

NEBRASKA ADMINISTRATIVE CODE

TITLE 227 - DEPARTMENT OF LABOR

CHAPTER 19 - DENYING, SUSPENDING, REVOKING OR REFUSING TO RENEW LICENSE

001. This chapter is adopted pursuant to *Neb. Rev. Stat.* §48-1708.

002. The following violations are considered to be of such magnitude and seriousness that the Commissioner or the Commissioner's designee will only propose to deny or refuse to renew a license application or to suspend or revoke a license:

- A. Making a misrepresentation, false statement or certification or willfully concealing information on the license application;
- B. Willfully making or causing to be made any false, fraudulent or misleading representation, or publishing or circulating any false, fraudulent or misleading information concerning the terms, conditions or existence of employment at any place or by any person;
- C. Violating or causing to be violated an existing contract of employment;
- D. Knowingly employing an alien not legally present or legally employable in the United States;
- E. Assisting an unlicensed person to act as a farm labor contractor;
- F. In any way inducing an employee or subcontractor of the contractor to give up any part of the compensation to which the employee or subcontractor is entitled under a contract or under federal or state wage laws;
- G. Intentionally altering a license or permit, or using the license or permit of another;
- H. Knowingly permitting another to use the licensee's license or permit; or
- I. Failing to provide worker's compensation insurance if required to do so.

003. When the applicant for a license or a licensee demonstrates that the applicant's or licensee's character, reliability or competence makes the applicant or licensee unfit to act as a farm labor contractor, the Commissioner or the Commissioner's designee shall propose that the license application be denied or license of the licensee be suspended, revoked or not renewed.
004. The following actions of a farm labor contractor license applicant or licensee demonstrate that the applicant's or the licensee's character, reliability and competence make the applicant or licensee unfit to act as a farm labor contractor:
- A. Conviction of a felony in connection with the applicant's or licensee's business operations as a farm labor contractor;
  - B. Willful violation of the terms and conditions of any work agreement or contract;
  - C. Failure to comply with federal, state or local laws or ordinances relating to the payment of wages, income taxes, social security taxes, unemployment compensation tax or any tax of any sort;
  - D. Knowingly fail or refuse to seek food, water, shelter, or medical attention, or to provide any other necessary goods or services required for the safety and health of workers;
  - E. Failure to file or furnish all forms and other information required;
  - F. Failure to report any change in the circumstances under which the license was issued, including the failure to notify the Division of any change in the permanent or temporary address of the applicant or licensee.
005. When a farm labor contractor's license application is denied or a license is revoked or when the Commissioner refuses to renew a license, the Commissioner or the Commissioner's designee will not issue the applicant or licensee a license for a period of three (3) years from the date of the denial, refusal to issue or revocation of the license.
006. Notwithstanding paragraph 005 above, the Commissioner, for good cause shown, may issue a license to a contractor whose application has been previously denied or whose license was not renewed or was revoked before the expiration of three (3) years, provided:
- A. the contractor submits a petition explaining each and every reason why the contractor should be licensed; and
  - B. the contractor files a completed application with the petition and pays the appropriate fees.
007. The Commissioner shall grant or deny the petition referred to in paragraph 006 above and in so doing shall consider the following factors:

- A. the magnitude and seriousness of the violation or violations which led to the denial, refusal to renew or revocation of the license;
  - B. the petitioner's past history in taking all necessary measures to prevent or correct violations of statutes or rules;
  - C. the petitioner's other prior violations of the statute or rules, if any;
  - D. other matters which indicate to the Commissioner that the petitioner is not likely to violate these rules in the future.
008. All hearings relating to the procedures set forth in these rules and in the Farm Labor Contractors Act shall be held pursuant to 223 NAC 5, and the Administrative Procedures Act.