

Board Rule 8.4.1

Projects with inadequately sealed documents or work performed by an unlicensed individual may be remediated under the following circumstances:

Pursuant to a complaint alleging the unlicensed practice of engineering or architecture, the Board may, at its discretion, allow work not in compliance with the E&A Act or the E&A Rules to be remediated by the following method:

- A licensed architect or professional engineer, as appropriate, must submit a letter to the Board bearing the architect's or professional engineer's seal, explaining their relationship to the project, and identifying deficiencies, if any, found in the improperly sealed documents, including the need for involvement of other design disciplines; and
- If the project is under construction, the remediation architect or professional engineer must identify immediate concerns of public safety and, when required, notify the appropriate authority to halt construction; and
- If deficiencies are identified, the remediation architect or professional engineer must recommend design solutions to correct those deficiencies; and
- The letter will become a permanent part of the existing contract documents; and
- Revisions made to the deficient documents by the remediation architect or professional engineer must be attributed accordingly; and
- The remediation architect or professional engineer must assume responsibility for the design, and a coordinating professional must be designated if required; and
- New documents, prepared by the licensed professionals involved must be sealed, signed, and dated; and
- The remediation architect or professional engineer shall not seal any of the unsealed or improperly sealed documents with respect to the project.
- The remediation architect or professional engineer will submit a final letter confirming the project is in compliance with the E&A Act, all deficiencies have been removed, and taking responsibility for the project.

If there are portions of this document that conflict with the Engineers and Architects Regulation Act and Board Rules, the Act and Rules take precedence.

A GUIDE TO REMEDIATION

**Developed to Assist Owners
and Licensees in Bringing Non-
Compliant Projects Back Into
Compliance with the E&A Act**



**STATE OF NEBRASKA BOARD OF
ENGINEERS AND ARCHITECTS**

WHO WE ARE

The Nebraska Board of Engineers and Architects was created in 1937 to protect life, health and property and to promote the public welfare of Nebraska citizens and visitors. We license architects and professional engineers to ensure they are competent to practice and assist the public in determining if new buildings or renovations require the involvement of a licensee.

Our Board is comprised of four professional engineers, three architects, and one member of the public.

THE NEBRASKA ENGINEERS AND ARCHITECTS REGULATION ACT

The Nebraska Engineers and Architects Regulation Act contains the statutes that describe when licensees are required. Board Rules – Title 110 of the Nebraska Administrative Code – further clarify provisions of the E&A Act. Both the E&A Act and Board Rules can be found online at ea.nebraska.gov/ea-act. A handbook containing the E&A Act and Board Rules may be requested by emailing nbea.office@nebraska.gov.

COST OF NON-COMPLIANCE

Following the E&A Act can help you protect your property, protect persons on your property, and prevent damage or liability from improperly constructed buildings.

When the E&A Act is not followed, property owners and developers may be liable if a structure was in violation of the Act when built and subject to fines and civil penalties authorized by state statute.

WHAT IS REMEDIATION?

Engaging an architect and/or professional engineer to review the project and identify concerns to public safety, health and welfare.

If deficiencies are identified, the remediation professional must recommend design solutions to remedy the issue(s).

COMPLAINTS

Anyone can file a complaint with the Board related to a building, renovation, or addition project in Nebraska if there is an apparent violation of the E&A Act and/or Board Rules. The Board commonly receives complaints from members of the public, professionals in the building industry, other state agencies, and professional organizations and societies.

ABOUT THIS BROCHURE

This brochure contains frequently-asked questions that both project owners and licensees involved in remediation may have about the remediation process

If you have any questions about remediation or making sure your project is compliant with the Nebraska E&A Regulation Act, please contact us and our staff will be able to assist you further.



**STATE OF NEBRASKA BOARD OF
ENGINEERS AND ARCHITECTS**

Nebraska Board of Engineers and Architects
215 Centennial Mall S, Suite 400
Lincoln, NE 68508

Main Office: **(402) 471-2021**

Compliance Officer: (402) 471-9602

For more Brochures/Material: (402) 471-3044

As the Project's Owner, what do I need to do to remediate my project?

If your project has entered remediation, you will receive detailed written guidance from the Board about the remediation process.

Does remediation require both an architect and a professional engineer?

When the Board authorizes remediation, the Board will specify whether the project involves the practices of architecture and/or engineering. The owner will receive a letter from the Board detailing whether an architect and/or professional engineer(s) will need to be involved. While reviewing a project, one professional might observe components of the project outside their area of competency. This may necessitate other licensed design professionals becoming involved in the remediation process, including but not limited to, an architect, professional engineer, professional engineer of a specific discipline, an electrician, mason, HVAC specialist, or plumber.

Does the Board select the remediation professionals for my project?

No, the Board does not select, assign, or recommend licensed professionals to remediate a project. It is up to the owner to find a licensed architect and/or professional engineer. To help find a licensed professional, the Board has a Licensee Lookup feature on its website — ea.nebraska.gov — to assist the public in finding licensed architects and professional engineers nearby. The Board also maintains a registry of licensed architects and professional engineers who have expressed their willingness to assist project owners with remediation.

Does a coordinating professional need to be designated?

Yes, if multiple licensees are involved in the remediation. The coordinating professional should be designated in the remediation letter and appear on the cover sheet of any newly produced technical documents.

My project is already under construction. Must construction stop during remediation?

Not necessarily. A complaint and remediation process is not an order to stop construction. The licensed remediation professional(s) will review any existing plans and the structure itself to identify any deficiencies. If the remediation professional identifies immediate public safety concerns, it is the professional's responsibility to notify appropriate authorities. Notification may result in a stop order from the local building official. It may be appropriate to stop construction if the remediation professional identifies deficiencies that raise an immediate concern. Stopping construction allows deficiencies to be corrected and can deter additional potential deficiencies created during construction.

If your project is not under construction, the licensees will either prepare plans or review existing plans and make recommendations as required to protect life, health, and safety of the occupants.

Other local or state agencies have already approved my project. Isn't that enough?

Remediation of these projects is meant to bring them into compliance with the Engineers and Architects Regulation Act, and the Board is the only agency charged with enforcing the Act. If the project owner chooses not to remove the design deficiencies and complete the design solutions identified by the remediation licensees, the Board will not consider the project to follow the Act.

Approval of your project by local or other state agencies, or issuance of a building or occupancy permit by local building officials, does not mean the project is in compliance with the Engineers and Architects Regulation Act. Local or other state agencies are not required to check if a project meets regulatory requirements other than their own. They are only checking that their requirements are being met. The property owner may be subject to disciplinary action if remediation is not completed as required under the Act.

Do technical documents need to be submitted to local building officials and the State Fire Marshal again?

It depends. If the deficiencies require design corrections or revisions to existing documents, these officials may require another submission of technical documents. A copy of the remediation letter should be included with any new submission of technical documents.

I am the remediation professional for a project. What should I include in my initial remediation letter?

The initial remediation letter should reflect every step of the remediation process provided in Board Rule 8.4.1.1.1 to 8.4.1.1.9.

Generally, the letter should include:

1. Identification of the project and an explanation of the remediation professionals' relationship to the project.
2. Identification of any deficiencies, including any that raise immediate concerns of public safety. If there are immediate public safety concerns, the remediation professional should indicate whether there is a local authority to notify and whether they did notify the authority.
3. Describe your recommendations to correct deficiencies and the kinds of technical documents that may need to be produced.
4. Statement affirming the remediation professional takes responsibility for the remediation design.
5. If remediation requires the involvement of other design disciplines, identify those disciplines or licensed professionals and designate a coordinating professional. If there are multiple design professionals involved, each licensee may prepare their own remediation letter. The coordinating professional would then prepare a letter that lists each design professional involved and their roles in the remediation. Alternatively, each licensee would prepare their portion of the remediation letter and identify the portion that they are responsible for.
6. Seal, sign, and date the letter.

What should I include in my final remediation letter?

The final letter must confirm the project is in compliance with the E&A Act, all deficiencies have been removed, and taking responsibility for the project.

What should I do if my review suggests that other design professionals should be involved in the remediation?

If there is a reason to believe an architect, professional engineer of a different discipline, or other design professionals should be involved in the remediation, describe that observation in the remediation letter to the Board.

Do new building plans and technical documents need to be produced during remediation?

Not for every project. There are three general conclusions of a remediation review:

- 1. The remediation professional did not identify any deficiencies.**
When there are no deficiencies, there is no need to produce technical documents.
- 2. Deficiencies were identified, but they can be corrected without the need to produce new technical documents.**
In this situation, the deficiencies can be corrected through a detailed written description provided by the remediation professional in a remediation letter.
 - If building plans already exist, the remediation professional may make corrections through annotations, clouding, and deltas.
 - If existing documents are revised, the revisions must be attributed to the individual responsible for the revisions.
- 3. Deficiencies were identified that are complex enough to require the preparation of new technical documents.**
In this case, technical documents will be produced by the remediation professional in addition to the remediation letter.