with a minimum of two hours devoted to hands-on training activities. The minimum curriculum requirements for the visual lead hazard advisor initial program are contained in 178 NAC 23-004.05A item 6.
7. The elevated blood lead level inspector initial program must last a minimum of eight training hours, with a minimum of two hours devoted to hands-on training activities. The minimum curriculum requirements for the elevated blood lead level inspector initial program are contained in 178 NAC 23-004.05A item 7.

#### 23-004.05 Minimum Training Curriculum Requirements

23-004.05A To become accredited lead-based paint professions programs of instruction in any one of the specific disciplines, training providers must ensure that their courses of study include, at a minimum, the following relevant program topics. Requirements ending in an asterisk (\*) indicate areas that require hands-on activities as an integral component of the program.

1. Inspector
  - a. Role and responsibilities of an inspector.
  - b. Background information on lead and its adverse health effects.
  - c. Background information on Federal, State, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.
  - d. Lead-based paint inspection methods, including selection of rooms and components for sampling or testing. \*
  - e. Paint, dust, and soil sampling methodologies. \*
  - f. Clearance standards and testing, including random sampling. \*
  - g. Preparation of the final inspection report. \*
  - h. Recordkeeping.
2. Risk Assessor
  - a. Role and responsibilities of a risk assessor.

- b. Collection of background information to perform a risk assessment.
  - c. Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.
  - d. Visual inspection for the purposes of identifying potential sources of lead-based paint hazards. \*
  - e. Lead hazard screen protocol. \*
  - f. Sampling for other sources of lead exposure. \*
  - g. Interpretation of lead-based paint and other lead sampling results, including all applicable State or Federal guidance or regulations pertaining to lead-based paint hazards. \*
  - h. Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.
  - i. Preparation of a final risk assessment report.
3. Supervisor
- a. Role and responsibilities of a supervisor.
  - b. Background information on lead and its adverse health effects.
  - c. Background information on Federal, State, and local regulations and guidance that pertain to lead-based paint abatement.
  - d. Liability and insurance issues relating to lead-based paint abatement.
  - e. Risk assessment and inspection report interpretation. \*
  - f. Development and implementation of an occupant protection plan and abatement report.
  - g. Lead-based paint hazard recognition and control. \*
  - h. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices. \*
  - i. Interior dust abatement/cleanup or lead-based paint hazard control and reduction methods. \*
  - j. Soil and exterior dust abatement or lead-based paint hazard control and reduction methods. \*
  - k. Clearance standards and testing.
  - l. Cleanup and waste disposal.
  - m. Record keeping.
4. Project Designer
- a. Role and responsibilities of a project designer.
  - b. Development and implementation of an occupant protection plan for large-scale abatement projects.
  - c. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.

- d. Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects.
  - e. Clearance standards and testing for large-scale abatement projects.
  - f. Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large-scale abatement projects.
5. Abatement Worker
- a. Role and responsibilities of an abatement worker.
  - b. Background information on lead and its adverse health effects.
  - c. Background information on Federal, State and local regulations and guidance that pertain to lead-based paint abatement.
  - d. Lead-based paint hazard recognition and control. \*
  - e. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices. \*
  - f. Interior dust abatement methods/cleanup or lead-based paint hazard reduction. \*
  - g. Soil and exterior dust abatement methods or lead-based paint hazard reduction. \*
6. Visual Lead Hazard Advisor
- a. Role and responsibilities of a visual lead hazard advisor.
  - b. Collection of background information to perform a visual lead hazard screen.
  - c. Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.
  - d. Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.
  - e. Visual lead hazard assessment protocol.
  - f. Evaluating other sources of lead exposure.
  - g. Interpretation of lead-based paint and other lead observations, including all applicable guidance pertaining to lead-based paint hazards.
  - h. Review of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.
  - i. Preparation of a visual lead hazard assessment report.
7. Elevated Blood Lead Level Inspector
- a. Role and responsibilities of a elevated blood lead level inspector.
  - b. Collection of background information to perform elevated blood lead level investigation.

- c. Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.
- d. Inspection for the purposes of identifying potential sources of lead hazards.
- e. Elevated Blood Lead Level Investigation protocol.
- f. Evaluating all sources of lead exposure.
- g. Interpretation of observations, including all applicable guidance pertaining to lead-based paint hazards.
- h. Review of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.
- i. Preparation of a elevated blood lead level investigation report.

23-004.05B Program Accreditation Application: An accredited training provider seeking accreditation of training programs, must submit a written application to the Department containing the following information:

- 1. The training provider's name, address, and telephone number.
- 2. A list of programs for which it is applying for accreditation.
- 3. A statement signed by the training provider manager certifying that the training provider meets the minimum requirements established in 178 NAC 23-004.03. If a training provider uses EPA-developed model training materials, or training materials approved by a State or Indian Tribe that has been authorized by EPA, the training program manager must include a statement certifying that, as well.
- 4. If the training program materials are not based on EPA-developed model training materials or training materials approved by an authorized State or Indian Tribe, the training provider's application for accreditation must include:
  - a. A copy of the student and instructor manuals to be used for each course.
  - b. A copy of the course agenda for each program.
- 5. All training providers must include in their application for program accreditation the following:
  - a. A description of the facilities and equipment to be used for lecture and hands-on training.
  - b. A copy of the course test blueprint for each program.
  - c. A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course (if applicable).



- d. A copy of the quality control plan as described in 178 NAC 23-004.03F.
6. If a training provider meets the requirements listed in 178 NAC 23-004.03, then the Department will approve the application for accreditation no more than 90 days after receiving a complete application from the review training provider. In the case of approval, a certificate of accreditation will be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval will be sent to the applicant. Prior to disapproval, the Department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The Department may also request additional materials retained by the review training provider. If a review training provider's application is disapproved, the provider may reapply for accreditation at any time.

23-004.06 Review Course Accreditation

23-004.06A A training provider may seek accreditation of review training courses in any of the following disciplines: Inspector, Risk Assessor, Supervisor, Project Designer, Visual Lead Hazard Advisor, Elevated Blood Lead Level Inspector and Abatement Worker. To obtain the Department accreditation of review training, a training provider must meet the following minimum requirements:

1. Each review course must contain review the curriculum topics of the full-length initial programs listed under 178 NAC 23-004.04 as appropriate. In addition, training providers must ensure that their review courses include, at a minimum, the following:
  - a. An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
  - b. Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
  - c. Current technologies relating to lead-based paint professions in general, as well as specific information pertaining to the appropriate discipline.
2. Each Inspector, Risk Assessor, Supervisor and Abatement Worker review course must last a minimum of eight training hours. The Project Designer, Elevated Blood Level Inspector and Visual Lead Hazard Advisor review course must last a minimum of four training hours.

3. For each course offered, the training provider will conduct a hands-on assessment (if applicable), and at the completion of the review course, a course test.
4. A training provider may apply for accreditation of a review course concurrently with its application for accreditation of the corresponding training initial program. If so, the Department will use the approval procedure described in 178 NAC 23-004.07D. In addition, the minimum requirements contained in 178 NAC 23-004.03 must also apply.

23-004.07 Review Course Accreditation Application

23-004.07A An accredited training provider seeking accreditation of review training courses, must submit:

1. The review training provider's name, address, and telephone number.
2. A list of courses for which it is applying for accreditation.
3. A statement signed by the training provider manager certifying that the review training provider meets the minimum requirements established in 178 NAC 23-004.03 except for the requirements in 178 NAC 23-004.03D. If a training provider uses EPA-developed model training materials, or training materials approved by a State or Indian Tribe that has been authorized by EPA, the training program manager must include a statement certifying that, as well.

23-004.07B If the review training course materials are not based on EPA-developed model training materials or training materials approved by an authorized State or Indian Tribe, the training provider's application for accreditation must include:

1. A copy of the student and instructor manuals to be used for each course.
2. A copy of the course agenda for each review course.

23-004.07C All review training providers must include in their application for course accreditation the following:

1. A description of the facilities and equipment to be used for lecture and hands-on training.
2. A copy of the course test blueprint for each review course.
3. A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course (if applicable).
4. A copy of the quality control plan as described in 178 NAC 23-004.03F.
5. The requirements in 178 NAC 23-004.02A and 23-004.02B.

23-004.07D If a review training provider meets the requirements listed in this 178 NAC 23-004.03, then the Department will approve the application for accreditation no more than 90 days after receiving a complete application from the review training provider. In the case of approval, a certificate of accreditation will be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval will be sent to the applicant. Prior to disapproval, the Department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The Department may also request additional materials retained by the review training provider. If a review training provider's application is disapproved, the provider may reapply for accreditation at any time.

23-004.08 Training Provider Record Keeping Requirements

23-004.08A Accredited training providers must maintain, and make available to the Department, upon request, the following records:

1. All documents specified in 178 NAC 23-004.02 that demonstrate the qualifications listed in 178 NAC 23-004.03A items 1. and 2. of the training program manager and principal instructors.
2. Current curriculum/course materials and documents reflecting any changes made to these materials.
3. The course test blueprint.
4. Information regarding how the hands-on assessment is conducted including, but not limited to:
  - a. Who conducts the assessment.
  - b. How the skills are graded.
  - c. What facilities are used.
  - d. The pass/fail rate.
  - e. The type of training date time and location of each training class offered in the state.
5. The quality control plan as described in 178 NAC 23-004.03F.
6. Results of the students' hands-on skills assessments and course tests, and a record of each student's program completion certificate.
7. Any other material not listed above in 178 NAC 23-004.08A items 1. through 6. that was submitted to the Department as part of the provider's application for accreditation.

23-004.08B The training provider must retain these records at the address specified on the training provider accreditation application (or as modified in accordance with 178 NAC 23-004.01C for a minimum of three years and six months from the date of the certificate of accreditation.)

23-005 CERTIFICATION OF INDIVIDUALS IN LEAD-BASED PAINT PROFESSIONS

23-005.01 Requirements for the certification of individuals in the lead-based paint professions: A person will not be eligible to engage in lead-based paint activities unless the person holds a certificate issued by the Department. The Department will issue certificates to the following classes of lead-based paint professions: certified worker; certified supervisor; certified inspector; certified risk assessor; certified visual lead hazard advisor; certified elevated blood lead level inspector and certified project designer.

23-005.02 Qualifications for Certification in the Lead Professions

23-005.02A Certified Worker: To qualify for a certificate as a certified lead abatement worker, an individual must:

1. Successfully complete a program approved by the Department for lead abatement workers and receive a certificate or letter from the training provider to document this successful completion.
2. Successfully pass an end of course examination approved or administered by the Department; and
3. Have been examined by a physician within the preceding 12 months and declared by the physician capable of working while wearing a respirator.

23-005.02B Certified Inspector: To qualify for a certificate as a certified Inspector, an individual must:

1. Successfully complete a program accredited by the Department for certified Inspector and receive a certificate or letter from the training provider to document this successful completion;
2. Successfully pass a certification examination approved or administered by the Department.

23-005.02C Certified Risk Assessor: To qualify for a certificate as a certified risk assessor, an individual must:

1. Successfully complete a program accredited by the Department for certified inspector and receive a certificate or letter from the training provider to document this successful completion.
2. Successfully complete a program accredited by the Department for risk assessors and receive a certificate or letter from the training provider to document this successful completion.
3. Successfully pass a certification examination approved or administered by the Department.

23-005.02D Certified Supervisor: To qualify for a certificate as a lead abatement supervisor, an individual must:

1. Successfully complete a program approved by the Department for certified supervisors and receive a certificate or letter from the training provider to document this successful completion; and
2. Successfully pass a certification examination approved or administered by the Department.
3. Have been examined by a physician within the preceding 12 months and declared by the physician capable of working while wearing a respirator.

23-005.02E Certified Project Designer: To qualify for a certificate as a lead abatement project designer, an individual must:

1. Successfully complete a program approved by the Department for certified supervisors and receive a certificate or letter from the training provider to document this successful completion;
2. Successfully pass an end of program examination approved or administered by the Department.

23-005.02F Certified Visual Lead Hazard Advisor: To qualify for a certificate as a Visual Lead Hazard Advisor, an individual must:

1. Successfully complete a program approved by the Department for certified Visual Lead Hazard Advisor and receive a certificate or letter from the training provider to document this successful completion; and
2. Successfully pass a certification examination approved or administered by the Department.

23-005.02G Certified Elevated Blood Lead Level Inspector: To qualify for a certificate as a Certified Elevated Blood Lead Level Inspector, an individual must:

1. Successfully complete a program approved by the Department for certified elevated blood lead level inspector, lead inspector, and risk assessor, and receive a certificate or letter from each training provider to document their successful completion; and
2. Successfully pass a certification examination approved or administered by the Department.

23-005.03 Application for Initial and Renewal Certificate

23-005.03A Application for Initial Certificate: A person must apply for an initial certificate by providing to the Department documentation of the qualifications listed in 178 NAC 23-005.02 for the certified profession requested.

1. Schedule of Fees: The following fees have been set by the Department:

- a. The initial license and licensee renewal fee by an applicant for certification is listed below plus \$3(\$1.00 per year) for the Licensee Assistance Program:
    - (1) Worker  $\$100 + \$3 = \$103$
    - (2) Supervisor  $\$200 + \$3 = \$203$
    - (3) Inspector  $\$200 + \$3 = \$203$
    - (4) Risk assessor  $\$200 + \$3 = \$203$
    - (5) Project designer  $\$200 + \$3 = \$203$
    - (6) Visual lead hazard advisor  $\$100 + \$3 = \$103$
  - b. Certification of Certificate Fee: For issuance of a certification of a lead credential, the fee of \$25. The certification includes information regarding:
    - (1) The basis on which a lead credential was issued;
    - (2) The date of issuance;
    - (3) Whether disciplinary action has been taken against the lead credential; and
    - (4) The current status of the credential.
  - c. Verification of Certificate Fee: For issuance of a verification of a credential, the fee of \$5. The verification includes written confirmation as to whether a credential was valid at the time the request was made.
  - d. Duplicate Certification Fee: For a duplicate of original certification document or reissued certificate, the fee of \$10.
  - e. Administrative Fee: For a denied credential or a withdrawn application, the administrative fee of \$25 will be retained by the Department.
2. Term of certificate: A certificate is valid for three years from the date it is issued by the Department.
  3. Certification Examinations
    - a. A certification examination will not be administered by accredited training providers.
    - b. Certification examinations will be required for initial certification for the professions of: certified inspector, certified risk assessor,

- certified supervisor, certified elevated blood lead level inspector, and certified visual lead hazard advisor.
- c. Restrictions: No applicant for certification will be permitted to take the certification examination more than three times within six months of receiving a program completion certificate from an approved training or review program.
  - d. If an applicant for certification does not pass the certification examination within six months of taking the initial program, that individual must retake the appropriate program.
4. Individuals and Firms Certified in Other States: Individuals must submit with the certification application as prescribed in 178 NAC 23-005.03 the original of their current state or EPA certification and the original of the training or review training certification in lieu of the requirements listed in 178 NAC 23-005.02A through 23-005.02E. Individuals must submit information required in 178 NAC 23-005.03A item 6. Firms must submit information required in 178 NAC 23-006.02B. Originals submitted to the Department will be returned. Individuals issued a certificate or accreditation for training in another state which has a reciprocity agreement with the State of Nebraska and has a program approved by the federal Environmental Protection Agency will be issued an equivalent certificate or accreditation in Nebraska for the remaining duration of the certification not to exceed three years from the date application is made to the department.
5. Individuals and Firms Certified in Nebraska by the EPA: Individuals must submit with the certification application as prescribed in 178 NAC 23-005.03 the original of their current EPA certification and the original of the training or review training certification in lieu of the requirements listed in 178 NAC 23-005.02A through 23-005.02E. Persons must submit information required in 178 NAC 23-005.03A item 6 for individuals and 178 NAC 23-006.02B for firms. Originals submitted to the Department will be returned. Persons issued a certificate or accreditation for training in the State of Nebraska by the federal Environmental Protection Agency will be issued an equivalent certificate or accreditation in Nebraska for the remaining duration of the EPA certification. Fees for certification in Nebraska will be reduced by the certification or accreditation fee paid to the U.S. Treasury for EPA certification in Nebraska.
6. The individual applicant for certification must provide the Department with the following information:
- a. Name of individual applying for certification;
  - b. Current home address, city, state, and zip code of individual applying for certification;

- c. Social Security Number;
- d. Current phone number if available;
- e. Current employer;
- f. Current employer's address;
- g. Type of certification(s) requesting;
- h. Date of Birth;
- i. Country of Legal Residence;
- j. Green Card Number (if applicable);
- k. Height;
- l. Weight;
- m. Hair Color;
- n. Race/Ethnicity;
- o. Submit two identical passport-sized photographs of you alone, recent enough to be a good likeness (normally taken within the last six months). The photographs should be 2 x 2 inches in size with an image of your head and shoulders taking up the majority of the area. Photographs must be clear, front view, full face, taken in normal street clothing without a hat or dark glasses, and printed on thin paper with a plain light (white or off-white) background. Photographs retouched so that your appearance is changed are unacceptable.
- p. If you are applying for risk assessor, supervisor, or project designer certification or re-certification provide: name, location, highest grade completed (GED if applicable). Name of any technical, vocational, or special trade schools, colleges, and/or graduate schools you have attended. Indicate highest level completed, major course of study, degrees received, and year graduated, if applicable. Attach additional sheets of paper if necessary.
- q. If you are applying for risk assessor, supervisor, or project designer certification or re-certification. Provide the following for all periods of experience relating to the lead professions: Title or Occupation: Supervisor's Name, Business Name, Street Address, Suite No., City, State, Zip Code, Business Phone, and Period of Employment.
- r. Provide the following information about the training you received in the discipline(s) for which you are seeking certification or re-certification:
  - (1) Name of Trainer.
  - (2) Name of Training Center:
  - (3) Training Center Address: Street Address, City, State, Zip Code
  - (4) Training Center Phone, Date Training Completed. If training was conducted in a language other than English, please specify language



- (5) Training Certificate Identification Number
  - (6) Indicate the type of test you took: Course test, Hands-on assessment
  - (7) If you took your training course in Nebraska, submit originals (originals will be returned) of training certificates and subsequent review training certificates if applicable.  
OR  
If you took your EPA approved training from another state then submit an original (originals will be returned) of the certificate or note of successful completion from a training or review course and a original of the current certificate or letter of certification granted to the applicant by a federal or state agency (if available).
  - (8) Indicate if you had past, present or pending lead based paint activity violation of EPA, State, Territory or Indian Tribe regulations. If you had such a violation, attach a written explanation.
  - (9) Include any additional information or comments that you want considered with your application.
- s. Original documentation signed by a physician of an examination completed by the physician per 178 NAC 23.005.02A item 3 or 178 NAC 23.005.02D items 2 if a certified supervisor or certified worker.
7. If you are applying for inspector, risk assessor, supervisor, or project designer certification or re-certification. Provide a signed statement that you have read, understand and will only use work practice standards in 178 NAC 23-007 and comply with record keeping requirements outlined in 178 NAC 23-008. If you are applying for inspector, risk assessor, or certification or re-certification. Provide the Department the address of the location where records required under 178 NAC 23-008 will be maintained.
8. In addition to providing the documentation required, an applicant for certification must also meet the qualifications for the lead professions certification requested.

23-005.03B A person who wishes to renew his/her certificate must:

- 1. Successfully complete an approved review course or approved initial program for the certification level they are applying;
- 2. Pay the renewal fee as prescribed in 178 NAC 23-005.03A item 1;

3. Have been examined by a physician within the preceding 12 months and declared by the physician capable of working while wearing a respirator if the applicant is a certified worker or certified supervisor; and
4. Submit to the Department;
  - a. The completed renewal notice that the Department sent to the certificate holder at least 30 days before the certificate expiration date;
  - b. The renewal fee;
  - c. Documentation of an original certificate of completion for an approved review course or approved initial program for the profession they are applying;
  - d. Original documentation signed by a physician of an examination completed by the physician as specified in 23-005.03B, item 3 if a certified worker or certified supervisor.
5. Term of Renewal Certificate: A renewal certificate is valid for three years from the date it is issued by the Department.
6. Individuals may renew their certification any time up to one year after its expiration. After one year they need to re-apply for initial certification.

## 23-006 CERTIFICATION OF FIRMS

### 23-006.01 Requirements for the Certification of Firms

23-006.01A No firm will engage in a lead abatement project unless the firm holds a certificate for that purpose. A firm must be validly certified by the Department at the time it submits a bid for a lead abatement project to any state agency, county, city, village, school district, or other political subdivision.

23-006.01B To have a certificate issued, renewed or remain in good standing, a firm must:

1. Own or demonstrate immediate and continuing access to and maintain in operable condition modern and effective equipment which is designed for use in lead abatement projects.
2. Ensure that each employee or agent of the firm who will participate in a lead abatement project is certified as required by the Residential Lead-Based Paint Professions Certification Act, Neb. Rev. Stat. §§71-6318 to 71-6332, and these regulations.
3. Demonstrate to the satisfaction of the Department that the firm is capable of complying with all applicable requirements, procedures and standards pertaining to lead abatement projects. This demonstration includes but is not limited to:

- a. Owning or having immediate access to the equipment described in the HUD Guidelines, and maintaining owned equipment in operable condition;
  - b. Having met all state and federal worker health and safety standards.
  - c. Provide to the Department copies of all citations issued against the firm within the past ten years by any federal, state, or local government agency for violations related to lead abatement projects, including the names and locations of the projects, the dates, and a description of how the allegations were resolved.
4. Meet any other state and federal health and safety standards which the Department may deem necessary to protect the welfare of lead abatement workers and supervisors and the general public.

23-006.02 Application for Firm Certification

23-006.02A To apply for a certificate, a firm must submit to the Department the information listed below along with a certificate application fee of \$200 per year.

23-006.02B The application must include at least the following information:

1. The name, address, legal structure (e.g., partnership, corporation, sole proprietorship, limited liability company or partnership, etc.), and nature of the firm;
2. A signed statement that all persons who will engage in lead abatement projects for the certified firm will be certified as required by this regulation;
3. A signed statement that the firm will only use work practice standards for lead abatement projects as outlined in this regulation;
4. A description of the procedures that the firm will use for handling lead-containing waste;
5. A description of the procedures that the firm will use in cleaning up the lead abatement project or projects;
6. A list of current employees certified in the lead professions;
7. The signature of the owner, chief executive officer, or shareholder authorized to bind the firm to legal agreements or his/her designee; and:
8. A firm may submit additional documents or information it considers relevant to the application and compliance with the provisions of these regulations.

23-006.02C If the Department determines that an application is incomplete, the Department will notify the firm of the information necessary to complete the application and retain the application submitted pending receipt of such additional information. The Department will either approve or disapprove the firm's certification within 30 business days of receipt of a complete application.

23-006.02D A certificate will expire one year from the date of issuance of that certificate unless the certified firm renews their certification for an additional one year period.

23-006.02E At least 60 days before the certificate renewal date, the Department will send to the certified firm at its last-known address a renewal notice and application. The renewal notice will state the following:

1. The date on which the current certificate will be renewed;
2. The date by which the renewal application must be received by the Department; and
3. The amount of the certificate renewal fee.

23-006.02F A firm may renew its certificate if the certified firm:

1. Continues to be qualified to be certified under these regulations;
2. Submits the renewal application to the Department prior to the renewal date of the certificate;
3. Has complied with all information and inspection requests by the Department or its representatives;
4. Has paid all inspection and other administrative fees assessed by the Department; and
5. Pays the certificate application fee.

23-006.02G The Department will return to a firm whose application for a certificate is rejected the amount of \$100. The other \$100 will be retained by the Department for an administrative fee of \$100. Application for certified firm will be rejected if after 15 business days from notification of any missing information if the missing information is not received, or if the firm does not meet the qualifications for certification.

## 23-007 WORK PRACTICE STANDARDS

23-007.01 All lead-based paint activities must be performed pursuant to the work practice standards contained in 178 NAC 23-007.

23-007.01A When performing any lead-based paint activity described by the certified individual as an inspection, lead-hazard screen, clearance examination, elevated blood level investigation, risk assessment or abatement, a certified individual must perform that activity in compliance with the appropriate requirements below.

23-007.01B Procedures that are appropriate for 178 NAC 23-007 are found in the following: The U.S. Department of Housing and Urban Development (HUD)

Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing dated June 1995 and the 1997 Revision of Chapter 7: Lead-Based Paint Inspection which replaces Chapter 7 of the 1995 HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, and referred to here as “the HUD Guidelines”; incorporated by this reference. Copies of these guidelines may be obtained on the Internet at [http://www.hud.gov/offices/lead/guidelines/hudguidelines/Chap7\\_2.pdf](http://www.hud.gov/offices/lead/guidelines/hudguidelines/Chap7_2.pdf) or by calling HUD USER at 1-800-245-2691.

23-007.01C Clearance levels must be appropriate for the lead-based paint activities accomplished and at or less than the levels established by the Department.

23-007.02 Inspection

23-007.02A An inspection must be conducted only by a person certified by the Department as an inspector or risk assessor and, must be conducted according to the procedures in this paragraph. An inspection may involve only a portion of residential dwelling and child-occupied facility. The areas inspected must be clearly indicated on the inspection report.

23-007.02B When conducting an inspection, the following locations must be selected according to procedures contained in the HUD Guidelines and tested for the presence of lead-based paint:

1. In a residential dwelling and child-occupied facility, each component with a distinct painting history and each exterior component with a distinct painting history must be tested for lead-based paint, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint; and
2. In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint.

23-007.02C Paint must be sampled in the following manner:

1. The analysis of paint to determine the presence of lead must be conducted using procedures contained in the HUD Guidelines which incorporate adequate quality control procedures; and/or
2. All collected paint chip samples must be analyzed according to 178 NAC 23-007.08K item 2. to determine if they contain detectable levels of lead that can be quantified numerically.

23-007.02D The certified inspector or risk assessor prepares an inspection report which must include the following information:

1. Date of each inspection.
2. Address of building.
3. Date of construction.
4. Apartment numbers (if applicable).
5. Name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility.
6. Name, signature, and certification number of each certified inspector and/or risk assessor conducting testing.
7. Name, address, and telephone number of the certified firm employing each inspector and/or risk assessor, if applicable.
8. Each testing method and device and/or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device and date of most recent calibration.
9. Specific locations of each painted component tested for the presence of lead-based paint.
10. The results of the inspection expressed in terms appropriate to the sampling method used.

23-007.03 Lead Hazard Screen

23-007.03A A lead hazard screen must be conducted only by a person certified by the Department as a risk assessor.

23-007.03B If conducted, a lead hazard screen must be conducted as follows:

1. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under must be collected.
2. A visual inspection of the residential dwelling or child occupied facility will be conducted to:
  - a. Determine if any deteriorated paint is present, and
  - b. Locate at least two dust sampling locations.
3. If deteriorated paint is present, each surface with deteriorated paint, which is determined, using documented methodologies, to be in poor condition and to have a distinct painting history, must be tested for the presence of lead.
4. In residential dwellings, two composite dust samples must be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children, age six and under, are most likely to come in contact with dust.

5. In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in 178 NAC 23-007.03B item 4 the risk assessor must also collect composite dust samples from common areas where one or more children, age six and under, are most likely to come into contact with dust.

23-007.03C Dust samples must be collected and analyzed in the following manner:

1. All dust samples must be taken using procedures contained in the HUD Guidelines that incorporate adequate quality control procedures.
2. All collected dust samples must be analyzed according to 178 NAC 23-007.08K item 2. to determine if they contain detectable levels of lead that can be quantified numerically.

23-007.03D Paint must be sampled in the following manner:

1. The analysis of paint to determine the presence of lead must be conducted using procedures contained in the HUD Guidelines which incorporate adequate quality control procedures; and/or
2. All collected paint chip samples must be analyzed according to 178 NAC 23-007.08K item 2. to determine if they contain detectable levels of lead that can be quantified numerically.

23-007.03E The risk assessor must prepare a lead hazard screen report, which must include:

1. The information required in a risk assessment report as specified in 178 NAC 23-007.04 including 178 NAC 23-007.04K items 1. through 14. Additionally, any background information collected pursuant to 178 NAC 23-007.04C must be included in the risk assessment report; and
2. Recommendations, if warranted, for a follow-up risk assessment, and as appropriate, any further actions.

#### 23-007.04 Risk Assessment

23-007.04A A risk assessment must be conducted only by a person certified by the Department as a risk assessor and, if conducted, must be conducted according to the procedures in this paragraph.

23-007.04B A visual inspection for risk assessment of the residential dwelling or child-occupied facility must be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and other potential lead-based paint hazards.

23-007.04C Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under must be collected.

23-007.04D Surfaces that have a distinct painting history must be tested for the presence of lead using documented methodologies:

1. Each friction surface or impact surface with visibly deteriorated paint and
2. All other surfaces with visibly deteriorated paint.

23-007.04E In residential dwellings, dust samples (either composite or single-surface samples) from the interior window sill(s) and floor must be collected and analyzed for lead concentrations in all living areas where one or more children, age six and under, are most likely to come into contact with dust.

23-007.04F For multi-family dwellings and child-occupied facilities, the samples required in 178 NAC 23-007.04D must be taken. In addition, interior window sills and floor dust samples (either composite or single-surface samples) must be collected and analyzed for lead concentration in the following locations:

1. Common areas adjacent to the sampled residential dwelling or child-occupied facility; and
2. Other common areas in the building where the risk assessor determines that one or more children, age six and under, are likely to come into contact with dust.

23-007.04G For child-occupied facilities, interior window sill(s) and floor dust samples (either composite or single-surface samples) must be collected and analyzed for lead concentration in each room, hallway or stairwell utilized by one or more children, age six and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age six and under, are likely to come into contact with dust.

23-007.04H Soil samples must be collected and analyzed for lead concentrations in the following locations:

1. Exterior play areas where bare soil is present; and
2. The rest of the yard (i.e. non-play areas) where bare soil is present.

23-007.04I Any paint, dust, or soil sampling or testing must be conducted using procedures contained in the HUD Guidelines that incorporate adequate quality control procedures.



23-007.04J Any collected paint chip, dust, or soil samples must be analyzed according to 178 NAC 23-007.08K item 2. to determine if they contain detectable levels of lead that can be quantified numerically.

23-007.04K The certified risk assessor prepares a risk assessment report which must include the following information:

1. Date of assessment.
2. Address of each building.
3. Date of construction of buildings.
4. Apartment number (if applicable).
5. Name, address, and telephone number of each owner of each building.
6. Name, signature, and certificate number of the certified risk assessor conducting the assessment.
7. Name, address, and telephone number of the certified firm employing each certified risk assessor if applicable.
8. Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples.
9. Results of the visual inspection.
10. Testing method and sampling procedure for paint analysis employed.
11. Specific locations of each painted component tested for the presence of lead.
12. All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device and the date of the most recent calibration.
13. All results of laboratory analysis on collected paint, soil, and dust samples.
14. Any other sampling results.
15. Any background information collected pursuant to 178 NAC 23-007.04C
16. To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards.
17. A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.
18. A description of interim controls and/or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

23-007.05 Visual Lead Hazard Screen

23-007.05A A visual lead hazard screen must only be performed by persons certified by the Department as a Certified Visual Lead Hazard Advisor, Certified Inspector, or Certified Risk Assessor.

23-007.05B The Visual Lead Hazard Advisor will determine the presence of deteriorated paint or other potential sources of lead-based paint hazards a residential dwelling or child-occupied facility. This will include written report explaining the results and limitations of the assessment. The written report will be provided to the person requesting the inspection, the adult residents of the dwelling, and the owner of the dwelling or child-occupied facility. The certified visual lead-hazard advisor must retain a copy of the report in his/her files for three years. A certified visual lead hazard advisor must prepare a written report for each residential dwelling or child-occupied facility where a visual lead hazard screen is conducted. The report must include, at least:

1. Date of each visual lead hazard screen;
2. Address of building;
3. Date of construction;
4. Apartment numbers (if applicable);
5. The name, address, and telephone number of the owner(s) of each residential dwelling or child-occupied facility;
6. Name, signature, and certificate number of the certified visual advisor conducting the visual lead hazard screen;
7. Specific locations of potential lead hazards identified as likely to contain lead-based paint and likely to be lead hazards; and
8. Information for the owner and occupants on how to reduce lead hazards in the residential dwelling or child-occupied facility.
9. Reports of visual lead hazard screenings will contain the following statement:

“This is a report of a visual lead hazard screen. This report does not verify the presence or absence of lead in the soil, paint, water or dust. This report only serves to aid the owner or occupant of the dwelling in identifying potential sources of lead hazards in the dwelling(s) screened. Potential sources of lead contamination indicated in this report are determined from confirmed occurrences of lead hazards in similar type dwellings of similar age and condition. This report is not a lead inspection report.”

#### 23-007.06 Elevated Blood Lead Level (EBL) Investigation

23-007.06A An EBL investigation will only be performed by persons certified by the state to accomplish elevated blood lead level investigations.

23-007.06B An Elevated Blood Lead Level (EBL) Investigation is an investigation of dwellings housing children with elevated blood lead levels using The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, Chapter 16.

23-007.06C EBL investigations apply to the dwellings of children with blood lead levels greater than or equal to 20 µg/dl (or two tests within six weeks of 15 to 19 µg/dl).

23-007.06D EBL investigation include the following procedures:

1. Coordinate with the child's parents and the appropriate public health, environmental, and housing agencies to avoid duplication of efforts and to determine how the investigation should best be conducted.
2. Review the findings of any risk assessment, reevaluation, or lead-based paint inspection that has already been completed for the property.
3. Conduct a comprehensive interview using the questionnaire in Chapter 16 of the HUD Guidelines or an equivalent questionnaire. If a clear lead hazard is identified, recommend the hazard be corrected within two weeks. If necessary, conduct environmental sampling to confirm the presence of the hazard.
4. If no clear lead hazard source can be identified from the interview, conduct targeted environmental testing using the protocol contained in Chapter 16 of the HUD Guidelines. Even if a source becomes apparent during environmental testing, it may not be the true or only source of exposure. Environmental testing in the case of a dwelling housing an EBL child may include:
  - a. Paint testing of all surfaces with defective paint (including painted furniture and play structures).
  - b. Paint testing of all chewable surfaces.
  - c. Paint testing of all friction surfaces.
  - d. Dust testing.
  - e. Soil testing.
  - f. Water testing.
  - g. Testing of glazed pottery or dinnerware that may contain lead glazes.
  - h. Testing other site-specific, lead hazard sources.
  - i. Where lead hazard control measures are indicated, recommend relocation the child until the work is completed. If time elapses prior to environmental intervention, temporary lead hazard control measures should be immediately taken to protect the child living in the dwelling unit.
5. Recommend re-occupancy if results of testing are acceptable.

23-007.07 Clearance Examination: A clearance examination must be conducted only by a Certified Inspector, or Certified Risk Assessor.

23-007.08 Abatement

23-007.08A An abatement must be conducted only by a certified individual, and if conducted, must be conducted according to the procedures in 178 NAC 23-007.08.

23-007.08B A certified supervisor is required for each abatement project and must be onsite during all work site preparation and during the post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the certified supervisor must be onsite or available by telephone, pager or answering service, and able to be present at the work site in no more than two hours.

23-007.08C The certified supervisor and the certified firm employing that supervisor must ensure that all abatement activities are conducted according to the requirements and all other Federal, State and local requirements.

23-007.08D Notification of the commencement of lead-based paint abatement activities in a residential dwelling or child-occupied facility or as a result of a Federal, State, or local order must be given to the Department prior to the commencement of abatement activities

23-007.08E A written occupant protection plan must be developed for all abatement projects and must be prepared according to the following procedures:

1. The occupant protection plan must be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant protection plan must describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.
2. A certified supervisor or project designer must prepare the occupant protection plan.
3. The plan will be made available to occupants and the occupants will be notified of its availability.

23-007.08F The work practices listed below must be restricted during an abatement as follows:

1. Open-flame burning or torching of lead-based paint is prohibited;
2. Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with High Efficiency Particulate Air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97% or greater efficiency;
3. Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two square feet in any one room, hallway or

- stairwell or totaling no more than 20 square feet on exterior surfaces;  
and
4. Operating a heat gun on lead-based paint is permitted only at temperatures below 1100° Fahrenheit.

23-007.08G If conducted, soil abatement must be conducted in one of the following ways:

1. If soil is removed:
  - a. The soil must be replaced by soil with a lead concentration as close to local background as practicable, but not greater than 400 ppm.
  - b. The soil that is removed must not be used as top soil at another residential property or child-occupied facility.
2. If soil is not removed, the soil must be permanently covered.

23-007.08H The following post-abatement clearance procedures must be performed only by a certified inspector or certified risk assessor:

1. Following an abatement, a visual inspection must be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.
2. Following the visual inspection and any post-abatement cleanup required by 178 NAC 23-007.08H item 1. clearance sampling for lead in dust must be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.
3. Dust samples for clearance purposes must be taken using procedures contained in the HUD Guidelines that incorporate adequate quality control procedures.
4. Dust samples for clearance purposes must be taken a minimum of one hour after completion of final post-abatement cleanup activities.
5. The following post-abatement clearance activities must be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to the residential dwelling or child-occupied facility:
  - a. After conducting an abatement with containment between abated and unabated areas, one dust sample must be taken from one

- interior window sill and from one window trough (if present) and one dust sample must be taken from the floor of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample must be taken from the floor outside the containment area. If there are less than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells must be sampled.
- b. After conducting an abatement with no containment, two dust samples must be taken from no less than four rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One dust sample must be taken from one window (if available) and one dust sample must be taken from the floor of each room, hallway or stairwell selected. If there are less than four rooms, hallways or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways or stairwells must be sampled.
  - c. Following an exterior paint abatement, a visible inspection must be conducted. All horizontal surfaces in the outdoor living area closest to the abated surface must be cleaned of visible dust and debris. In addition, a visual inspection must be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present, they must be removed from the site and properly disposed of, according to all applicable Federal, State and local requirements.
6. The rooms, hallways or stairwells selected for sampling must be selected according to documented methodologies.
  7. The certified inspector or risk assessor must compare the residual lead level (as determined by the laboratory analysis) from each single surface dust sample with clearance levels in 178 NAC 23-007.08H for lead in dust on floors, interior window sills and window troughs or from each composite dust sample with the applicable clearance levels for lead in dust on floors, interior window sills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead levels in a single surface dust sample equals or exceeds the applicable clearance level or if the residual lead level in a composite dust sample equal or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample, the components represented by the failed sample must be recleaned and retested until clearance levels are met.
  8. The clearance levels for lead in dust are 40  $\mu\text{g}/\text{ft}^2$  for floors, 250  $\mu\text{g}/\text{ft}^2$  for interior window sills, and 400  $\mu\text{g}/\text{ft}^2$  for window troughs.

23-007.08I In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

1. The certified individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.
2. A sufficient number of residential dwellings are selected for dust sampling to provide a 95% level of confidence that no more than 5% or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels.
3. The randomly selected residential dwellings must be sampled and evaluated for clearance according to the procedures found in 178 NAC 23-007.08H

23-007.08J An abatement report must be prepared by a certified supervisor or project designer. The abatement report must include the following information:

1. Start and completion dates of abatement.
2. The name and address of each certified firm conducting the abatement and the name of each supervisor assigned to the abatement project.
3. The occupant protection plan prepared pursuant to 178 NAC 23-007.08E.
4. The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing.
5. The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses.
6. A detailed written description of the abatement, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

23-007.08K Collection and laboratory analysis of samples: Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in 178 NAC 23-007 must be:

1. Collected by persons certified as an inspector or risk assessor; and
2. Analyzed by a laboratory recognized by EPA pursuant to section 405(b) of Toxics Substance Control Act as being capable of performing analyses for lead compounds in paint chip, dust, and soil samples.

23-007.09 Composite Dust Sampling: Composite dust sampling may only be conducted in the situations specified in 178 NAC 23-007.03, 23-007.04, and 23-007.08. If such sampling is conducted, the following conditions must apply:

1. Composite dust samples must consist of at least two subsamples;
2. Every component that is being tested must be included in the sampling; and
3. Composite dust samples must not consist of subsamples from more than one type of component.

If the residual lead level in a composite dust sample equals or exceeds the applicable clearance level for lead in dust on floors, interior window sills, or window troughs, after this clearance level has been divided by half the number of subsamples in the composite sample, the component represented by the failed sample must be cleaned and retested.

23-007.10 Determining the presence of Lead and Lead-Based Hazards

23-007.10A Lead-based paint is present:

1. On any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5% by weight; and
2. On any surface that is similar to one tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.

23-007.10B A paint-lead hazard is present:

1. On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) are equal to or greater than the dust hazard levels identified in 178 NAC 23-007.02;
2. On any chewable lead-based paint surface on which there is evidence of teeth marks;
3. Where there is damage or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against a door frame; and
4. If there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

23-007.10C A dust-lead hazard is present in a residential dwelling or child occupied facility:



1. In a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are equal to or greater than 40  $\mu\text{g}/\text{ft}^2$  for floors and 250  $\mu\text{g}/\text{ft}^2$  for interior window sills, respectively;
2. On floor or interior window sills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; and
3. On floors or interior window sills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled common area in the same common area group on the property.

23-007.10D A soil-lead hazard is present:

1. In a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than 400 parts per million; or
2. In the rest of the yard when the arithmetic mean lead concentration from a composite sample (or arithmetic mean of composite samples) or bare soil from the rest of the yard (i.e., non-play areas) for each residential building on a property is equal to or greater than 1,200 parts per million.

23-007.11 Recordkeeping: All reports or plans required in 178 NAC 23-007 must be maintained by the certified firm or individual who prepared the report for no fewer than three years. The certified firm or individual also must provide copies of these reports to the building owner who contracted for its services.

23-008 PROJECT REVIEWS, INSPECTIONS, AND RECORDS

23-008.01 Notification of a Project

23-008.01A Before initiating any lead abatement project, a certified firm, must submit to the Department written project notification that the certified firm is about to begin a lead abatement project. The purpose of the project notification will allow the Department to conduct a project review of the proposed lead abatement project.

23-008.01B A certified firm must notify the Department at least ten days before it is to start a project. The notice must include, but not be limited to:

1. The name, address, and telephone number of the certified firm that will carry out the lead abatement project;
2. The name, address, and telephone number of the owner of the structure on which the lead abatement project is to be carried out;
3. The building number and street address of the project site, and if either is unavailable, directions to the project

4. All locations (floor, room number, et.) where the lead abatement project will be carried out;
5. The type of lead abatement project proposed;
6. The date when the certified firm will start the lead abatement project and date when the project will be finished;
7. For a lead abatement project around or within residential property or a child-occupied facility, the names and ages of all persons dwelling in the residential property or occupying the facility;
8. The volume or square footage of surface of lead to be abated,
9. The person authorized to make binding legal agreements on behalf of the certified firm must sign the notification and send it to the Department by certified mail, return receipt requested, or hand-deliver it the original of the notification to Department.

23-008.01C Notification of Changes: If the certified firm deviates from or changes the work schedule identified in the notification sent to the Department for a reason other than a legal holiday, the certified firm must notify the Department of such changes within 24 hours of learning of or making such changes and 24 hours before work being done on the project. The certified firm may give this notice by telephone, facsimile (FAX) [402-471-8833], or letter. If the certified firm desires a verified record that it gave notice, it must submit a written letter by certified mail, return receipt requested.

1. Notice under 178 NAC 23-008 must include, as applicable:
  - a. A new start date for the project, which date cannot be less than 24 hours after the Department receives notice of the new start date;
  - b. A new work schedule for the project, either days, work shift, or both;
  - c. Typographical or clerical errors which would affect the Department's ability to perform an inspection of the project, such as an incorrect street address;
  - d. Any increase in the size of the project because a new location within a structure has been added, such as adding work in a new room on the same floor as the original project or adding work on a different floor.
2. Increasing the size of a project may require the certified firm to submit a project review fee even though the project was not formerly subject to such a fee.

23-008.01D For a project review of each lead abatement project equal to or greater than 100 square feet or any combination which is equal to or greater than 100 square feet, notification must be accompanied by an administrative fee of \$200.00. All projects require written notification.

23-008.02 Initial Inspection

23-008.02A The Department may conduct an initial on-site inspection upon receiving notification that a lead abatement project is about to commence.

23-008.02B Inspections of Lead Abatement Projects

1. At least once a year during the continuation of a lead abatement project, but more frequently if circumstances demand, the Department will conduct an on-site inspection of a certified firm's records and, while a lead abatement project is in progress, procedures used for performing lead abatement projects.
2. The Department may enter into agreements or contracts with public agencies to conduct any inspections required under 178 NAC 23-008.
3. For an on-site inspection other than an initial inspection, the Department may assess an administrative fee of \$150.
4. This fee will not be assessed for more than three on-site inspections per year during the period an actual lead abatement project is in progress.
5. Inspections will be conducted at reasonable times during normal business hours, except that an inspection to investigate an alleged violation of the Residential Lead-Based Paint Professions Certification Act or Departmental regulations may be conducted at any time.
6. Inspectors will abide by all reasonable safety and security rules, regulations, practices, and procedures governing the project.

23-008.02C Re-inspections

1. The Department may conduct a re-inspection of a lead abatement project and the certified firm will pay a re-inspection fee of \$150 if:
  - a. If any on-site inspection reveals the need for re-inspection for any violation of Residential Lead-Based Paint Professions Certification Act or these regulations;
  - b. An on-site inspection could not be accomplished because:
    - (1) The certified firm provided an incorrect or inadequate address or failed to provide adequate directions to a lead abatement project when a building number or street address is unavailable;
    - (2) The lead abatement project was not underway during a time when the notification indicated work would be in progress;
    - (3) The actions of the certified firm conducting the lead abatement project prevented the inspector(s) from taking photographs of the work area or taking bulk samples within the work area; or

- (4) The actions of the certified firm conducting the lead abatement project prevented access to the work area.

23-008.03 Record Keeping Requirements: Any certified firm or individual must keep records as follows:

1. Retain documents showing:
  - a. The name and address of the premises at which the lead abatement project, inspection, screen or risk assessment was conducted and the name and address of the owner of the structure in which the project occurred;
  - b. A description of the activity, including a summary of the procedures that were used to comply with these and other applicable regulations;
  - c. The start and completion dates of the activity;
  - d. The name, address, and certificate number of each certified individual in each of the lead occupations who worked as any part of the activity in any capacity and for any duration;
  - e. If lead-containing waste was generated as part of the activity, where and in what manner the lead waste was disposed.
2. Keep a separate record for each activity, project, inspection screen, or risk assessment and make those documents available in a form suitable for the Department's inspection.
3. Retain all documents required by 178 NAC 23-008 for at least three years from the ending date of the activity.
4. Keep the Department informed of the location of the records required by 178 NAC 23-008.

TITLE 178 ENVIRONMENTAL HEALTH

CHAPTER 24 METHAMPHETAMINE CLEANUP

24-001 SCOPE AND AUTHORITY: These regulations establish procedures that a property owner must follow in the decontamination of contaminated property. Authority for these regulations is found in Neb. Rev. Stat. §§ 71-2432 to 71-2435.

Persons cleaning up clandestine drug labs must consult with state and local agencies regarding decontamination of these properties. These agencies include the Nebraska Department of Health and Human Services, the Nebraska Department of Environmental Quality, the Nebraska State Patrol, local law enforcement, and the local public health department.

24-002 DEFINITIONS

Absorption field means a series of trenches containing coarse aggregate (for example, gravel or crushed stone) into which perforated or open joint pipe is placed. Discharge from a septic tank is distributed through these pipes into the trenches and the surrounding soil.

Air distribution system means the heating and air-conditioning system.

Alkaline means a solution with a pH greater than 7.0, or a basic (non-acidic) solution.

Asbestos means asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite.

ASTM means ASTM International (formerly American Society for Testing and Materials).

Background concentration means the level of a chemical substance collected from environmental media that is naturally occurring, and/or is not associated with methamphetamine production at a site, and/or is less than existing State regulatory and/or risk-based standards.

Certified Hazardous Materials Manager (CHMM) means an individual who has been certified by and is in good standing with the Institute of Hazardous Materials Management as a CHMM.

Chain of Custody (COC) means a procedure used to document each person that has had possession or control of an environmental sample from its collection to its analysis. The purpose of a COC document is to record the handling history of a sample from the collection, transportation, and receipt process.

Characterize means a description of the quality, quantity and/or properties of a chemical substance by sampling environmental media (for example, soil, air, water, or from surfaces such as countertops or flooring), and conducting subsequent analysis.

Chemical of potential concern (COPC) means an element or compound collected from environmental media that is being assessed to determine if it is a health concern for humans in contact with it. Chemicals of potential concern may include reagents and products used in the manufacturing and production of methamphetamine, including but not limited to methamphetamine, its salts, optical isomers, and salts of its isomers.

Clandestine drug lab means any area where glassware, heating devices, or other equipment or precursors, solvents, or related articles or reagents are used to unlawfully manufacture methamphetamine.

Confirmation sampling means verifying by on-site and/or laboratory analysis that the concentration of a chemical of concern is below a State regulatory and/or risk-based standard by collecting samples of environmental media.

Contaminant means a chemical of potential concern present at a site in environmental media that is present above State regulatory and/or risk-based standards.

Contaminated property means an enclosed area of any property or portion thereof intended for human habitation or use which has been contaminated by chemicals, chemical residue, methamphetamine, methamphetamine residue, or other substances from a clandestine drug lab.

Contamination means the presence of a chemical or chemicals of potential concern at a site in environmental media that is present above State regulatory and/or risk-based standards.

Cooking area means the specific location (for example, a particular room in a home) where the methamphetamine was prepared.

Decontamination means to treat or remove a contaminant or contaminants to reduce concentrations below State regulatory and/or risk-based standards, whichever is the most conservative.

Decontamination Consultant means a Certified Hazardous Materials Manager (CHMM) or an individual with experience in environmental site assessment and decontamination whose work-plan is approved by a CHMM.

Department means the Department of Health and Human Services (DHHS).

Emulsifier means an additive that promotes the formation of a stable mixture (emulsion) of ingredients that do not normally bind together, (for example, oil and water). An emulsifier is a type of surfactant.

Environmental media or medium means soil, air, water, or substances collected from wiping indoor surfaces such as countertops or flooring.

HEPA means High-Efficiency Particulate Air. A HEPA filtering system includes a specially constructed filter membrane that is capable of capturing 99.97% of particles, typically as small as 0.3 microns (300 ng/m<sup>3</sup>).

Immunoassay means a laboratory technique that makes use of the binding between an antigen and its homologous antibody in order to identify and quantify a substance.

Methamphetamine means methamphetamine, its salts, optical isomers, and salts of its isomers. Methamphetamine has a CAS (Chemical Abstracts Service) registration number of 537-46-2.

Local public health department means a public health department as defined in Neb. Rev. Stat. § 71-1626 and which is the local public health department serving the municipality or county where a clandestine drug lab has been discovered.

NDEQ means the Nebraska Department of Environmental Quality.

NIOSH means the National Institute of Occupational Safety and Health.

P2P means the *phenyl-2-propanone* synthesis method used to manufacture and produce methamphetamine. P2P is a chemical precursor of methamphetamine.

pH means a measure, on a scale from 0 to 14, of the acidity (less than 7.0) or alkalinity (greater than 7.0) of a solution, where 7.0 is considered neutral.

PID means Photo Ionization Detector. A PID is a portable gas detector used to identify the presence of volatile organic compounds (VOCs), toxic, and combustible gases.

Porous means surfaces at a site (for example, countertops, flooring, drywall, and fabrics), which may be susceptible to permeation by liquids, gases, or powders.

PPE Level C means Personal Protective Equipment to include disposable outerwear that is hooded, and poly-coated to protect against the permeation of liquids and gases (ASTM F1001 certified), a full-face or half-mask with air purifying combination respirators for particulates, gases and vapors (NIOSH approved), two pairs of chemical-resistant gloves (both inner and outer), and chemical resistant boots. PPE is designed to prevent or minimize ingestion, inhalation and/or dermal contact exposure with contaminants.

Precursor means a chemical or compound that precedes the formation of the final chemical or compound in a sequence of chemical reactions.

Proper disposal means the discarding of precursors, reagents, contaminated environmental media, or other items found at the site, in accordance with applicable regulations which can be found by contacting the local public health department and the Nebraska Department of Environmental Quality's Waste Management Section.

Property Owner means the owner(s) of record, who is/are the title-holder(s) of the property as shown on the county records, and may be an individual, corporation, or other entity.

Reagent means a chemical substance used to produce a chemical reaction to detect, measure, or produce other substances.

Risk-based standard means a concentration of a chemical substance that is not to be exceeded in a particular environmental medium and/or at a site in order to reduce the potential for adverse health effects as a result of exposure.

Sequestering agent means a substance that captures or prevents another substance from coming out of, or precipitating from a solution.

Septic system means a domestic wastewater treatment system, consisting of a septic tank and a soil absorption system. Waste is piped directly from the home into the system where bacteria

decompose the waste, sludge settles to the bottom of the tank, and the treated effluent flows out into the soil absorption field through drainage pipes.

Sharps means hypodermic needles.

Site means an enclosed area of any property or portion intended for human habitation or use, that has been used for the manufacturing and production of methamphetamine, and that has been contaminated by chemicals of potential concern.

Solvent means a substance, (for example, water or another liquid), that is capable of dissolving or dispersing one or more other substances.

Surfactant means a chemical that reduces surface tension at the interface between oil and water molecules, keeping the mixture from separating into layers. An emulsifier is a type of surfactant.

USEPA means the United States Environmental Protection Agency.

Ventilation System means any system within a structure that is designed to vent indoor air to the outdoors (for example, a bathroom venting fan or a stove range hood).

VOCs mean Volatile Organic Compounds. These chemicals typically have high vapor pressures and can evaporate easily at ambient (room) temperature. Several VOCs are used in the manufacturing and production of methamphetamine.

Wipe Kit means sterile gauze pads/filter papers, solvents, templates, gloves, etc., that comprise the methamphetamine sampling supplies that are used by the Decontamination Consultant to test for methamphetamine at the site.

#### 24-003 REPORTING METHAMPHETAMINE CONTAMINATED PROPERTY

24-003.01 Property Owner Discovery: A property owner with knowledge of a clandestine drug lab on his/her property shall report such knowledge and location as soon as practicable to the local law enforcement agency or to the Nebraska State Patrol.

24-003.02 Law Enforcement Discovery: A law enforcement agency that discovers a clandestine drug lab in the State of Nebraska shall report the location of such lab to the Nebraska State Patrol within 30 days after making the discovery. Such report shall include:

1. The date of discovery of such lab;
2. The county where the property containing such lab is located; and
3. A legal description of the property or other description(s), or address of such sufficient to clearly establish the location.

24-003.02A Required List of Chemicals: As soon as practicable after such discovery, the law enforcement agency shall provide the Nebraska State Patrol with a complete list of the chemicals found at or removed from the location of such lab, including:



1. Methamphetamine;
2. Its precursors;
3. Solvents; and
4. Related reagents.

24-003.02B Nebraska State Patrol Notification Requirements: Upon receipt, the Nebraska State Patrol shall promptly forward a copy of such report and list as specified in 178 NAC 23-003.02 and 23-003.02A to the:

1. Department;
2. Department of Environmental Quality;
3. Municipality or county where the lab is located;
4. Director of the local public health department serving such municipality or county; and
5. Property owner.

#### 24-004 LOCAL PUBLIC HEALTH DEPARTMENT

24-004.01 Responsibility: The local public health department shall monitor the rehabilitation of any contaminated property in accordance with standards and procedures set out in these regulations.

24-004.02 Notification: The local public health department must notify of and provide the property owner with a copy of these regulations to ensure that proper posting and restrictions to the property are in place as soon as possible.

24-004.03 Monitoring Sites: Monitoring by the local public health department must include ensuring that all openings to the site are posted with warning signs until the property has been properly decontaminated and released for human habitation.

24-005 SITE PREPARATION FOR DECONTAMINATION: The contaminated property must be prepared for decontamination as follows:

1. The local public health department, must provide appropriate warning signs to the property owner, and ensure that the warning signs are posted prominently at all points of entry into the site;
2. The signs must state that the property has been contaminated with hazardous materials;
3. Warning signs must remain in place until the local public health department has released the property for human habitation;
4. Access to the site must be restricted by the property owner to only those individuals directly responsible for implementing the decontamination procedures;
5. The air distribution system must be isolated between the decontamination area and other residential units, if applicable (for example, a duplex or apartment), to ensure airborne contamination cannot be carried into other areas. The decontamination area may include one or more unit(s) or the entire complex;
6. Openings, such as doors, must be sealed off between the decontamination area and other areas that have not been contaminated using polyethylene sheeting with a minimum thickness of 4-mil (0.004 inch) to provide a moisture and vapor barrier;

7. The structure must be aired out for three to five days (a minimum of 72 hours) before beginning decontamination. The building's windows must all be opened and exhaust fans must be used to circulate air out of the structure. The structure must remain secure during this process; and
8. A visual inspection of the contaminated property must be done to determine the specific locations where clandestine laboratory chemicals were manufactured, stored, or disposed of. This visual inspection must include documentation and a description of:
  - a. Hazardous chemicals and/or chemical storage tanks that may have been overlooked by response personnel;
  - b. The air distribution system;
  - c. The ventilation system(s);
  - d. The water supply system (if a private well is present);
  - e. The plumbing and septic system;
  - f. Stained porous surfaces;
  - g. Burn pits or trash piles; and
  - h. Areas of suspected soil contamination.

24-005.01 Decontamination Work Plan: As part of performing the decontamination, the property owner or a Decontamination Consultant must provide the local public health department with a written decontamination work plan. The plan must include:

1. A detailed site map with floor plan to scale;
2. A description of the health and safety procedures that will be followed, including the use of personal protective equipment to be worn while in or on the contaminated portion of the property;
3. A detailed summary and photos of all locations where decontamination will occur;
4. A detailed summary of all procedures to be employed in removing contamination and/or cleaning the site to minimize human exposure; and
5. A schedule outlining the timeframe for completing the decontamination.

A sample of a written work plan is available from the Department's Risk Assessment Program at 301 Centennial Mall South, P.O. Box 95026, Lincoln, NE 68509-5026, or on the Department's Risk Assessment webpage at:

<http://www.dhhs.ne.gov/puh/enh/riskasse/exposechem.htm>.

24-005.01A Decontamination Consultant Responsibility: Copies of certificates and credentials must be submitted by the Decontamination Consultant to the Department's Risk Assessment Program prior to beginning work at the site.

24-006 REQUIREMENTS DURING THE PERFORMANCE OF THE SITE DECONTAMINATION: The property owner or the Decontamination Consultant must:

1. Obtain written approval of the decontamination work plan from the local public health department as specified in 178 NAC 24-0045.01. The property owner or Decontamination Consultant must meet the timeframes for completion as set forth in the approved work plan;
2. Restrict access of the contaminated property to only those individuals directly involved in implementing and monitoring the decontamination activities. These individuals may include:

- a. Decontamination Consultants;
  - b. The property owner;
  - c. Members of the property owner(s) family; and
  - d. Unpaid volunteers.
3. Notify and make aware all individuals directly involved in implementing and monitoring the decontamination activities of the health hazards at the contaminated property and follow the approved health and safety procedures;
  4. Require each individual who enters the contaminated property to sign in;
  5. Maintain sign-in sheets for the duration of the decontamination project and make them available to the local public health department when requested;
  6. Require all individuals who enter the work area to use personal protective equipment (PPE) providing Level C protection. PPE must be worn to prevent or minimize ingestion, inhalation, and other routes of contact exposure with contaminants;
  7. Require all individuals, before leaving the work area, to:
    - a. Remove all disposable outer clothing;
    - b. Place clothing in a plastic bag; and
    - c. Properly dispose of them;
  8. Clean the surfaces of all tools and equipment used in the work area prior to removal from the contaminated property; and
  9. Contact the local public health department and the NDEQ Waste Management Section to determine how to appropriately dispose of all contaminated materials, waste and debris from the site in accordance with all applicable waste regulations.

24-007 PERFORMANCE OF SITE DECONTAMINATION: A property owner who wants to perform site decontamination must contact the local public health department to ensure that all applicable local, state, and federal regulations are complied with in the decontamination process. A list of Decontamination Consultants is available from the Department's Risk Assessment Program, 301 Centennial Mall South, P.O. Box 95026, Lincoln, NE 68509-5026, or on the Department's Risk Assessment webpage at:  
<http://dhhs.ne.gov/puh/enh/riskasse/exposechem.htm>.

It is recommended that a Decontamination Consultant be used to complete the decontamination in order to meet the standards set forth in these regulations.

24-007.01 Pre-1980 Residences: Decontamination may lead to the disturbance of other materials such as asbestos or lead paint (if the residence is pre-1980) which may require services by a licensed contractor who specializes in the remediation of these materials. Contact the Department with any questions or concerns.

24-007.02 Phase 1 – Removal of Items for Disposal: In order to remove items for disposal, the property owner or a Decontamination Consultant must:

1. Complete a thorough assessment of the property for sharps. Sharps are often hidden or stored in obscure places and pose a hazard to decontamination workers. Sharps must not be handled directly. Use tongs or pliers to pick up

- sharps. Place sharps in a labeled puncture-proof container and seal for proper disposal;
2. Remove all household chemical products. Some materials (for example, paint, oil, and, pesticides), require special handling and disposal. Contact the local public health department and the NDEQ Waste Management Section for guidelines for identifying, handling, and disposal of these substances;
  3. Remove and dispose of all general site debris;
  4. Remove and dispose of all items that cannot be properly decontaminated; these items include but are not limited to:
    - a. Window mounted air conditioning units;
    - b. Ceiling fans; and
    - c. Drop in or acoustic ceiling tiles; and
  5. All fabric items from the cooking area must be removed and disposed of. **It is prohibited to attempt to remove stains from porous fabric items or other items that can be easily disposed of. Some chemicals used in the manufacturing of methamphetamine, such as iodine and red phosphorus, if spilled, result in staining. Attempting to remove these stains can produce toxic and deadly vapors.** These items include but are not limited to:
    - a. Carpeting;
    - b. Drapery; and
    - c. Fabric covered furniture; and
  6. Contain debris, fabric items from the cooking area, and items that cannot be properly decontaminated as listed in 178 NAC 24-006.01 items 3, 4, and 5 and assure that these items are not accessible to others while outside of the structure. Dumpsters must be covered and locked prior to landfill disposal; and
  7. Turn off electricity to the contaminated area if possible, and cover all electrical outlets and light fixtures to prevent exposure to water during cleaning.

24-007.03 Phase 2 – Cleaning Procedures: The following cleaning procedures and products must be used in order to properly decontaminate the site.

1. Clean one room at a time. When complete, close the door and isolate the room to prevent recontamination.
2. Use an alkaline aqueous cleaning solution (A water-based mixture with a PH greater than 7) to remove the oily residue that remains after cooking methamphetamine and for neutralizing many of the chemical residuals. Most commercially available alkaline cleaners also contain additives to improve cleaning (for example, sequestering agents, emulsifiers, and surfactants). Always follow the manufacturer's recommendations for use. Examples of alkaline aqueous cleaners include:
  - a. Baking soda;
  - b. Hydrogen peroxide;
  - c. Neutrasol;
  - d. Neutrasorb;

- e. Simple Green; and
- f. Spray Clean.

The use of trade names does not imply endorsement.

24-007.03A Air Distribution System and Ventilation System(s) Cleaning Procedures

1. The air distribution system and ventilation system(s) must be turned off and remain off throughout the decontamination process.
2. All air filters must be removed and properly disposed of.
3. All air registers must be removed and cleaned with a detergent and water solution (following the manufacturer's guidelines) and rinsed thoroughly. This procedure must be repeated two additional times, using new detergent solution and rinse water each time.
4. A fan-powered HEPA filtration system as defined in 178 NAC 24-002 must be connected to the ductwork to develop negative air pressure to aid in removal of particulates.
5. Rotary brushes or other forms of mechanical agitators must be inserted into all ductwork openings to loosen and remove particulates.
6. All ductwork openings must be sealed off using polyethylene sheeting with a minimum thickness of 4-mil (0.004 inch thickness) to prevent recontamination until further decontamination work at the site has been completed.
7. After cleaning, the Decontamination Consultant must test surfaces in the air distribution system and the ventilation system(s) for the presence of methamphetamine.
8. The Decontamination Consultant must provide the results to the local public health department.

24-007.03B Cleaning Procedures for Removable Items

1. All removable items (for example, appliances, mini-blinds, and, light fixtures), that are not disposed of must be cleaned by both HEPA vacuuming and, following all manufacturers' guidelines, one of the following methods:
  - a. Steam cleaning with a hot water and detergent solution and extraction by wet vacuum;
  - b. Washing in a washing machine or dishwasher with hot water and a detergent solution; or
  - c. For non-porous surfaces only, wash by wiping down with hot water and an alkaline aqueous cleaning solution.
2. Items as described in 178 NAC 24-007.03B, item 1 must then be moved out of the room prior to continuing with decontamination of the ceiling, walls, and floor(s).
3. After cleaning, the Decontamination Consultant must test all items for the presence of methamphetamine.
4. The Decontamination Consultant must provide the results to the local public health department.

24-007.03C Surface Cleaning Procedures

1. With the exception of concrete flooring, cover the floor of the room with polyethylene sheeting with a minimum thickness of 4-mil (0.004 inch) and tape up onto the baseboard to contain excess solution while rinsing the ceiling and walls.
2. Use an alkaline aqueous cleaning solution. This solution must be applied to all remaining exposed surfaces (for example, ceilings, walls, doors, windows, and closets). A sprayer must be used for applying the cleaning solution. The solution must be left on the surfaces for a minimum of ten minutes prior to removal.
3. Beginning at the ceiling, all surfaces must be scrubbed, including walls, windows, doors, and closets.
4. An extraction machine (similar to a carpet-cleaning machine that simultaneously rinses and collects the rinsate in the attachment) or pressure washer must be used to rinse and extract the contamination from the scrubbed surfaces. Heated water must be used to effectively remove the oily residue. Two decontamination workers at this stage must be used, one to rinse and one to wet vacuum. Rinse or extract in one direction to remove contamination without redistributing it to decontaminated areas.
5. Remove the polyethylene sheeting and repeat the decontamination process for the floor. Rinse or extract in one direction to remove contamination so as not to redistribute it to decontaminated areas.
6. Adjustment of pH and dilution may be required before disposal of the extracted liquid to a drain. Contact the local public health department and the NDEQ Waste Management Section prior to disposal.
7. When the cleaning procedures are complete, the windows to the structure must be opened, and fans set up to air-out the site for one to two days (24 hours minimum) to draw out excess moisture generated during the cleaning procedures.
8. After cleaning, the Decontamination Consultant must test surfaces for the presence of methamphetamine.
9. The Decontamination Consultant must provide the results to the local public health department.

#### 24-007.03D Plumbing and Septic System Cleaning Procedures

1. The accessible plumbing components (for example, traps) where chemicals of potential concern have been disposed of must be cleaned and tested to meet the standards specified in 178 NAC 24-010;
2. The septic system (if present) must be pumped as part of the decontamination. The system must be pumped prior to site cleaning and again after completion of site decontamination to avoid overflow into the absorption field. NDEQ Title 118 and 122 requirements must be met in order to protect ground water, and additional oversight by the NDEQ may be required.

#### 24-007.03E Soil Decontamination Procedures

1. To ensure compliance with NDEQ Titles 118, 128, and 132, NDEQ must be consulted regarding removal of contamination in, or decontamination of:
  - a. Burn areas;
  - b. Trash areas; and
  - c. Dump sites; and
2. If soil or ground water cleanup is required, the cleanup standards selected must be:
  - a. At or below background; or
  - b. Equal to or less than state regulatory standards, if applicable, and if not applicable, federal risk-based standards outlined in the USEPA Risk-Based Concentrations Table for residential, or if relevant, industrial exposure. The USEPA table can be accessed at the following web address:  
[http://www.epa.gov/reg3hwmd/risk/human/rb-concentration\\_table/GenericTables/index.htm](http://www.epa.gov/reg3hwmd/risk/human/rb-concentration_table/GenericTables/index.htm)

Alternative values may be proposed but approval is required by the NDEQ and the Department's Risk Assessment Program.

**24-008 CONFIRMATION SAMPLING:** A Decontamination Consultant must collect confirmation samples for analysis after completion of the decontamination procedures. Samples collected for offsite quantitative laboratory analysis (verses onsite semi-quantitative immunoassay) must be analyzed using USEPA modified method #8270. Confirmation sampling is required to ensure that concentrations of the chemicals of potential concern are not present at the site above the standards required in 178 NAC 24-010. If the standards are not achieved, the property owner or a Decontamination Consultant must perform additional decontamination until these standards are met.

#### 24-008.01 Confirmation Sampling Procedures

1. All sample locations must be photographed.
2. Samples must be collected from all areas identified below following the sampling procedures outlined in 178 NAC 24-008.
3. All samples must be collected by strict adherence to the sample kit or laboratory instructions.
4. At a minimum, one sample media blank, treated in the same fashion but without wiping, must be submitted for every ten samples collected.
5. All samples must be obtained, handled, and preserved under a chain-of-custody (COC) procedure.
6. All samples must be labeled with the:
  - a. Site address;
  - b. Sample location;
  - c. Sample number;
  - d. Date and time of collection; and
  - e. Name of sample collector.

7. All samples must be analyzed for methamphetamine.

24-008.02 Confirmation Sampling for Air Distribution System and Ventilation System(s)

24-008.02A A wipe kit as specified in 178 NAC 24-002 must be used to collect the confirmation sample.

24-008.02B At a minimum, one 100 square centimeter (approximately 4 inches x 4 inches) wipe sample must be collected and analyzed from the ductwork directly inside the inlet of the air distribution system (where air is brought into the system, not from a vent where air is forced back out of the system) and each ventilation system (within the first 12 inches).

24-008.02C Disposable templates or masking tape must be attached to the area to be sampled. The sample area must not be touched. The template must be left in place until the test results are known.

24-008.03 Confirmation Sampling for Removable Items and Surfaces

24-008.03A A wipe kit as specified in 178 NAC 24-002 must be used to collect the confirmation sample.

24-008.03B At a minimum, one 100 square centimeter (approximately 4 inches x 4 inches) wipe sample must be collected and analyzed from:

1. All surfaces in the cooking area (ceiling, floor, each wall, and countertops);
2. Each room/area at the site potentially impacted by contamination;
3. Each room/area served by the air distribution system; and
4. From all removable items that the property owner would like to retain (for example, blinds, fixtures, and furniture).

24-008.03C At a minimum, one sample media blank, treated in the same fashion but without wiping, must be submitted for every ten samples collected.

24-008.03D Disposable templates or masking tape must be attached to the area to be sampled. The sample area must not be touched. The template must be left in place until the test results are known.

24-008.04 Plumbing and Septic System(s) - Confirmation Sampling

24-008.04A All accessible plumbing must be tested for VOCs, using instrumentation such as a PID to determine if there are potentially harmful or combustible gases present. Instrument manufacturer guidelines must be followed for use and analysis of total VOCs. The equipment probe must be held in the plumbing pipe above the trap for a minimum of 60 seconds.

24-008.04B The NDEQ must be consulted to determine required confirmation sampling for the septic system. A sample of the septic tank liquid, if applicable, must be collected and analyzed for the site chemicals of potential concern.



24-008.05 Indoor Air Confirmation Sampling for Mercury

24-008.05A If the cooking method is unknown or is known to be the P2P Method, confirmation sampling of indoor air must be performed, using a mercury vapor analyzer, to analyze for the presence of mercury.

24-008.05B The indoor temperature of the home must be documented and maintained between 75 and 80 degrees Fahrenheit throughout the sampling.

24-008.05C At a minimum, one real time confirmation sample for mercury analysis must be collected in each room on the level of the home where the methamphetamine cooking area was located, from a breathing zone height of between three to four feet from ground level. All collection locations must be documented.

24-009 REPORTING

24-009.01 Releasing the Property: The Decontamination Consultant must submit the confirmation sampling results to the local public health department. If the results do not indicate the levels of contaminants have been reduced to meet the standards, the decontamination process must be repeated and samples taken in those rooms/areas of concern. The local health department must write a letter to the property owner, releasing the property, if the test results meet the standards outlined in these regulations.

**24-010 DECONTAMINATION STANDARDS:** The standards listed below must be met before the local health department can release the property for human habitation and commercial or other use.

Method	Chemical	Sample Type	Decontamination Standard
P2P	Lead (total) <sup>1</sup>	Surface Area Wipe	Less than or equal to 40µg/ft <sup>2</sup>
	Mercury <sup>2</sup>	Air	Less than or equal to 300 ng/m <sup>3</sup>
	Methamphetamine <sup>3</sup>	Surface Area Wipe	Less than or equal to 0.1µg/100cm <sup>2</sup>
	Total VOCs <sup>4</sup>	Air*	Less than or equal to 1 ppm
Ephedrine/ Pseudoephedrine Reduction	Methamphetamine <sup>3</sup>	Surface Area Wipe	Less than or equal to 0.1µg/100cm <sup>2</sup>
	Total VOCs <sup>4</sup>	Air*	Less than or equal to 1 ppm
Unknown	Lead (total) <sup>1</sup>	Surface Area Wipe	Less than or equal to 40µg/ft <sup>2</sup>
	Mercury <sup>2</sup>	Air	Less than or equal to 300 ng/m <sup>3</sup>
	Methamphetamine <sup>3</sup>	Surface Area Wipe	Less than or equal to 0.1µg/100cm <sup>2</sup>
	Total VOCs <sup>4</sup>	Air*	Less than or equal to 1 ppm

(1) Units in micrograms of lead per square foot

(2) Units in nanograms of mercury per cubic meter of air

(3) Units in micrograms of meth per 100 square centimeters

(4) Units in parts per million

\*Air from plumbing trap

**24-011 PENALTY:** A property owner who knowingly allows human habitation or use of the contaminated property prior to release by the local health department may be subject to a civil penalty not to exceed \$1,000.00 dollars.