

Canons and Code of Environmental Professional Practice

Foreword

Environmental laws can be traced back 300 years to the early laws of nuisance in England. In the late 1800's the U.S. Congress enacted the River and Harbors Act that was aimed at preventing the pollution of waterways.

The environmental movement in the United States, however, did not begin in earnest until the early 1970's. Through a variety of events, the public, government and educators came together in the realization that serious damage to the air, water and land had been caused in past years and that unified action was needed to prevent further degradation. It was the blooming of the environmental professionals.

Today, the problems of protecting and enhancing the environment have taken on such global importance that the United Nations and its member countries have instituted ecological and pollution prevention programs throughout the world. People are realizing though that many past sins imposed on the environment unfortunately can never be repaired. People of good will, dedication and concern are making sure now that manmade contamination is brought under control.

Because of all of the past injustices done to the environment, government and the public have grown to be skeptical of those persons claiming to be professionals knowledgeable and concerned about protecting and enhancing our quality of life. This has created the need for independent, third-party credentialing of individuals. The federal government has taken a strong stand that such acknowledgement and accreditation must be by peer review in the private sector.

As a result, a number of member and non-member private organizations have stepped forward to recognize various specialty areas of environmental professionalism. While all of these efforts have been valuable in peer recognition of individuals, something has been lacking in the unified development of the environmental professional - a code of conduct for professional practice to which individuals may measure others and themselves.

The National Registry of Environmental Professionals has taken on the role of establishing a Code of Professional Practice for those individuals working and serving the environmental field. It is important to understand that this code will be in a state of continual modification as the roles and responsibilities of environmental professionals become more, rigorously defined.

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OATH OF ENVIRONMENTAL PROFESSIONALISM

Every individual granted credentials by the National Registry of Environmental Professionals is required to sign the following statement.

“8. ETHICS CERTIFICATION AND ATTESTATION:

I hereby attest to, and certify that, the following statements are true, correct, and accurate to the best of my knowledge, and I further agree to fulfill the obligations set forth as follows:

1. Y N I agree to give the NREP timely notice of any home or business address change in writing.
2. Y N Having read the NREP Code of Ethics and Code of Professional Practice, and NREP policies received with this application, I hereby confirm that I have not violated any of its provision in the past, and will comply with all tenants in the future. I agree to act and conduct my practice in accordance with the currently adopted Code and policies.
3. Y N I understand and agree that I am obligated to report in a timely manner any changes concerning my responses to this application to the NREP in writing.
4. Y N I have specifically identified to the NREP all professional and occupational licenses, certifications, registrations, or other credentials that I hold; and all professional and occupational organizations, associations and groups to which I belong or in which I am a member.
5. Y N I have never been the subject of any professional or occupational credentialing, license, certification or registration ethics or other disciplinary matter(s) or proceeding(s).
6. Y N I have never been **convicted** in any matter or proceeding of felony criminal offenses.
7. Y N I understand that any intentional or unintentional failure to provide true and complete responses to this application may result in sanctions by the NREP Board of Directors or Ethics Committee.

If you have answered "NO" to any statement(s) above, please provide a written explanation.”

Knowingly violating the NREP Application Form Ethics Certification and Attestation, or Code of Ethical Practice, or any of the Canons of the NREP Code of Professional Practice shall be grounds for revocation of NREP professional registration.

This book is dedicated to the presentation of the Canons and Code of Professional Practice for the National Registry of Environmental Professionals, and the environmental profession as a whole. In a general overview, the code has some ambiguity. Room was left deliberately for ambiguity for the purpose of clarification by boards and legal scholars at a latter date.

CANONS and CODE OF PROFESSIONAL PRACTICE FOR THE NATIONAL REGISTRY OF ENVIRONMENTAL PROFESSIONALS AND THE ENVIRONMENTAL PROFESSION AS A WHOLE
Adopted January 1, 1991

CANON I. Competence and Integrity.

An environmental professional should strive to maintain the competence and integrity of the environmental community.

- a.) **The general public should be protected from an individual claiming to be environmental professional who is not qualified.**

Commentary:

The National Registry of Environmental Professionals strives to ensure that all environmental professionals who register are qualified for the level for which they have applied. Any applicant who is not qualified for the level requested is notified in writing of their lack of education or experience and is guided towards a lower level of registration

- b.) **The integrity of environmental professionals can be preserved only through the actions of the professionals.**

Commentary:

In order to maintain the integrity of the environmental field, this Code has been devised. All persons registered with the National Registry of Environmental Professionals should strive to exemplify the ethics presented here. Any environmental professional known to be in violation of this Code should be brought to attention of the NREP Professional Practice Committee.

c.) **Environmental professionals should maintain an elevated level of professional conduct.**

Commentary:

To ensure confidence in environmental professionals, all persons registered with' the National Registry of Environmental Professionals should refrain from any action which lowers the public disposition toward environmental professionals. Any action that damages the environment can be damaging also to the environmental profession.

CANON 2. Education

An environmental professional is morally responsible to educate those persons not actively employed or engaged in the environmental field concerning threats to the environment.

a.) **Environmental professionals should assist the lay person in understanding the problems confronting the environment.**

Commentary:

The lay person may not be as knowledgeable about the environmental field as those professionals credentialed by the National Registry of Environmental Professionals. These lay persons may need assistance in understanding what causes the deterioration of the environment, which will lead to more assistance in helping to preserve the environment.

b.) **Environmental professionals should assist in educating the public about possible ways to protect the environment.**

Commentary:

Although some forms of pollution contaminating the environment have no real solutions at this time, i.e., volcanic eruptions, there are ways to slow or eliminate the deterioration caused by manmade processes. By educating the general public on such topics as recycling and pollution prevention, the layperson can be become "lore involved in the process and help to protect and preserve the environment. The general public repeatedly has demonstrated a desire to share ill protecting and preserving the environment. It is in the best interest of all to allow the public to share knowledgeably in the improvement of our quality of life.

c.) **When addressing the public, a client or government, the environmental professional should be factual and complete.**

Commentary:

The environmental professional should be extremely careful when presenting information that the persons listening to or reading such information are not lead to erroneous conclusions. The environmental professional should carefully and completely explain the exact situation, alternative solutions, and the reasons for recommended amounts and types of control to achieve the required results. Since there is no way, at this time, to cure the environment totally of all its ills, the public should not be lead to believe that use or discontinuance of a particular product or material will instantly heal all of the harm done.

d.) **An environmental professional should not, on behalf of him/herself, partners, clients, or associates use or participate in the use of any form of public communication containing a fraudulent or deceptive claim or statement.**

Commentary:

The education of the public should be an honest account of the topic being discussed. Any form of deception used in the explanation infringes on the ability of the environmental professional to establish credibility with respect to his/her experience and expert knowledge in the environmental field. The use of any sort of fraudulent claim on the part of the environmental professional will misinform the public on the state of the environment. This mistake can lead to potentially devastating results for the public, the environmental professional, and/or the environment.

CANON 3. Qualification Verification

An environmental professional should assist the National Registry of Environmental Professional and governmental bodies in verifying individuals who are qualified environmental professionals.

- a.) The process of acting as an environmental professional without registration can deteriorate the image of the registered professionals.**

Commentary:

Those persons who act as environmental professionals without credentials from the National Registry of Environmental Professionals or governmental licensing agencies can not be verified as "qualified" in comparison to their peers. One of the reasons for the existence of NREP is to verify the qualifications of persons calling themselves environmental professionals. This process serves not only to protect the applicant, but also the employer, government and the general public.

- b.) Registered professionals should assist, if requested, in verifying that those persons working in the environmental field have credentials and are qualified for the level at which they are working.**

Commentary:

By assisting in the verification of credentials, an environmental professional is helping the public to become secure in the knowledge that the people claiming to be environmental professionals actually are qualified.

- c.) Proving qualification as an environmental professional is the responsibility of the person.**

Commentary

The person who is claiming to be an environmental professional must be able to provide proof of his/her qualification. There are many different laws that require that a person be "qualified" to work in the position of an environmental professional. The non-registered person runs the risk of not being able to prove "qualification" as an environmental professional. The registration offered by the National Registry of Environmental Professionals should be used as proof peer recognition of "qualification" as an environmental professional.

CANON 4. Outside Influences

An environmental professional should not have any outside influences guiding actions taken.

a.) An environmental professional should maintain his/her independence from any outside influences.

Commentary:

The environmental professional should maintain a stance of independence from all who may seek to influence his/her. The independence serves to protect the environmental professional from engaging in activities of a questionable nature. Activities that threaten the independence of the environmental professional may also threaten his/her standing in the environmental community.

b.) The environmental professional should not accept any gifts of more than nominal value.

Commentary:

Gifts of nominal value are defined as items such as calendars, date books, pens or other comparable items. The acceptance of gifts of greater value infringes on the independence of the environmental professional. The giver of such gifts may be seeking a way to influence the environmental professional. Once this influence has been established the environmental professional loses his/her independence and may also lose his/her standing in the environmental community.

c.) An environmental professional should maintain his/her position on topic.

Commentary:

The environmental professional has a basic right to his/her own opinion on a subject. This independence of thought should be preserved from all outside influences. The environmental professional should be open-minded in regards to the counter of the opinion, but should not disregard the opinion without sufficient proof of mistaken ideas. The environmental professional should maintain his/her independence from outside influences by not allowing another person to change the position on an issue of the environmental professional.

CANON 5. Confidentiality.

An environmental professional should maintain the highest form of confidentiality with clients/employer.

a.) The environmental professional should strive to achieve the trust of clients/employer.

Commentary:

The client/employer of any environmental professional should believe that when discussing environmental concerns that data and other information will be maintained as confidential within the normal boundaries of law. If the client/employer does not trust the environmental professional, the job may not be fully completed and the environmental may be further damaged.

b.) The environmental professional should protect the confidentiality of the client/employer as far as the law allows.

Commentary:

The confidentiality of the client/employer can be the most important aspect of a professional relationship. This confidentiality should not be breached except in certain cases. These exceptions include the need to protect the law, environment, or a human life endangered by silence. These exceptions are noted because of the possible necessity of such actions.

c.) The environmental professional may breach the confidentiality of a client/employer if the client/employer agrees to this

act.

Commentary:

The client/employer has the right to release certain information if this will assist them. This may also be used, for example, in the event of a civil suit against the client/employer in environmental matters. The environmental professional may act as an expert witness in his/her field of credentialed environmental expertise, where testimony and information from the client/employer may assist in the case.

CANON 6. Availability.

The environmental professional should become available to the general public.

a.) The environmental professional should make his/her services available to those who need assistance.

Commentary:

The environmental professional should be available to people who are in need of consultations regarding environmental problems. The client should be given the best possible account of the alternative solutions or dangers of the problem. By interaction and availability, the environmental professional will improve the environmental field.

b.) It is recommended that the environmental professional provide the public with free service for at least four hours a year.

Commentary

By providing public service, the community is able to recognize and appreciate the value, knowledge and experience of NREP credentialed environmental professionals. The form in which this service is given may be as consultations, lectures or discussions with students, informal gatherings with people of the community or any activity of the sort. The environmental professional may achieve greater satisfaction from his/her work from this experience as well as helping the community to properly, economically and efficiently protect the environment.

c.) The environmental professional should strive to become a public figure.

Commentary:

The environmental professional should become known to the community as a resource for knowledge about the environment. By providing this service, the public will become more aware of the problems that threaten the environment and steps that can be taken to protect the environment. This service can assist in relieving the environment of some of the strains being placed upon it. Important issues can be expressed to the public with the hope of action being taken to help the cause.

CANON 7 - Professional Misconduct.

An environmental professional should avoid knowingly engaging in any form of professional misconduct.

a.) An environmental professional should avoid violating the canons of professional conduct.

Commentary:

The environmental professional should be aware of the adverse effects of violating this code. All of the disciplinary sanctions are discussed in detail in Chapter Six. By violating the presented code, the environmental professional could be stating that his/her beliefs are not those shared by other environmental professionals. This code is not a set of laws to follow, but a group of ideals that may be beneficial to the environmental professional.

- b.) The environmental professional should not become involved with activities that involve any sort of dishonest action, deceit, or misrepresentation.**

Commentary:

The environmental professional should avoid actions that may cause repercussions against the environmental field. These actions include activities such as knowingly deceiving the public in regards to environmental problems, and supplying fraudulent information to a client or employer. Such actions do not gain public trust of the environmental professional in question or of the environmental field in general.

CANON 8 – NREP Name and Seal.

The environmental professional will not use the name or seal of the National Registry of Environmental Professionals without permission.

- a.) The name of the National Registry of Environmental Professionals should not be used in connection with any activity without previous consent.**

Commentary:

The environmental professional should not assume that the National Registry will become involved with any environmental activity. The environmental professional should submit a schedule of events for an activity to the Board of Directors for NREP for review and approval before the name or seal of NREP can be used. The Board of Directors will examine the schedule to verify that NREP should be connected with the planned activity. If permission is granted, the Board of Directors will allow the use of the name and seal of NREP on any publicity related to the activity. Unauthorized use may be considered as fraudulent activity.

- b.) The environmental professional should not use the name or seal of the National Registry of Environmental Professionals in connection with any activity other than one that has been accepted.**

Commentary:

The environmental professional should not assume that all activities will be granted permission to use the name or seal of NREP. Each activity requesting the use of NREP will be judged separately. The permission granted for one event will not carry over to another activity unless permission has been granted for both. Use of the name or seal of NREP on an activity other than one that has been accepted, is in violation of this code and individuals participating in this type of fraud shall be placed before the Professional Practice Committee.

- c.) The environmental professional should reapply for permission if any changes are made in the planned activity.**

Commentary

The Board of Directors will grant permission based on the schedule of events for the planned activity. Each application for permission to use the name and seal of NREP is considered separately from all other applications. Since each application is based on the schedule submitted, any possible changes in the submitted schedule should be sent to the Board of Directors of NREP. If the Board of Directors deems the changes inappropriate, permission will be revoked from the environmental professional.

d.) The Board of Directors shall retain absolute control over the use of the name and seal of the National Registry of Environmental Professionals.

Commentary:

The environmental professional should not assume that permission to use the name or seal of NREP is absolute. The Board of Directors has control over how and where the name and seal of NREP is used. If the Board of Directors deems the use of name or seal inappropriate, permission will be revoked from the environmental professional. Once the approval for the use of name or seal has been revoked, the activity will not be granted permission again. The environmental profession misusing the name or seal of NREP will have all future requests for permission inspected on a higher level by the Board of Directors. Continued misuse of the name and seal of NREP will be construed as unauthorized use.

e.) The environmental professional should only emblaze documents with name or initials and the NREP seal once the work is complete and known to be accurate.

Commentary:

The environmental professional should not arbitrarily seal documents with the NREP seal. The seal should only be used on documents which have been completed and contain work done by the environmental professional or under his/her personal, direct supervision. The environmental professional should also be able to attest to the fact that all information is true, complete and accurate. Any use of the NREP seal on documents which do not comply with these guidelines may be considered as fraudulent activities.

CANON 9 - Expert Witness.

An environmental professional should be able to act as an expert witness, if needed to act in this manner.

a.) The environmental professional should only act as an expert witness when qualified in his/her area of credentialed expertise to do so.

Commentary:

The environmental professional is qualified as an expert witness only in his/her area of registration. The designation as expert witness may be used in both civil and criminal suits in environmentally-related cases. This designation should not be abused by acting as an expert in an area where the environmental professional is not qualified. The environmental professional who is registered as an REM, for example, should not act as an expert witness in a case where an RELT would be better suited, since the REM may not have the current level knowledge that is needed to accurately present testimony,

b.) The environmental professional should be well informed on the issues involved.

Commentary:

In evaluation of environmental matters, the most valuable commodity is information. In functioning as an expert witness, the environmental professional should have accurate, complete information on the issues involved in the case. Without this information the environmental professional may be acting merely on assumptions. The environmental professional should be able to justify any assumption that is made.

c.) The environmental professional should not continue as an expert witness if any fee is offered to adjust his/her judgment.

Commentary:

The environmental Professional should maintain his/her independence from any outside influences. As an expert witness, the environmental professional should not become involved with any activity which may compromise his/her testimony. The acceptance of a fee to change the judgment of an expert witness is a breach of the environmental professional's independence.

d.) The environmental professional should not continue with a position as expert witness if he/she is not allowed to perform all analyses that are deemed necessary to accurately and completely present testimony.

Commentary:

The environmental professional should have all the information possible before appearing as an expert witness. One source of information regarding the case may be an analysis of the evidence, i.e. soil or water samples. The environmental professional should not continue with the position as an expert witness if a thorough investigation is not permitted. The analysis of all evidence should be necessary to render an opinion as expert.

CANON 10 Affirmative Action Program

Commentary:

It is, and will continue to be, the policy of the National Registry of Environmental Professionals to promote and provide equal environmental professional credentialing opportunities to all qualified persons without regard to their race, color, religion, age, sex, national origin, or physical handicap, or because he/she is a disabled veteran or veteran of U.S. military conflicts or war. NREP will promote the full realization of equal environmental professional credentialing opportunities through positive, continuing programs. NREP will assure that qualified applicants who apply for professional environmental credentials are not discriminated against because of their race, religion, age, sex, color, national origin, physical handicap, or because he/she is a disabled veteran or veteran of U.S. military conflicts of war.

Chapter Two: The NREP Code of Professional Practice

The presentation of the general Code of Professional Practice for the National Registry of Environmental Professionals is a guide for the general actions of an environmental professional.

1.) The registered professional should not initiate any program which will cause excessive harm to the environment.

Commentary: A registered professional is responsible for contributing to the enactment, coordination and management of environmental programs. These programs should be

Designed to protect or enhance the environment. The registered professional who oversees coordinates or manages a program which harms the environment may not be acting in a professional manner. This type of action does not fit the standards set for an environmental professional the environmental professional has a duty to help protect the environment from further harm.

2.) The registered professional should strive to protect the health and safety of workers and individuals of surrounding areas.

Commentary:

The registered professional who manages, facilities should strive to unity with a safe environmental The environmental professional should not participate in activities which may or persons in the surrounding communities should not become involved in any activity which may cause unnecessary loss of life or put the health of individuals at risk.

3.) The registered professional should inform employers and/or clients, in writing, of any positive and negative effects to the environment caused by assigned activities, duties or responsibilities.

Commentary:

The registered professional should be aware that the knowledge of environmental effects may not be known to everyone. The registered professional should inform his/her employer clients of what effects an activity may have on the environment. The negative impacts should be investigated to determine possible solutions prior to such activities, while the positive aspects should be re-searched to improve upon them if possible. Such knowledge will assist in determining alternative routes and procedures or if such proposed activities should not be conducted.

4.) The registered professional should comply with all applicable laws and regulations.

Commentary:

The registered professional should be familiar with the laws and regulations related to the specific environmental project as well as those of the state and federal government. These laws were enacted to assist in protecting the environment as well as individuals working in a facility and individuals in surrounding areas. The registered professional should strive to uphold all laws and regulations. The registered professional should also become familiar as quickly as possible with any new environmental laws or regulations so as to avoid any complications in carrying our assigned responsibilities. By freely complying with applicable laws and regulations, the registered professional demonstrates a concern to protect the environment and living things within it.

5.) The registered professional should perform assigned or contracted environmental planning and/or systems management duties in a professional manner respectful of laws and regulations and the needs and concerns of others.

Commentary:

The registered professional should not concern him/herself only with the effect on his/her career. The registered professional should be concerned with the problems, needs or interests of others. The people who contract the abilities of the registered professional should be treated as the main interest of the professional. The registered professional should act in a professional manner towards the client/employer, and inform the client/employer of any laws or regulations which may be violated by a proposed or existing activity. The registered professional should be conscious of the environmental problems that a client/employer may face and strive to assist the client/employer in any possible way to solve those problems.

6.) The registered professional should cooperate with and assist all representatives of government in the interest of aiding the environment.

Commentary:

The registered professional should be available to assist the federal, state or local governments in environmentally related matters. Such cooperation may be of great use to the environmental field in the formation of new regulations and laws, procedures or methods for preserving and enhancing the environment. The registered professional should be able to act as an expert in regards to the problems faced by the government and what may be done to assist the government and the public in the protection of the environment.

7.) The registered professional should practice only in the area of knowledge and experience in which he/she has been credentialed.

Commentary:

The registration process is formulated so that applicants are acknowledged as qualified in their area of demonstrated and proven expertise. A registered professional who practices in another area may not be qualified to do so. By partaking in activity in which he/she is not fully qualified and credentialed, the registered professional may be risking the safety and health of other people. This activity may also be construed as a form of fraud.

8.) The registered professional should have knowledge of all proven treatment technologies required to satisfy a problem in which he/she has been engaged or assigned to solve.

Commentary:

The registered professional should be able to provide information regarding all forms of treatment required to satisfy a specific pollution problem within his/her area of environmental education and training. This information should include, but is not limited to, treatments of air, water, wastes, noise and radiation. The registered professional should be able to offer factual, complete information to any person in need of such knowledge.

9.) The registered professional should have a basic knowledge of the requirements of the other environmental registration levels.

Commentary:

The registered professionals should understand the processes by which the other NREP certification / registration levels are guided. The

registered professionals need the knowledge of the other registration levels to accurately conduct their environmental programs. The knowledge of each registration level will not only allow the correct use of personnel at each level, but also will give the certified/registered professional an understanding why each level is important to the functioning of an environmental program.

10.) The registered professional should have the knowledge and training to deal with environmental emergency situations.

Commentary:

The registered professional should be trained and able to react to situations such as accidental releases, spills or injuries. This reaction should be quick, decisive and professional. The registered professional should also have knowledge of how to rectify the situation. The registered professional should be prepared to offer any assistance needed by other trained professional specialists to remedy the situation. The registered professional should be able to offer information regarding the environmental hazards that may occur from the situation and provide environmentally-sound solutions to the immediate problem.

11.) The certified/registered professional will not falsify any information regarding the property, facilities, equipment or processes.

Commentary:

The registered professional conducting the environmental assessment or audit should note in his/her report all environmental hazards. The report should clearly state any infringements on the workers right to occupational safety, storage of hazardous materials, etc. The registered professional should not ignore any infringements for his/her own benefit. The practice of falsification of data in regards to property assessment, may damage the environment, threaten human life, and destroy the credibility of the registered professional. The registered professional should be aware of any processes, activities, or facilities which do not comply with environmental standards and report them as such.

12.) The certified/registered professional should not practice outside his/her area of credentialed registration.

Commentary:

Each of the registration levels offered by the National Registry of Environmental Professionals is designed to provide certification to those who are "qualified." Any registered professional acting outside his/her area of recognized and credentialed qualification may be placing his/her credibility at an unneeded risk. The risk does not only apply to credibility, but may also cause unnecessary damage to the environment or human health and life. The registered professional acting outside his/her area of credentialed capability may not have the current knowledge required for practicing in another capacity.

13.) The certified/registered professional should remain impartial towards facilities and landowners being inspected, audited and/or assessed.

Commentary:

The registered professional must be factual and unbiased in regards to property assessment and environmental risk compliance. The act of being lenient can lead to fraudulent activities. It is recommended that the registered professional who does not believe wholeheartedly that he/she can be impartial towards an assignment should request that another professional assume responsibility to avoid conflict of interest.

14.) The registered professional should have environmental samples analyzed by qualified, proven professionals with demonstrated

knowledge, technique and equipment according to approved laboratory methods.

Commentary:

Any sample taken from the site in questions should be analyzed for environmental containments. The use of an impartial analyst Is essential to accurate assessments. The registered professional should verify the impartiality of an analyst.

15.) The registered professional should continually update his/her knowledge of practice as new advances in information, technology and equipment are introduced.

Commentary:

The certified/registered professional should stay current with the most recent body of knowledge available reflecting the accepted state-of-the-art practice. The certified/registered professional should have knowledge of the most current technology as well as regulatory changes. By continuing to improve his/her education, the certified/registered professional is able to perform his/her assignment with greater accuracy, precision, and quality.

16.) The registered professional should verify all documents, records, permits, and licenses.

Commentary:

The certified/registered professional should be cautious as to completeness, background and preparation of all documents, records, permits and licenses. Such certificates should only be used to the extent that they accurately verify the information presented. The environmental professional should not attempt to use such documents to unknowingly assume information beyond the capacity and capability of the preparer of the original information.

17.) The registered professional should present reports in a professional manner.

Commentary:

The registered professionals should verify that reports submitted are prepared, written and documented in a professional manner. Reports should be a statement of fact ant of opinion. They should be written without emotion, unless the presentation is noted as “writer’s opinion.” The inclusion of opinion without informing the reader of its status may mislead the reader into believing that the opinion is fact. The reports should contain the results of any analyses that were conducted on samples taken from the site.

18.) The NREP certified/registered environmental professional will not engage in fraudulent activities.

Commentary:

The principal meaning behind this opinion is that the certified/registered environmental professional should not participate in any conspiracy to conjure and date that cannot be scientifically proven. Any analysis made on an environmental sample should not be falsified for individual or corporate use. The results of analysis should be presented without any form of tampering. Any falsification of data on an environmental sample may not only damage the reliability of the environmental professional, but may also have adverse effects on the environment and may be criminal

violation of environmental law. The fraudulent presentation of data may place human health and life at an unnecessary and avoidable risk. The environmental professional should not ask another person to participate in the falsification of any data. This type of activity has the same effects as if the environmental professional had attended to this task him/herself.

CHAPTER THREE: DISCIPLINARY RULES

1.) Grounds for professional discipline

Discipline may be imposed on a registered/certified environmental professional for any of the following reasons:

- a.) conviction of a felony;
- b.) violation of a rule of the NREP Code of Professional Practice;
- c.) discipline imposed by another professional organization;
- d.) violation of sanctions imposed by an NREP discipline hearing board or Committee for Professional Practice;
- e.) failure to respond to changes by an agency or individual regarding environmental professional practice;
- f.) presenting NREP with checks that are returned for insufficient funds;
- g.) representing NREP interest beyond the scope of committee or board appointment;
- h.) failure to complete required disclosure, application forms and/or continuing education requirements;

2.) Imposition and sentence.

Imposition of discipline can only be carried out by the NREP Board of Directors, an NREP appointed hearing board, or the Committee for Professional Practice.

3.) Re-admission.

Re-admission to the Registry can only be carried out by the NREP Board of Directors. There are no formal requirements when an application can be re-submitted. The applicant may re-submit a file for review any time after the disciplinary process is complete.

4.) Types of discipline.

The following is a list of sanctions that may be imposed on a registrant or applicant regarding NREP discipline:

- a.) Suspension for a length up to 11 months.
- b.) Probation for a length up to 10 months.

As the violation becomes more severe, so do the disciplinary action that will be taken. The Professional Practice Committee may elect to place a violator on probation. Probation is when professional registration is temporarily revoked. During this time, the environmental professional is considered as not be registered with the National Registry of Environmental Professionals. The person placed on probationary status will not be granted any of the privileges of the National Registry of Environmental Professionals and shall return any and all property of NREP. The person shall also discontinue use of any seal using the name of the national Registry of Environmental Professionals. The duration of Probation is

determined by Professional Practice Committee based on the severity of the violation. Notification will be sent to the Board of Directors stating the terms and duration of probation. At the expiration of the probationary period, the environmental professional will be able to re-apply for registration provided that no civil or criminal penalties have been placed on the applicant by a court of law. The question of approval for re-registration will be decided by the Board of Directors and the Professional Practice Committee. The applicant must also be re-tested and provide proof of advancement of education. The education requirement may be fulfilled with proof of attendance at classes, lectures, NREP's annual conference.

5.) A written reprimand that will be sent to the offices of the U.S. Environmental Protection Agency, state environmental regulatory body, or both.

Censure is a verbal and/or written reprimand by Professional Practice Committee. This type of disciplinary action is used to remind the violator of the reasons for the existence of the Code of Professional Practice and notes that the environmental professional's conduct is improper. This reprimand will be noted in the environmental professional's file, and the Board of Directors informed. Censure is used when the violation is not serious enough to warrant the use of a stronger form of discipline, even though it is still a violation of the ethical standards. Censure also serves to warn other environmental professionals and the public of the possible misconduct of the violator. The violator should review that standards presented within this text is he/she does not have the knowledge.

6.) A written reprimand to be sent to other professional organizations and/or employers regarding an individual professional registration/certification.

7.) Revocation of registration certification.

The most severe penalty placed on a violator is removal from the master roll. The master roll is the official list of all people registered with the National Registry of environmental professionals. As with probation, the Board of Director will be notified of the terms and duration of removal. The removal from the master roll revokes all privilege granted to the environmental professional by the National Registry of Environmental professionals. The removed person must return all property of NREP, including the registration certificates and discontinue use of any seal noting registration with the National Registry of Environmental professionals. A person who is removed from the master roll may not re-apply for a period of time specified by the Professional Practice Committee. This period will be longer than what may be assigned for a probation period. The removed person may re-apply provided that proof is available of rehabilitation. This proof includes approval by the Board of Director and the Professional Practice committee, a passing score on the applicable exam, proof of continuing education, and tested understanding of the ethical standards. The applicant must also have no civil or criminal penalties placed against him/her by a court of law. The applicant must receive written permission from the Board of Director before any application may be filed. If it is deemed that rehabilitation has failed with the petitioner, the Board of Director will not allow re-application of registration.

8.) Fines.

A violator of the Code of Professional Practice may be subject to a fine. A fine is usually applied to an environmental professional who has submitted a check for fees for which the bank account does not have sufficient funds to cover the amount of the check. The Professional Practice Committee will note this violation in the environmental professional's file and the Board of Directors will be notified. If the fine is not submitted along with the fees required, the violator will be placed on inactive status and subject to all requirements applied to that position. A second violation of such activity will be prima facia evidence of the individual's inability to properly manage and will be cause for removal of the individual good standing as an environmental professional. The initial fine imposed on the violator for submitting a check with insufficient funds is \$35.00, but is subject to change, depending on economic factors and frequency of violation.

9.) Inactive Status.

The Professional Practice Committee may elect to place the environmental professional on inactive status. During the time an environmental professional is on inactive status, the National Registry of Environmental Professionals will consider the person as not qualified. Persons who have been placed on inactive status may re-apply to active registration providing there have been no civil or criminal penalties imposed upon the person by a court of law. The Board of Directors and the Professional Practice Committee must also approve the application, before any action can be taken.

H. Publication of Disciplinary Action

10.) The NREP may publish a notification of a final ethics Decision and Order following the issuance of an adverse opinion by a Hearing Officer, Disciplinary Review Committee or Board of Directors Decision or ruling. This notification will not be done until after the conclusion of any appeals available to the respondent. Any party may request publication of any decision.

CHAPTER FOUR: CASE PROCEDURES

INTRODUCTION

The National Registry of Environmental Professionals (NREP) develops and promotes high ethical standards for environmental professionals. NREP requires that credentialed environmental professionals meet these standards. The following disciplinary procedures are the rules for processing possible violations of these ethics standards. These rules are applicable to National Registry Environmental Professionals and those who are seeking certification from NREP. This document describes and outlines the only procedure for handling ethics cases brought to the attention of NREP. When environmental professionals apply for certification or recertification, they agree to abide by the NREP Code of Professional Practice and the Ethics Case Procedures.

A. GENERAL

1. Nature of the Process. These procedures are the only ways to resolve all NREP ethics charges and complaints. NREP has the only authority to end any ethics inquiry or case, regardless of circumstances. These ethics procedures are not formal legal proceedings; so many legal rules and practices are not observed. NREP will review the information presented when considering ethics investigations, cases and decisions.

NREP Ethics Case Procedures are designed to operate without the assistance of attorneys. Any party, of course, may be represented by an attorney with respect to ethics proceedings and procedures. If a party has retained an attorney, that attorney may be directed to communicate with NREP through NREP Legal Counsel. The parties are encouraged to communicate directly with NREP. NREP may use the services of legal counsel without limitation.

2. Participants. Ethics cases may be decided by the NREP Ethics Officer, the NREP Disciplinary Review Committee, the NREP Board of Directors and/or any representative designated by the Executive Director. An NREP applicant who is the subject of an ethics charge or investigation will be the respondent in these rules. The person(s) initiating an ethics complaint against an NREP applicant will be the complainant(s).

3. Complainants Ethics Charge Statement. Any person, group, private organization, public organization or, in appropriate cases, the NREP, may initiate an ethics case and act as a complainant. Each complainant must submit to the NREP Ethics Officer an Ethics Charge Statement or a detailed written description of the factual allegations supporting the ethics charges.

4. Time Requirements. The NREP will make every effort to follow the time requirements noted in this document. However, the NREP's failure to meet a time requirement will not prohibit the final resolution of any ethics matter. Complainants and respondents are required to comply with all time requirements specified in this document. Time extensions or postponements may be granted by the NREP Executive Director or Ethics Officer if a timely written request explains a reasonable cause.

5. Litigation/Other Proceedings. The NREP may accept and resolve ethics complaints when civil, criminal litigation or other proceedings related to the complaint are also before a court, regulatory agency or professional body. The NREP may also continue or delay ethics complaints in such cases.

6. Complaints Concerning Non-NREPs. In the event that the NREP receives an ethics inquiry or Ethics Charge Statement concerning an individual who does not hold any NREP credential or who is not an NREP applicant, a representative of NREP will inform the complainant and may refer the complainant to an appropriate authority.

7. Improper Disclosure/False Or Misleading Responses. Any failure to disclose pertinent information or misleading disclosure by an NREP applicant or registrant with respect to an ethics charge, criminal case, disciplinary proceeding, or similar matter, concerning him/her may constitute a violation of the NREP Code of Professional Practice.

8. Time Limitations Concerning Complaints. The NREP may consider any ethics complaint, regardless of:

- a. Whether the respondent held an NREP credential at the time of the alleged violation;
- b. When the alleged violation occurred; or
- c. Whether the respondent continues to hold or seek an NREP credential during the course of any ethics case.

9. Confidentiality. In order to protect the privacy of the parties to an ethics case, all material prepared by or submitted to NREP will be confidential. An exception will be made if a release of information or documents is authorized by these rules. The identities of all members of the NREP Disciplinary Review Committee shall remain confidential and will not be released without the specific authorization of each committee member.

10. Failure To Cooperate. If, any party refuses to fully cooperate or participate with NREP or its representatives, and it is determined that the lack of cooperation was without good cause, NREP may take the following actions: (a.) The Executive Director, Ethics Officer and/or the Disciplinary Review Committee may terminate the ethics complaint of an uncooperative complainant (b.) If a respondent is uncooperative, the Ethics Officer and/or the Disciplinary Review Committee may impose any sanction included within these rules.

11. Resignation from the NREP. Should a respondent attempt to relinquish NREP certification or withdraw an application

during the course of any ethics inquiry or case, the NREP reserves the right to continue the matter to a final and binding resolution according to these rules.

B. MEDIATION

- 1. Cases Appropriate for Mediation.** The Executive Director will send all appropriate Ethics Charge Statements to the Ethics Officer. The Ethics Officer will consider the seriousness of the allegations, the respondent's background, prior conduct, and any other pertinent material, and make a decision concerning the likelihood that the matter can be resolved fairly without formal disciplinary proceedings as described in these rules. Ethics cases concerning charges issued by a regulatory agency or professional body, and those involving criminal litigation, are not appropriate for mediation.
- 2. Mediation Determination.** Should the Ethics Officer determine that a particular ethics matter is appropriate for mediation, he or she will forward the recommendation for mediation to the Executive Director. With the approval of the Executive Director, the Ethics Officer will attempt to resolve the dispute to a fair and just conclusion.
- 3. Successful Mediation.** The Ethics Officer will prepare a report outlining the terms of the resolution of an ethics case and forward it to the Executive Director. The Executive Director may then accept the report and mediated resolution as final or refer the case to the Disciplinary Review Committee for review.
- 4. Unsuccessful Mediation.** The Ethics Officer will notify the Executive Director in the case of mediation failure and process the ethics matter according to these rules.

C. ETHICS INQUIRIES/ETHICS CHARGE STATEMENTS

- 1. Ethics Inquiries.** Any individual, group or organization seeking to file a complaint concerning an NREP applicant should contact the NREP Ethics Officer. The Ethics Officer will forward to the complainant a copy of the NREP Code of Ethics and Ethics Case Procedures. The Ethics Officer will record all ethics inquiries and identify; the person(s) making the inquiry, the NREP applicant, the state from which the inquiry originates, and the nature of the problem. This log will remain confidential, available only to representatives of NREP involved in the ethics case procedures.
- 2. Ethics Charge Statement/Description of Charges.** An Ethics Charge Statement is written communication from a complainant describing the allegations against an NREP applicant. Public documents such as newspaper stories, court verdicts or agency decisions may be considered as Statements. When an Ethics Charge Statement is received by NREP, the Ethics Officer will: (a) review the material received and assign a case number to the matter; (b) review the allegations made concerning the charges; (c) determine whether the charges are presented in sufficient detail to permit NREP to conduct a preliminary investigation; and, if necessary, (d) contact the complainant and request additional factual material. Following consultation with the Executive Director, the Ethics Officer will send a letter to the complainant and respondent stating whether the charges submitted are accepted or rejected for a formal ethics investigation.

D. ACCEPTANCE/REJECTION OF ETHICS CHARGES

1. Charge Acceptance. The Ethics Officer will review each charge of an Ethics Charge Statement submitted by a complainant and then determine if it will become the subject of a formal Ethics Complaint and Investigation. The following criteria will be considered to determine if a charge is accepted or rejected:

- a. Whether the respondent is an NREP applicant;
- b. Whether a proven charge would constitute a violation of the Code of Ethics;
- c. Whether the passage of time since the alleged violation requires that the complaint be rejected;
- d. Whether relevant, reliable information or proof concerning the charge is available;
- e. Whether the complainant is willing to provide testimony or other evidence to the NREP concerning the complaint; and
- f. Whether the charge appears to be justified or insupportable, considering the proof available to the NREP:

The Ethics Officer will determine whether the charge and available proof support a formal Ethics Complaint and will report to the Executive Director. With the Executive Director's approval, the Ethics Officer will prepare and issue a formal Ethics Complaint and Investigation Notice.

2. Charge Rejection. If the Ethics Officer determines that an allegation should not be a formal Ethics Complaint, the officer will reject the charge and notify the Executive Director. With the Executive Director's approval, the Ethics Officer will notify the complainant and respondent of the rejection, as well as the reason(s) for the rejection. This will be completed by letter within twenty-one (21) days of the determination.

3. Appeal of Charge Rejection Determination. Within thirty (30) days of the mailing of a charge rejection letter, the complainant may appeal to the Disciplinary Review Committee. In order to have the Disciplinary Review Hearing Committee reconsider the rejection, a complainant must state in writing the following:

- a. The procedural errors possibly made by the Ethics Officer with respect to the charge rejection, if any;
- b. The specific provisions of the Code of Professional Practice believed violated; and
- c. The specific information believed to support the acceptance of the charge.

The Disciplinary Review Committee will consider and decide any charge rejection appeal at the next scheduled committee meeting.

E. ETHICS COMPLAINTS AND INVESTIGATIONS

1. Ethics Complaint and Investigation Notices. After an ethics charge is accepted, the Ethics Officer will issue a formal Ethics Complaint and Investigation Notice identifying each Code of Professional Practice violation alleged and the supporting factual basis for each complaint. This Notice will be delivered to the counselor respondent, at the last known address(es) by regular mail and

other verifiable delivery return receipt required and will be marked, "Confidential."

F. ETHICS COMPLAINT RESPONSE

- 1. Submitting an Ethics Complaint Response.** Within thirty (30) days of the mailing date of an Ethics Complaint and Investigation Notice, the respondent must submit an Ethics Complaint Response according to the instructions in the Notice. The Ethics Complaint Response must include the following:
 - a. A full response to each complaint;
 - b. The identification and copy of each document that the respondent believes to be relevant to the resolution of the Ethics Complaint; and
 - c. Any other information that the respondent believes will assist the NREP in fairly considering the Ethics Complaint.
- 2. Response Deficiencies.** The Ethics Officer may require the respondent to supplement or expand a response.

G. COMPLAINANT REPLY

- 1. Submitting a Complainant Reply.** The Ethics Officer will forward a copy of the complaint Response to the complainant within ten (10) days following the receipt of the Response by the NREP. Within ten (10) days of receiving the complaint Response, the complainant may submit a Reply to the Response to the NREP Ethics Officer.
- 2. Contents of Complainant Reply.** A Complainant Reply is limited to the issues raised in the Ethics Complaint and Response. NREP will not consider additional matters.

H. PRELIMINARY ACTIONS AND ORDERS

- 1. Voluntary Temporary Suspension of Certification.** At any time following the issuance of an Ethics Complaint, the respondent may be asked to agree to a temporary suspension of NREP certification pending the final resolution of an Ethics Complaint. If the respondent accepts this request, the Executive Director will agree to and sign a Voluntary Suspension Agreement. This Agreement will state the temporary suspension and that the respondent voluntarily ceases from representing himself or herself as certified, credentialed or otherwise endorsed by the NREP until further notice. The respondent will also return any certifications to the NREP to be held until the suspension, or other disciplinary action, has ended.

2, Involuntary Suspension of Certification. If a respondent fails to agree to and sign a Voluntary Suspension Agreement, as in H.1 above, the Executive Director or the Ethics Officer may issue an Order suspending the respondent's certification(s). This Suspension Order will stay in effect until the final resolution of the Complaint.

3. Circumstances of Involuntary Suspension Orders. Suspension Orders are authorized

When: (a.) The respondent has been convicted of a criminal or charge or quasi-criminal act; or the respondent has not contested a criminal indictment under any statute, law or rule;

(b.) The respondent has been indicted or similarly charged with any criminal act or violation of criminal law under statute, law or rule;

(c.) The respondent has been found in violation of any law, regulation or rule by a professional regulatory body, or has been sanctioned or disciplined by such a regulatory body; (d.) The respondent is the subject of a formal complaint or similar charge and investigation by a professional association or certifying body; (e.) The respondent has been found in violation of an ethics code of a professional association or certifying body; or (f.) The respondent is the subject of a formal complaint or similar charge and investigation by a professional association or certifying body concerning ethics or disciplinary matters.

4. Other Preliminary Orders. The NREP may require the respondent or the complainant to refrain from doing certain acts by preliminary and temporary Order, including the disclosure/submission of documents relevant to review of an ethics investigation. Any temporary and preliminary Order requested will be reasonably related to the Complaint under consideration; or to a party's responsibilities under the Code of Ethics.

5. Failure to Comply with Preliminary Orders. The Ethics Officer, with the approval of the Executive Director, may discipline a respondent who fails to comply with a temporary or preliminary order. The Ethics Officer will consider the severity of the failure to comply and other relevant factors in determining the discipline. Preliminary and temporary orders cannot be appealed.

L. ETHICS COMPLAINT HEARINGS

1. Hearing Officer. The Ethics Officer will preside over and conduct each Ethics Complaint Hearing as the Hearing Officer, unless the Executive Director or Disciplinary Review Committee Chair direct otherwise. The Hearing Officer will conduct an informal Ethics Complaint Hearing designed to collect and weigh all of the available information and proof. The Hearing Officer will be the only determiner of all violations of the Code of Ethics in the first instance. The Hearing Officer will have full authority and responsibility to convene, preside over, continue and conclude an ethics hearing.

2. Hearing Schedule and Location. The hearing date for each ethics case will be scheduled by the Ethics Officer in consultation with the Executive Director and the parties. Each hearing will be held at a site determined by the Ethics Officer and, if practical, held no less than sixty (60) days and no more than one hundred twenty (120) days from the receipt of an Ethics Charge Statement by the NREP. Hearing will not be held prior to the date permitted in these rules for each party to submit a Response or a Reply.

3. Hearing Notice and Attendance. The Ethics Officer will schedule the hearing and notify the parties in writing. Each party will be given the option to attend the hearing in person and will be required to indicate the following at least seven (7) days before

the hearing:

(a.) Whether the party intends to appear at and participate in the hearing in person; (b.) Whether the party intends to participate in the hearing via telephone; if so, the telephone number where the party is to be reached during the hearing; (c.) Whether the party intends to appear at the hearing with an attorney or other representative; if so, the name, address and telephone number of such attorney or representative; (d.) Whether the party intends to present witnesses at the hearing; if so, the name, address and telephone number of each witness and a brief summary of the content of the witness's proposed testimony; and (e.) Whether the party intends to present or offer any documentary information or other written proof during the course of the hearing that has not been previously considered by NREP. If such information is offered, the party must provide a copy of each document and a brief description of the document's relevance.

Any ethics hearing may proceed to a conclusion and decision whether or not the parties are present. The Ethics Officer may reach final decision based upon investigation and documentation with other parties present.

4. Postponement of Hearing. A respondent or complainant may request a hearing postponement. This request must be in writing and received by the NREP at least ten (10) days prior to the hearing date. The Executive Director or the Ethics Officer may grant a post-ponement. Postponement decisions are not subject to appeal.

5. Participation of NREP Legal Counsel. Should NREP Legal Counsel be present at an ethics case hearing, Legal Counsel shall have the privilege of the floor and may conduct the hearing with the Ethics Officer. Legal or other representatives of the parties do not have such privilege and are bound by the determinations and rulings of the Ethics Officer.

6. Responsibilities and Rights of the Parties. In addition to other responsibilities and rights, the respondent and the complainant may do or be required to do the following:

- a. Attend the hearing and be present during the testimony of all witnesses;
- b. Present witnesses, written information and argument on their behalf;
- c. Review or inspect all oral or written information presented in the case; and
- d. Comply with all orders or directives issued by the NREP.

7. Witnesses. All witnesses will be excluded from the hearing room except during the presentation of their testimony. However, a party may request that a witness remain in the hearing room during all or part of the hearing. The Hearing Officer will rule on any request and the ruling will not be subject to appeal.

8. Confidentiality/Inclusion of Other Persons. All hearings are confidential and private. No observers are permitted without special permission. A party may request the presence of an observer in the hearing room during all or part of a hearing. The Hearing Officer will rule on these requests and the ruling is not subject to appeal.

9. Information And Proof Accepted. The Hearing Officer will receive and consider all information appearing to be relevant to an ethics complaint, including any information which may be helpful to a complete understanding of the case. The Hearing may

consider information concerning relevant prior conduct. Objections relating to relevance of information and other evidence issues will be decided by the Hearing Officer and these decisions are not subject to appeal.

10. Record of the Hearing. A taped, written or similar record of the hearing will be made by the Hearing Officer, another NREP representative, or a stenographer/recorder. Off-the-record conversation may be requested by parties and will not be part of the hearing record.

11. Hearing Expenses. Parties will be responsible for their expenses associated with the case. Should a party request a written transcript or recording copy of the hearing, a reasonable fee will be assessed for preparation. NREP bears the cost of the hearings and investigations that are performed by NREP representatives.

12. Closing of the Hearing Record. The hearing record will be closed following the conclusion of the hearing, unless otherwise directed by NREP. Any party, including the Hearing Officer, may request that the record remain open for thirty (30) days for the purpose of receiving additional documentary information and proof. The Hearing Officer may deny requests to keep records open without appeal.

J. HEARING OFFICER ETHICS DECISION AND ORDER

1. Hearing Officer Decision and Order. A Decision and Order will be prepared by the Hearing Officer within thirty (30) days, or as soon as is practical, after the closing of the record.

2. Contents of the Hearing Officer Decision. The following information will be included in the Hearing Officer Decision: (a.) A summary of the case, including the positions of the parties; (b.) A summary of all relevant factual findings based on the record of the hearing; (c.) A final ruling on each Code of Ethics violation charged; (d.) A statement of any disciplinary action(s) and sanctions issued by the Hearing Officer; and (e.) Any other material the Hearing Officer determines to be appropriate.

3. Contents of the Hearing Officer Disciplinary Order. The Hearing Officer Order may include any of the following items: (a.) An order (or "directive ordering") directing the respondent to cease and desist from any behavior or acts found to be in violation of the Code of Ethics; (b.) A statement of the disciplinary action(s) imposed and mandate directing the respondent to comply immediately with these disciplinary action(s); and (c.) Any other appropriate directive consistent with the Decision.

K. DISCIPLINARY REVIEW COMMITTEE APPEALS FIRST APPEAL

1. Time Period for Appeals to the Disciplinary Review Committee. Within thirty (30) days of the mailing date of an adverse Hearing Officer Decision, the respondent or the complainant may appeal all or a portion of the Decision to the Disciplinary Review Committee pursuant to this Section. Any appeals received beyond this time period will not be reviewed or considered by the Disciplinary Review Committee.

2. Grounds for Appeal to the Disciplinary Review Committee. An adverse Hearing Officer Decision may be reversed, or

otherwise modified by the Disciplinary Review Committee on appeal. However, the grounds for appeal of an adverse decision are strictly limited to the following: (a.) Procedural Error. The Hearing Officer misapplied a procedure contained in these rules and prejudiced the appealing party; (b.) New or Previously Undiscovered Information. Following the closing of the hearing record, the appealing party has located relevant proof that: was not previously in his/her possession; was not reasonably available prior to closure of the record; and, could have affected the Hearing Officer decision; (c.) Misapplication of the Ethics Code. The Hearing Officer decision contains the misapplication of the provisions contained in the Code of Ethics and the misapplication prejudiced the appealing party; (d.) Contrary to the Information Presented. The Hearing Officer decision is contrary to the most substantial information provided in the record; and (e.) With respect to Sub-sections 2a and c, above, the Disciplinary Review Committee will consider only arguments that were presented to the Hearing Officer prior to the closing of the hearing record.

3. Contents of Appeal Letter of Appeal. In order to complete an appeal to the Disciplinary Review Committee under this Section, the appealing party must submit a letter or other document to the Committee and the other party, within the prescribed time period, which contains the following information and material: (a.) A statement of the ethics case name, docket number, Hearing Officer's name and the date that the Hearing Officer decision was issued; (b.) A statement of the reasons for the appeal under Subsection L2, above, and a complete explanation of the reasons that the appealing party believes that the Hearing Officer decision should be reversed or otherwise modified; c. A statement of the change of decision requested from the Disciplinary Review Committee, including any reduction in discipline issued by the Hearing Officer; and d. Copies of any material which supports the appealing party's appeal.

4. Optional Response to Appeal Letter. Within ten (10) days of an appeal, a complainant or respondent in the case may submit to the Committee a Response to the Appeal by letter or similar document. If submitted, this Response will fully explain any objections that the person wishes to present to the Committee concerning the appeal.

5. Request to Appear Before the Disciplinary Review Committee. Complainant or Respondent may request the opportunity to appear before the Disciplinary Review Committee concerning an appeal under this Section. The Executive Director or the Chair of the Disciplinary Review Committee, will determine whether a request to appear before the Committee is accepted. In the event that a request to appear before the Disciplinary Review Committee is approved, the Executive Director or the Chair of the Disciplinary Review Committee, may limit the appearance in any manner. Denials of requests to appear before the Disciplinary Review Committee are not appealable.

6. Disciplinary Review Committee Hearings. Within ninety (90) days after the submission of a complete appeal, or as soon after as practical, the Disciplinary Review Committee will conduct a hearing to determine the outcome of the appeal. Each appeal shall be considered by at least three (3) members of the Committee, as designated by the Committee Chair. During the course of appeal hearings the Committee, or designated members will review: the hearing record; any appeal submissions presented by the parties; and/or any other information determined to be relevant. Thereafter, the Committee, or designated members, will determine the outcome of the appeal by majority vote in closed session.

7. Disciplinary Review Committee Decisions and Orders. Within thirty (30) days of conclusion of an appeal hearing, or as soon after as practical, the Disciplinary Review Committee, by the Committee Chair or the Executive Director, will issue an Appeal Decision and Order stating and explaining the outcome of the appeal. With respect to each appeal, the Committee Decision and

Order shall include the following:

- a. A summary of any relevant portions of the Hearing officer Decision and Order;
- b. A summary of any relevant procedural or factual findings made by the Committee;
- c. The Committee's ruling(s) and decisions with respect to each matter under appeal; and
- d. The Committee's final Order affirming, reversing, amending or otherwise modifying any portion of the Hearing Officer Decision and Order, including any final disciplinary action or sanction issued by the Committee.

Copies of the Disciplinary Review Committee Decision and Order shall be sent to the parties return receipt requested.

I. BOARD OF DIRECTORS APPEALS/FINAL APPEAL

1. Time Period for Appeals to the NREP Board of Directors. Within fourteen (14) days of the mailing date of an adverse Disciplinary Review Committee Decision and Order, the respondent or the complainant may appeal all or a portion of the Decision and Order to the Board of Directors. Any appeals received beyond this time period will not be reviewed or considered by the Board of Directors.

2. Grounds for Appeal to the Board of Directors. An adverse Disciplinary Review Committee Decision may be affirmed, reversed or otherwise modified by the Board on appeal. However, the grounds for appeal to the Board are limited strictly to the following:

- a. **Procedural Error.** The Disciplinary Review Committee obviously misapplied a procedural rule contained in these rules; and the rule misapplication significantly prejudiced the appealing party;
- b. **New or Previously Undiscovered Information.** Following the issuance of the Disciplinary Review Committee Decision, the appealing party has located relevant information that: was not previously in his/her possession; was not reasonably available prior to issuance of the Committee Decision; and, could significantly change the Committee Decision;
- c. **Misapplication of the Ethics Code.** The Disciplinary Review Committee Decision contains one or more misapplication of the provisions of the Code of Ethics; and the misapplication significantly prejudiced the appealing party;
- d. **Contrary to the Information Presented.** The Disciplinary Review Committee D ' decision is contrary to the most substantial information provided in the record; and
- e. **With respect to Sub-sections 2a, c, and d above,** the Board of Directors will consider only arguments that were previously presented to the Disciplinary Review Committee.

3. Contents of Board Appeal/Letter of Appeal. In order to complete a final appeal to the Board of Directors under this Section, the appealing party must submit a letter or other document to the Board within the prescribed time period, which contains the following information and material:

- a. A statement of the ethics case name docket number and the date that the Disciplinary Review Committee decision was issued;
- b. A statement of the reasons for the appeal under Subsection K2, above, and a complete explanation of the reasons that the appealing party believes that the Disciplinary Review Committee Decision should be reversed or otherwise modified;

- c. A statement of the change of decision requested from the Board, including any reduction in discipline issued by the Disciplinary Review Committee; and
- d. Copies of any material which supports the appealing party's appeal.

4. Optional Response to Appeal Letter/Board Appeal. Within ten (10) days of his/her receipt of an appeal, a complainant or respondent in the case may submit to the Board a Response to the Appeal by letter or similar document. If submitted, this Response will fully explain any objections that the person wishes to present to the Board concerning the appeal.

5. Request to Appear Before the Board of Directors. Complainant or respondent may request the opportunity to appear before the Board of Directors concerning an appeal under this Section. The Executive Director or the Board Chairperson will determine whether a request to appear before the Board is accepted. In the event that a request to appear before the Board is approved, the Executive Director or the Board Chair may limit the appearance in any manner. Denials of requests to appear before the Board are not appealable.

6. Board of Directors Appeal Hearings. Within ninety (90) days after the submission of a complete appeal, or as soon after as practical, the Board of Directors will conduct a hearing to determine the outcome of the appeal will be considered by a quorum of the Board, as determined by the Board Chair. During the course of these appeal hearings, the Board will review: the hearing record; any appeal submissions presented by the parties; and/or any other information determined to be relevant. Thereafter, the Board will determine the outcome of the appeal by majority vote in closed session.

7. Board of Directors Final Decisions and Orders. Within thirty (30) days of conclusion of an appeal hearing, or as soon after as practical, the Board of Directors, the Board Chairperson or the Executive Director, will issue a Final Decision and Order stating and explaining the outcome of the appeal. With respect to each appeal, the final Board Appeal Decision and Order will include the following:

- a. A summary of any relevant portions of the Disciplinary Review Committee Decision And Order;
- b. A summary of any relevant procedural or factual findings made by the Board;
- c. The Board's ruling(s) and decision(s) with respect to each matter under appeal; and
- d. The Board's final Order affirming, reversing, amending or otherwise modifying any portion of the Disciplinary Review Committee Decision and Order, including any final disciplinary action issued by the Board.

Copies of the Board of Directors Final Decision And Order shall be sent to the parties, return receipt requested.

M. FINALIZING ETHICS CASES

1. Events Which Will Cause Closure of an Ethics Case. An ethics case will be closed and all proceedings ended when any of the following occur:

- a. Following the lapse of any appeal rights, the ethics case has not been accepted and the charges have been rejected as the basis for an Ethics Complaint and Investigation pursuant to these rules;
- b. Following the lapse of any appeal rights, a final decision has been issued by the Hearing Officer, the Disciplinary Review Committee and/or the Board of Directors pursuant to these rules; or

c. An Ethics Complaint has been terminated or withdrawn by the complainant(s).

2. **Events Which Will Cause an NREP Ethics Case Decision and Order to Become Final.** The Ethics Case Decision and Order that is not appealed will be final.

N. REAPPLICATION AND REINSTATEMENT PROCEDURES FOLLOWING REVOCATION, SUSPENSION, AND PROBATION ORDERS.

1. **Revocation Orders/Reapplication Petition.** Five (5) years after the issuance of a final revocation order issued under these rules, a respondent may submit to the Board of Directors a Petition For Permission To Reapply for Certification (Reapplication Petition), as set forth in Section 4, below.

2. **Suspension Orders/Reinstatement Requests.** After the expiration of a final suspension order issued under these rules, a respondent may submit to the Board of Directors a Request For Certification Reinstatement (Reinstatement Request), as set forth in Section 4, below.

3. **Probation Orders/Reinstatement or Referral.** Following the expiration of a final probation order under these rules, the NREP, by the Ethics Hearing Officer or the Executive Director, will determine whether the respondent has or has not satisfied the terms of the probation order and do the following:

- a. If the respondent has satisfied the terms of probation in full, the NREP will immediately verify that the probation has been completed and reinstate the individual to full certification status; or
- b. If the respondent has not satisfied the terms of probation in full, the NREP Ethics Hearing Officer and the Executive Director will refer the case to the Disciplinary Review Committee for review and action consistent with these rules, including, but not limited to, continuation of the probation order and issuance of additional sanctions on probation terms.

4. **Contents of Reapplication Petitions And Reinstatement Requests.** Subject to the time requirements above, the Board of Directors will consider Reapplication Petitions and Reinstatement Requests from those who have been the subject of a final revocation and or suspension orders, respectively. Reapplication Petitions and Reinstatement Requests will include the following information:

- a. A statement of the relevant ethics case name, docket number, and the date that the final NREP Ethics Decision was issued;
- b. A statement of the reasons that the respondent believes support or justify the acceptance of the Reapplication Petition or the Reinstatement Request, including a statement explaining why the respondent should now receive NREP certification; and,
- c. Copies of any relevant documentary or other material upon which the respondent relies in support of the Petition or Request.

5. **Board of Directors Reapplication Petition and Reinstatement Request Review.** Within ninety (90) days after the submission of a complete Reapplication Petition or Reinstatement Request, or as soon after as practical, the Board of Directors will schedule and conduct a hearing to review and rule on the Petition or Request. Each petition or Request will be considered by a quorum of the Board. During these deliberations, the Board will review: the information presented by the respondent; and/or any other relevant information. The Board will then determine the outcome of the appeal by majority vote in closed session.

6. Board of Directors Reapplication Petition and Recertification Reinstatement Decisions and Orders. Within thirty (30) days of conclusion of the Board of Director's review of a Reapplication Petition or Reinstatement Request, or as soon as practical, the Board, by the Board Chair or the Executive Director, will prepare and issue a Decision And Order explaining the decision with respect to the Petition or Request. The final Board Decision and order will indicate whether the Petition or Application is granted, denied or continued to a later date if appropriate, the Decision and Order will indicate any conditions of certification or recertification. Copies of the Board of Directors Decision and Order are permitted by the NREP; the respondent may submit a new Petition or Request pursuant to this Section, one (1) year or more after the issuance of the Board Decision and Order.