

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Health

Office Memorandum

TO : Lee Sheehy
Special Assistant
Attorney General
Dept. of Administration

DATE: April 5, 1979

FROM : William G. Miller
Special Assistant
Attorney General

PHONE: 6-5500

SUBJECT: In the Matter of Proposed Rules Relating to the Registration of Environmental Health Specialists/Sanitarians

As per our conversation of April 5, 1979, the following typographical errors should be changed in the copy of the rules as adopted in the above referenced matter:

7 MCAR § 1.546 B 7: The word "Sanitarian" should be preceded by the word "or" rather than "of."

7 MCAR § 1.546 8 f: The word following "technical" should be "advances" rather than "advanced."

It is my understanding that, with these corrections, the rules will be acceptable. If you will notify me upon your approval, I will have the rules package picked up at your office.

Thanks for your cooperation.

WGM:ejb

#.515 Dept of Health
(Environmental Health Specialists/Sanitarians)

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 3/19 Temporary Rule _____

Resubmitted and Received _____

DUE DATE 4/6

a. Returned to Agency w/o filing w/Secy of State ~~4/6~~
b. Approved 4/5 Date Sent Back to Agency _____

- -

1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable N.A.
4. Order for Hearing ✓
5. Notice of Hearing ✓
   (i) Sufficiency ✓
6. Secretary of State's List ✓
7. Certificate of Acquisition of Secretary of State's List ✓
8. Affidavit of Mailing ✓
   (i) At least 30 days prior to hearing ✓
9. Statement of Need and Evidence ✓
10. Hearing Examiner's Report ✓
11. Agency's Findings of Fact ✓
12. Certificate of Board's Resolution Adopting Rules, where applicable N.A.
13. Order Adopting ✓
14. Report of Chief Hearing Examiner ✓ ✓
    (i) Finding of No Substantial Change
    (ii) Permission to Incorporate by Reference, where applicable N.A.
15. Certificate of Compliance with Rulemaking Procedures ✓
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable N.A
17. Petition by Public, where applicable N.A.

Aff. of Party Mailing ✓

Rules of the Commissioner of Health Relating
to the Registration of Environmental Health Specialists/Sanitarians

Chapter 30

Human Services Occupations

Part II

7MCAR S 1.546 - 1.550 REGISTRATION OF ENVIRONMENTAL HEALTH SPECIALISTS/SANITARIANS

7MCAR S 1.546 PURPOSES AND DEFINITIONS

A. Purpose

The purpose of 7MCAR §§ 1.546 - 1.550 is to establish the administrative structure, the procedures and the requirements for the registration of those persons who are qualified to present themselves as Environmental Health Specialists/Sanitarians.

B. Definitions

For the purposes of 7MCAR §§ 1.546 - 1.550, the words, terms and phrases listed below in this subdivision shall have the meaning stated herein, unless the language and context clearly indicates that a different meaning is intended.

1. "Acceptable continuing education activity" means a learning experience in which a registrant has participated, evidence of which he/she submits to the Council as part of the application for registration renewal, and which meets the requirements stated in these rules.
2. "Applicant" means a person who applies pursuant to these rules, either initially or on a renewal basis, to be registered as an Environmental Health Specialist or Sanitarian.
3. "Commissioner" means Commissioner of Health.
4. "Contact Hour" means an instructional session of fifty consecutive minutes excluding coffee breaks, registration, meals (with or without speaker) or other social activities.
5. "Council" means Environmental Health Specialists/Sanitarians Advisory Council as referenced in 7MCAR § 1.548.

6. "Environmental Health Specialist/Sanitarian" means a person registered pursuant to these rules to plan, organize, manage, implement, and evaluate one or more program areas comprising the field of environmental health. Environmental program areas include but are not limited to: food, beverage and lodging sanitation; housing; refuse disposal; water supply sanitation; rodent, insect and vermin control; accident prevention; swimming pool and public bathing facility sanitation; radiation safety; air and water quality, noise pollution, and institutional and industrial hygiene. Implementation includes community education, investigation, consultation, review of construction plans, collection of samples and interpretation of laboratory data, enforcement actions, review and recommendation of policy and/or regulation.

7. "Registration" or "registered" means that an applicant has been found by the Commissioner to meet the qualifications specified in these rules to protect environmental health. Only persons so registered are permitted to use the designated titles of "Environmental Health Specialist" ~~of~~ or "Sanitarian" or the initials "R.S." Chg by Jim Shelby per agency memo to correct typo

8. "Registration Examination" means the examination approved by the Commissioner and administered by the Commissioner or his designated agent. For approval the examination must meet the following criteria:

   a. The examination has been validated by a content validity study which consists of data showing that the examination covers a representative sample of the job tasks, work behaviors, performance skills to be performed on the job for which the applicant is to be evaluated; and/or

b. The examination has been validated by a criterion related validity study which consists of empirical data demonstrating that the selection procedure is predictive of, or significantly correlated with, job performance and which has a validity coefficient significant at the .05 level of significance; and

c. Validity studies are based upon a review of information about the job for which the examination is to be used, which shall include but is not limited to an analysis of job tasks, work behaviors, or performance skills that are relevant to the job; and

d. Job tasks, work behaviors, or performance skills used as a basis for test developments and validity studies must include but are not limited to the knowledge areas in the definition of Environmental Health Specialist/Sanitarian as outlined in 7MCAR § 1.546 B.6; and

e. The examination has been determined to be reliable utilizing the parallel forms or internal consistency methods of extimating reliability and the reliability coefficient is no less than .70; and

f. The examination is revised or a new form is issued when technical advances in the field indicate the examination should be updated to acknowledge related changes in the definition of Environmental Health Specialist/Sanitarian as outlined in 7MCAR § 1.546.B.6. The Commissioner may adopt for use at his discretion any standardized national test which meets these criteria.

s Chg by Jan Skaley per agency memo to correct typo

7MCAR § 1.547 REGISTRATION REQUIREMENTS; CAREER PROGRESSION; DISCIPLINARY ACTION:

A. Initial Registration

1. All applicants for initial registration shall submit an application on a form to be prepared by the Commissioner and fees as prescribed in 7MCAR § 1.547 C. The information requested by the Commissioner on the application shall be such so as to permit a complete evaluation of each applicant to determine whether the applicant meets the requirements for registration as specified in these rules and any applicable statutes. To clarify incomplete or ambiguous information presented in the application, the Commissioner may request an applicant to submit additional information as may be necessary to determine the applicant's qualifications. In order to be registered, an applicant shall provide:

   a. Evidence of receiving a baccalaureate or post-baccalaureate degree in environmental health, sanitary science, sanitary engineering or other realted environmental health field which includes at least 30 semester or 45 quarter hour credits in the physical or biological sciences; and

   b. Eivdence of at least one year of supervised employment in one or more of the program areas listed in 7MCAR § 1.546.B.6. definition of "Environmental Health Specialist/Sanitarian". Supervision shall be provided by an Environmental Health Specialist or a Sanitarian or a licensed health professional, or an Engineer or other professional with a graduate degree in one of the physical or biological sciences, or other person whom the Commissioner deems has equivalent environmental health background.

   c. Evidence of passing the registration examination.

2. For a period of six months following the effective date of the rules, an applicant may be registered without having received a baccalaureate or higher degree as provided in 7MCAR § 1.547 A.1. if the applicant:

   a. Submits evidence of experience in one or more of the program areas listed in 7MCAR 1.546 B.6. definition of an "Environmental Health Specialist" or "Sanitarian" for at least the five years immediately preceeding his/her application;

   b. Submits a statement of satisfactory employment by the employer or supervisor which indicates that the applicant has performed competently in one or more of the program areas listed in the definition of Environmental Health Specialist/Sanitarian;

   c. Submits evidence of having passed a civil service or other qualifying exam for a job classification of "Environmental Health Specialist" or "Sanitarian" or inspector or public health officer or engineer or other similar equivalent job title classification or of having successfully completed the registration exam.

3. No applicant shall make more than two attempts within the same calendar year any 12 month period to successfully complete the registration examination.

4. Persons who have attained a registration or license outside of Minnesota may be entitled to registration in Minnesota if they can provide evidence of meeting the requirements set forth in 7MCAR § 1.547 A.1.a,b and c.

B. Renewal Registration

1. An applicant's registration shall expire biennially on his/her birthday unless it is renewed. Each applicant shall be required to renew his/her registration every two years except that following the initial registration date, an applicant shall renew his/her registration no less than 24 months and no more than 36 months if he/she is registered for the first time on a date other than his/her birthday. Every applicant shall submit a completed registration renewal application, on a form provided by the Commissioner together with the renewal fee for the biennium or part thereof. The information requested by the Commissioner on the registration renewal application shall be such so as to permit a complete evaluation of each application to determine whether the applicant meets the requirements for registration renewal as specified in these rules and any applicable statutes. To clarify incomplete or ambiguous information presented in the application, the Commissioner or his agent may request an applicant to submit additional information as may be necessary to determine the applicant's qualifications for renewal. Applications submitted after the applicant's birthday must be accompanied by the late fee of $10.00 together with all other information required by this rule.

2. For registration renewal, each registrant shall submit evidence of successful completion of 24 contact hours of acceptable continuing education activities the content of which is related to one or more of the environmental program areas contained in 7MCAR § 1.546 B.6.

3. A continued education activity must meet the following criteria in order for credit to be given:

   a. It must have a specific, written objective (s) which describe expected outcomes for the participant;

   b. It must be presented by knowledgeable persons(s) who have reviewed the development in the subject being covered in the program within the last two years. His/her qualifications must be documented by one of the following:

      (1) Specialized training in the subject matter;

      (2) Experience in teaching the subject matter;

      (3) Experience in working in the subject areas.

   c. It must last at least one contact hour.

   d. It must have stated in written form what mechanism was utilized to demonstrate whether or not learning did occur. The mechanism may include, but is not limited to, a successfully completed written test or a performance component.

   e. It must utilize a mechanism to validate participation. This may include, but is not limited to, earned credits and/or verification of attendance. Program sponsors shall maintain attendance sheets for three years.

4. The Council shall review the submitted evidence and decide if the evidence demonstrates that the registrant has complied with the renewal requirements set forth in 7MCAR § 1.547 B.2.3. If the Council decides that the evidence demonstrates that the registrant has so complied, the Council will recommend to the Commissioner that the registrant's continuing education activities should be accepted.

If the Council decides that the evidence does not demonstrate that the registrant has complied with 7MCAR § 1.547 B.2.3., the Council will so inform the applicant who will then have an opportunity to submit additional evidence, decide if it demonstrates that the registrant has complied with 7MCAR § 1.547 B.2.3, and recommend to the Commissioner that the registrant's continuing education activities should or should not be accepted. The Commissioner will then make the final decision regarding the acceptability of the registrant's continuing education activities.

5. Applicants who have permitted their registrations to expire for more than two years may regain their registration when they successfully complete the registration examination, complete continuing education requirements, and submit the required renewal forms and fees.

C. Application Fees

Fees to be submitted with initial or renewal applications shall be as follows:

1. Initial application fee: $30.00 plus examination fees.
2. Biennial renewal application fee: $30.00.
3. Penalty for late submission of renewal application: $10.00, if not renewed by designated renewal date.

D. Disciplinary Actions

1. Upon receipt of a complaint or other communication, whether oral or written, which alleges or implies the existence of a ground for denial of registration or disciplinary action as specified in 7MCAR § 1.547 D.2. the Commissioner or Council may initiate an investigation.

Prior to any disciplinary action a written complaint shall be obtained from a complaining party. In so doing, the Council may request the registrant to appear before them to determine the merits of the situation in question. In each case, the Council shall make a recommendation to the Commissioner as to whether proceedings under the Administrative Procedure Act would be appropriate and should be initiated.

2. The Commissioner may refuse to grant or renew a resignation, suspend or revoke a registration, or use any reasonable lesser remedy against a registrant for any of the following reasons:

   a. Submission of false or misleading information or credentials in order to obtain or renew registration; or

   b. Failure to meet the requirements for initial or renewal registration; or

   c. Incompetency; negligence or inappropriate conduct in the performance or environmental health duties or related functions.

3. Disciplinary actions shall comply with the provisions of the Administrative Procedure Act, Minn. Stat. ch. 15 (1976, as amended).

4. Upon revocation or suspension, the registrant shall return to the Commissioner his/her registration and current renewal certificates.

5. A registrant who has had his/her registration revoked shall not be entitled to apply for re-registration until at least one year following the effective date of the revocation or such longer period of time specified by the Commissioner.

A suspended registration may be reinstated upon fulfillment of the terms of suspension; provided, however, that all requirements of the rules for registration renewal, if applicable, shall be met prior to reinstatement.

7MCAR § 1.548 THE ENVIRONMENTAL HEALTH SPECIALIST/SANITARIAN ADVISORY COUNCIL

A. Membership

The Council shall consist of seven members appointed by the Commissioner as follows:

1. Two public members as defined in Minn. Stat. § 214.02 (1976, as amended);
2. One educator or a representative from a regulated industry for which Environmental Health Specialists/Sanitarians are charged with enforcement of the regulation;
3. Four Environmental Health Specialists/Sanitarians representative of county, municipal and state agencies which reflect the distribution of Environmental Health Specialists/Sanitarians among these employers at the time of appointment.

B. Organization, Duties and Responsibilities

1. The Council shall be organized and administered under the provisions of Minn. Stat. § 15.059 (1976, as amended) and the Commissioner's policies relating to advisory councils.
2. The Council shall:
   a. Advise the Commissioner regarding Environmental Health Specialist/Sanitarian registration standards;
   b. Advise the Commissioner on enforcement of the Environmental Health Specialist/Sanitarian rules;

c. Provide for the dissemination of information regarding Environmental Health Specialist/Sanitarian registration standards;

d. Review applications and recommend applicants for registration or registration renewal.

7MCAR §§ 1.549-1.550 Reserved for future use.

APPROVED AS TO FORM AND LEGALITY

APR. 5 1979 19

WARREN SPANNAUS, ATTORNEY GENERAL

BY

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR - 6 1979
Joan Anderson Growe
Secretary of State

9:55 a.m.

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Health

Office Memorandum

TO : Lee Sheehy
Special Assistant
Attorney General
G-25 Administration Building

DATE: March 13, 1979

FROM : William G. Miller
Special Assistant
Attorney General

PHONE: 6-5500

SUBJECT: In the Matter of Proposed Rules Relating to the Registration of Environmental Health Specialists/Sanitarians

I have enclosed for your review, pursuant to Minn. Stat. § 15.0412 subd. 4 (1978) the record, with all relevant documents, relating to the adoption of the above referenced rules.

WGM:ejb

Enclosure

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General William G. Miller, do hereby declare that I have examined the proposed rules relating to the Registration of Environmental Health Specialists/Sanitarians and all related documents and that, based on such examinations and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

Dated: 1-26, 1979

WILLIAM G. MILLER
Special Assistant
Attorney General

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to the Registration of
Environmental Health
Specialists/Sanitarians

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above- entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (Supp. 1977), in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Tuesday, November 30, 1978, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Steve Mihalchick, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8112, either before the hearing or within five (5) working days after the close of the hearing. The Hearing Examiner may keep the record open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished.

In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

If adopted, the proposed rules would specify the administrative structure, the procedures and the requirements for the registration of those persons with training in environmental health who want to use the titles of Environmental Health Specialists/Sanitarians. In general the proposed rules specify:

1. A definition of an Environmental Health Specialist/Sanitarian that is the scope of practice;

2. The requirements for initial registration;

3. The requirements for renewal of registration;

4. The fee schedule for initial and renewal registration;

5. The process and procedures for disciplinary actions; and

6. The membership and responsibilities of the Environmental Health Specialist/Sanitarian Advisory Council.

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to the Minnesota Department of Health, in care of Colleen Coghlan, 717 Delaware Street Southeast, Minneapolis, Minnesota, 55440. Additional copies will be available at the door on the date of the hearing.

The statutory authority of the Commissioner of Health to promulgate and adopt these rules is contained in Minn. Stat. §§ 214.001, 214.13, and 214.14 (1976).

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Laws 1970, ch. 463, § 11 as any individual:

> (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or
>
> (b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

(Emphasis added.)

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiner at a minimal charge.

Dated: October 13, 1970

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

/s/Warren R. Lawson
Warren R. Lawson, M.D.
Commissioner of Health

RECEIVED
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EXAMINERS

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to the Registration of
Environmental Health
Specialists/Sanitarians

ORDER FOR HEARING

To effectively implement Minn. Stat. § 214.001, 214.13, and 214.14, the Minnesota Commissioner of Health deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in him by the above-referenced statutes and Minn. Stat. § 144.011 (Supp. 1977).

NOW, THEREFORE, IT IS ORDERED this 13th day of October, 1978, that a public hearing on the proposed rules captioned above be held in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on November 30, 1978, commencing at 9:30 a.m., and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard.

IT IS FURTHER ORDERED that notice of said hearing be published in the State Register and be given to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose and to all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA
COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

Dept's Exhibit No. E
File No.
Date

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to the Registration of
Environmental Health
Specialists/Sanitarians

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (Supp. 1977), in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Tuesday, November 30, 1978, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Steve Mihalchick, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8112, either before the hearing or within five (5) working days after the close of the hearing. The Hearing Examiner may keep the record open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

If adopted, the proposed rules would specify the administrative structure, the procedures and the requirements for the registration of those persons with training in environmental health who want to use the titles of Environmental Health Specialists/Sanitarians. In general the proposed rules specify:

1. A definition of an Environmental Health Specialist/Sanitarian that is the scope of practice;

2. The requirements for initial registration;

3. The requirements for renewal of registration;

4. The fee schedule for initial and renewal registration;

5. The process and procedures for disciplinary actions; and

6. The membership and responsibilities of the Environmental Health Specialist/Sanitarian Advisory Council.

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to the Minnesota Department of Health, in care of Colleen Coghlan, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

The statutory authority of the Commissioner of Health to promulgate and adopt these rules is contained in Minn. Stat. §§ 214.001, 214.13, and 214.14 (1976).

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Laws 1978, ch. 463, § 11 as any individual:

> (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or
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> (b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

(Emphasis added.)

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiner at a minimal charge.

Dated: October 13, 1978

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

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NOV 3 1978
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of Proposed Rules Relating to the Registration of Environmental Health Specialists/ Sanitarians

AFFIDAVIT OF MAILING

Elaine Carney, being first duly sworn, deposes and says; That on the 25th day of October, 1978, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses provided as in the attached Certificate of the Secretary of State.

Elaine D. Carney

Subscribed and sworn to before me this 3rd day of November 1978.

Alice D. Hummer

ALICE D. HUMMER
Notary Public, Ramsey Co., Minn.
My Commission Expires
Nov. 18, 1981

Dept's Exhibit No. I
File No.
Date

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OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules Relating to the Registration of Environmental Health Specialists/ Sanitarians

AFFIDAVIT OF RECEIPT

OF THE
SECRETARY OF STATE'S LIST

Colleen Coghlan, being duly sworn upon oath, deposes and says:

1. That she is an employee of the Minnesota Department of Health.

2. That on the 23rd day of October, 1978, she called the Minnesota Secretary of State's office and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules or amendments thereto pursuant to Minn. Stat. §§ 15.0412 subd. 4 (1976).

3. That on the 24th day of October, 1978, in response to the above request, the Secretary of State provided her with such a list, a photocopy of which is attached hereto and incorporated by reference.

Not enclosed sm

Further affiant sayeth not.

MARY WICKHOLM
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
My Commission Expires April 6, 1985.

Colleen Coghlan
COLLEEN COGHLAN

Subscribed and sworn to before me this 3rd day of Nov., 1978.

Mary Wickholm

Dept's Exhibit No. H
File No.
Date

RECEIVED
NOV 3 1978
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed Adoption
of Rules of Health Division
Governing Environmental Health Specialists / Sanitarians

I hereby certify that the attached 385 labels x 9 sheets constitute the complete list of persons, associations, and other interested groups who as of 11:15 o'clock A. .M, this 24th day of Oct., 1978, have requested pursuant to M.S. 1976, 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State
Joan Anderson Growe

By Kathy Helm

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules Relating to the Registration of Environmental Health Specialists/ Sanitarians

STATEMENT OF NAMES OF AGENCY

WITNESSES

The following persons will appear at the hearing in the above captioned matter as representatives of the Minnesota Commioner of Health and/or as witnesses on behalf of the Minnesota Department of Health:

Kathryn Lamp
Richard Wade
Colleen Coghlan

Dated: November 3, 1978

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

Allen Z. Fiber Deputy Commissioner
for WARREN R. LAWSON, M.D.
Commissioner of Health

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules Relating to the Registration of Environmental Health Specialists/Sanitarians

STATEMENT OF NUMBER OF PERSONS EXPECTED TO ATTEND AND LENGTH OF HEARING

The number of persons expected to attend the hearing in the above-captioned matter is 50.

It is estimated that the length of time the agency will require for presentation of its evidence will be three hours.

Dated: October 13, 1978

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of Proposed Rules
Relating to the Registration of
Environmental Health Specialists/
Sanitarians

AFFIDAVIT OF
POSTING A NOTICE

Elaine S. Carney, being first duly sworn, deposes and says:

That on Tuesday, the 28th of November, 1978, at the Minnesota Department of Health, 717 Delaware Street SE, City of Minneapolis, County of Hennepin, State of Minnesota, she posted a notice in the Board Room which read as follows:

> The Public Hearing on the Proposed Rules to Register Environmental Health Specialists/Sanitarians is to be held on Thursday, November 30. The Notice of Hearing incorrectly listed the day as Tuesday. For more information, please check with the person at the information desk across the hall or call Colleen Coghlan at 296-5532.
>
> Notice posted at 8:15 AM, Tuesday, November 28, 1978.

Elaine S Carney

Subscribed and sworn to before me
this 29th day of November, 1978.

Mary Wickholm

MARY WICKHOLM
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
My Commission Expires April 6, 1985.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of Proposed Rules Relating to the Registration of Environmental Health Specialists/ Sanitarians

AFFIDAVIT OF RESPONDING TO PUBLIC INQUIRY

Bette Tisdell, being first duly sworn, deposes and says:

That on Tuesday, the 28th day of November, 1978, at the Minnesota Department of Health, 717 Delaware Street SE, City of Minneapolis, County of Hennepin, State of Minnesota, she observed no persons reading the notice posted on the door of the Board Room and she was not asked for information by anyone who had read the notice.

Bette A. Tisdell

Subscribed and sworn to before me

this 29 day of November, 1978.

Elaine S. Carney

ELAINE S. CARNEY
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires Oct. 3, 1985.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the matter of the Proposed Rules Relating to the Registration of Environmental Health Specialists/ Sanitarians
HLTH 79-014-SM

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Minnesota Commissioner of Health on the 30th day of November, 1978 in the Board Room, Minnesota Department of Health Building, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, after proper notice required by Minn. Stat. § 15.0412 (1976) was served upon all persons, association and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, and having heard and considered all of the testimony and evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, upon the Findings and Conclusions Attached hereto, and having confirmed the need for the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as 7MCAR 1.546 - 1.550 (Minn. Rule MHD 546-550) are adopted this 19 day of January pursuant to authority vested in me by Minn. Stat. § 214.013 (1976).

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

Warren R. Lawson, M.D.
Acting Commissioner of Health

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE COMMISSIONER OF HEALTH

IN THE MATTER OF PROPOSED RULES)
RELATING TO THE REGISTRATION OF)
ENVIRONMENTAL HEALTH SPECIALISTS/)
SANITARIANS.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on November 30, 1978, before Steve M. Mihalchick, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Commissioner of Health on December 21, 1978; and

WHEREAS, the Commissioner of Health has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Commissioner of Health has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Commissioner of Health has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Commissioner of Health has the responsibility of submitting the complete hearing record and the rules as adopted by the Commissioner to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 31st day
of January, 1979.

DUANE R. HARVES
Chief Hearing Examiner

Chapter 30

Human Services Occupations

Part II

7MCAR § 1.546 - 1.550 REGISTRATION OF ENVIRONMENTAL HEALTH SPECIALISTS/SANITARIANS

7MCAR § 1.546 PURPOSES AND DEFINITIONS

A. Purpose.

The purpose of 7MCAR § 1.546 - 1.550 is to establish the administrative structure, the procedures and the requirements for the registration of those persons who are qualified to present themselves as Environmental Health Specialists/Sanitarians.

B. Definitions

For the purposes of 7MCAR § 1.546 - 1.550, the words, terms and phrases listed below in this subdivision shall have the meaning stated herein, unless the language and context clearly indicates that a different meaning is intended.

1. "Acceptable continuing education activity" means a learning experience in which a registrant has participated, evidence of which he/she submits to the Council as part of the application for registration renewal, and which meets the requirements stated in these rules.
2. "Applicant" means a person who applies pursuant to these rules, either initially or on a renewal basis, to be registered as an Environmental Health Specialist or Sanitarian.
3. "Commissioner" means Commissioner of Health.
4. "Contact Hour" means an instructional session of fifty consecutive minutes excluding coffee breaks, registration, meals (with or without speaker) or other social activities.
5. "Council" means Environmental Health Specialists/Sanitarians Advisory Council as referenced in 7MCAR § 1.548.

6. "Environmental Health Specialist/Sanitarian" means a person registered pursuant to these rules to plan, organize, manage, implement, and evaluate one or more program areas comprising the field of environmental health. Environmental program areas include but are notlimited to: food, beverage and lodging sanitation; housing; refuse disposal; water supply sanitation; rodent, insect and vermin control; accident prevention; swimming pool and public bathing facility sanitation; radiation safety; air and water quality, noise pollution, and institutional and industrial hygiene. Implementation includes community education, investigation, consultation, review of construction plans, collection of samples and interpretation of laboratory data, enforcement actions, review and recommendation of policy and/or regulation.

7. "Registration" or "registered" means that an applicant has been found by the Commissioner to meet the qualifications specified in these rules to protect environmental health. Only persons so registered are permitted to use the designated titles of "Environmental Health Specialist" or "Sanitarian" or the initials "R.S.".

8 "Registration Examination" means the examination approved by the Commissioner and administered by the Commissioner or his designated agent. For approval the examination must meet the following criteria:

a. The examination has been validated by a content validity study which consists of data showing that the examination covers a representative sample of the job tasks, work behaviors, performance skills to be performed on the job for which the applicant is to be evaluated; and/or

b. The examination has been validated by a criterion related validity study which consists of empirical data demonstrating that the selection procedure is predictive of, or significantly correlated with, job performance and which has a validity coefficient significant at the .05 level of significance; and

c. Validity studies are based upon a review of information about the job for which the examination is to be used, which shall include but is not limited to an analysis of job tasks, work behaviors, or performance skills that are relevant to the job; and

d. Job tasks, work behaviors, or performance skills used as a basis for test developments and validity studies must include but are not limited to the knowledge areas in the definition of Environmental Health Specialist/Sanitarian as outlined in 7MCAR § 1.546 B.6.; and

e. The examination has been determined to be reliable utilizing the parallel forms or internal consistency methods of estimating reliability and the reliability coefficient is no less than .70; and

f. The examination is revised or a new form is issued when technical advances in the field indicate the examination should be updated to acknowledge related changes in the ~~scope of practice.~~ definition of Environmental Health Specialist/Sanitarian as outlined in 7MCAR § 1.546.B.6.

The Commissioner may adopt for use at his discretion any standardized national test which meets these criteria.

7MCAR § 1.547 REGISTRATION REQUIREMENTS; CAREER PROGRESSION; DISCIPLINARY ACTION

A. Initial Registration

1. All applicants for initial registration shall submit an application on a form to be prepared by the Commissioner and fees as prescribed in 7MCAR § 1.547 C. The information requested by the Commissioner on the application shall be such so as to permit a complete evaluation of each applicant to determine whether the applicant meets the requirements for registration as specified in these rules and any applicable statutes. To clarify incomplete or ambiguous information presented in the application, the Commissioner may request an applicant to submit additional information as may be necessary to determine the applicant's qualifications. In order to be registered, an applicant shall provide:

   a. Evidence of receiving a baccalaureate or post-baccalaureate degree in environmental health, sanitary science, sanitary engineering or other related environmental health field which includes at least 30 semester or 45 quarter hour credits in the physical or biological sciences; and

   b. Evidence of at least one year of supervised employment in one or more of the program areas listed in 7MCAR § 1.546. B.6. definition of "Environmental Health Specialist/Sanitarian". Supervision shall be provided by an Environmental Health Specialist or a Sanitarian or ~~a licensed health professional, or an Engineer or other professional with a graduate degree in one of the physical or biological sciences.~~ other person whom the Commissioner deems has equivalent environmental health background.

   c. Evidence of passing the registration examination.

2. For a period of six months following the effective date of the rules, an applicant may be registered without having received a baccalaureate or higher degree as provided in 7MCAR §§ 1.547 A.1. if the applicant:

   a. Submits evidence of experience in one or more of the program areas listed in 7MCAR 1.546 B.6. definition of an "Environmental Health Specialist" or "Sanitarian" for at least the five years immediately preceeding his/her application;

   b. Submits a statement of satisfactory employment by the employer or supervisor which indicates that the applicant has performed competently in one or more of the program areas listed in the definition of Environmental Health Specialist/Sanitarian;

   c. Submits evidence of having passed a civil service or other qualifying exam for a job classification of "Environmental Health Specialist" or "Sanitarian" or ~~inspector or public health officer or engineer~~ or other ~~similar~~ equivalent job ~~title~~ classification or of having successfully completed the registr tion exam.

3. No applicant shall make more than two attempts within ~~the same calendar year~~ any 12 month period to successfully complete the registration examination.

4. Persons who have attained a registration or license outside of Minnesota may be entitled to registration in Minnesota if they can provide evidence of meeting the requirements set forth in 7MCAR §§ 1.547 A.1. a,b and c.

B. Renewal Registration

1. An applicant's registration shall expire biennially on his/her birthday unless it is renewed. Each applicant shall be required to renew his/her registration every two years except that following the initial registration date, an applicant shall renew his/her registration no less than 24 months and no more than 36 months if he/she is registered for the first time on a date other than his/her birthday. Every applicant shall submit a completed registration renewal application, on a form provided by the Commissioner together with the renewal fee for the biennium or part thereof. The information requested by the Commissioner on the registration renewal application shall be such so as to permit a complete evaluation of each application to determine whether the applicant meets the requirements for registration renewal as specified in these rules and any applicable statutes. To clarify incomplete or ambiguous information presented in the application, the Commissioner ~~or his agent~~ may request an applicant to submit additional information as may be necessary to determine the applicant's qualifications for renewal. Applications submitted after the applicant's birthday must be accompanied by the late fee ~~of $10.00~~ together with all other information required by this rule.

2. For registration renewal, each registrant shall submit evidence of successful completion of 24 contact hours of acceptable continuing education activities the content of which is related to one or more of the environmental program areas contained in 7MCAR § 1.546 B.6.

3. A continued education activity must meet the following criteria in order for credit to be given:

   a. It must have a specific, written objective (s) which describe expected outcomes for the participant;

   b. It must be presented by knowledgeable persons(s) who have reviewed the development in the subject being covered in the program within the last two years. His/her qualifications must be documented by one of the following:

      (1) Specialized training in the subject matter;

      (2) Experience in teaching the subject matter;

      (3) Experience in working in the subject areas.

   c. It must last at least one contact hour.

   d. It must have stated in written form what mechanism was utilized to demonstrate whether or not learning did occur. The mechanism may include, but is not limited to, a successfully completed written test or a performance component.

   e. It must utilize a mechanism to validate participation. This may include, but is not limited to, earned credits and/or verification of attendance. Program sponsors shall maintain attendance sheets for three years.

4. The Council shall review the submitted evidence and decide if the evidence demonstrates that the registrant has complied with the renewal requirements set forth in 7MCAR § 1.547 B.2.3. If the Council decides that the evidence demonstrates that the registrant has so complied, the Council will recommend to the Commissioner that the registrant's continuing education activities should be accepted.

If the Council decides that the evidence does not demonstrate that the registrant has complied with 7MCAR § 1.547 B.2.3., the Council will so inform the applicant who will then have an opportunity to submit additional evidence, decide if it demonstrates that the registrant has complied with 7MCAR § 1.547 B.2.3, and recommend to the Commissioner that the registrant's continuing education activities should or should not be accepted. The Commissioner will then make the final decision regarding the acceptability of the registrant's continuing education activities.

5. Applicants who have permitted their registrations to expire for more than two years may regain their registration when they successfully complete the registration examination, complete continuing education requirements, and submit the required renewal forms and fees.

C. Application Fees

Fees to be submitted with initial or renewal applications shall be as follows:

1. Initial application fee: $30.00 plus examination fees.
2. Biennial renewal application fee: $30.00.
3. Penalty for late submission of renewal application: $10.00, if not renewed by designated renewal date.

D. Disciplinary Actions

1. Upon receipt of a complaint or other communication, whether oral or written, which alleges or implies the existence of a ground for denial of registration or disciplinary action as specified in 7MCAR § ~~1.542-E.2.~~, 1.547.D.2. the Commissioner or Council may initiate an investigation.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

RECEIVED
NOV 3 1978
OFFICE OF HEARING
EXAMINERS

In the Matter of Proposed Rules
Relating to The Registration of
Environmental Health Specialists/Sanitarians

STATEMENT OF NEED

AND REASONABLENESS

The above captioned rules are newly proposed rules of the Commissioner of Health (hereinafter "Commissioner"). The statutory authority of the Commissioner for promulgation of these rules is contained in Minn. Stat. Sect. 214.001, 214.13 and 214.14 (1976). Minn. Stat. Sect. 214.13 subd. 1 specifies that "The Commissioner of Health shall promote the recognition of human services occupations useful in the effective delivery of human services. Minn. Stat. Sect. 214.13, subd. 3, specifies that "Rules promulgated by the Commissioner pursuant to subdivision 1 may include procedures and standards relating to the registration requirement, the scope of authorized practice, fees, supervision required, continuing education, career progression and disciplinary matters."

The need to initiate the administrative rule-making process required to implement registration of Environmental Health Specialist/Sanitarians is not limited solely to the above noted legislative directive. It is through proposing these rules and the holding of the public hearing thereon that the public and all interested persons and affected persons are provided the opportunity to comment upon and thus help shape the procedures and requirements to be used by the Commissioner in carrying out legislative policy. Additionally, the rule making process serves as a means of providing full notice to all interested persons of what the procedures and requirements will be.

The proposed rules are drafted with the purpose of satisfying the need to specify the standards which must be met prior to utilization of the title Environmental Health Specialist/Sanitarians, the procedures by which these standards are verified by the state prior to granting use of the title, the enforcement procedures that will be used to prevent incompetent persons from using the title of Environmental Health Specialist/Sanitarian, and the establishment of council to advise the Commissioner regarding the registration of Environmental Health Specialist/Sanitarians.

File No.
Date

The Commissioner, pursuant to Minn. Stat. § 15.041 subd. 4 (1976) and Minn. Rule H.E. 105 hereby affirmatively presents the need, reasonableness and justification for the adoption of these rules. The Commissioner's decision to regulate persons in this occupation was based upon Minn. Stat. Sect. 214.001, subd. 2, which states that "The legislature declares no regulation shall hereafter be imposed upon any occupation unless required for the safety and well-being of the citizens of the state. In evaluating whether an occupation shall hereafter be regulated, the following factors shall be considered:

(a) Whether the unregulated practice of an occupation may harm or endanger the health, safety and welfare of citizens of the state and whether the potential for harm is recognizable and not remote;

(b) Whether the practice of an occupation requires specialized skill or training and whether the public needs and will benefit by assurances of initial and continuing occupational ability; and

(c) Whether the citizens of this state are or may be effectively protected by other means.

In order to determine whether this occupation should be regulated, the Commissioner was advised by the Human Services Occupations Advisory Council as established pursuant to Minn. Stat. 214.14. Using his authority to "establish procedures for the identification of human services occupations not now credentialed by the state," and to "recommend appropriate regulatory modes", a series of subcommittee meetings and a public forum were held to gather information and evidence relevant to the three factors listed above. The need for the proposed rules was made apparent by such information, as is outlined in the chronology set forth below.

A letter of intent to apply for credentialing of Environmental Health Specialists/Sanitarians was submitted to the Allied Health Credentialing Committee, which was re-named the Human Services Occupations Advisory Committee in 1976 (Minn. Stat. Sec. 214.14, 1976 amended). The completed application was received in October of 1975 and a subcommittee composed of advisory committee members was appointed. A series of subcommittee meetings and a public forum were held to gather information to support a recommendation to the Board of Health as to: (1) Whether environmental health specialists/sanitarians should be regulated; and, if so, (2) Which mode of regulation is appropriate and, (3) What administrative structure is appropriate. The recommendation to regulate environmental health specialists/sanitarians through a system of registration that includes an advisory council to the Board of Health, and the Commissioner (Minn. Law 1977, Chap. 305 § 30) was approved by the Advisory Committee and the Board of Health in June of 1976. See Appendix A for the complete record of this process.

The procedures used to determine the appropriate regulatory mode are now in rule, 7MCAR § 1.536 - 1.540.

The rationale for the credentialing decision is based upon three factors as stipulated in Minn. Stat. § 214.001, subd. 3 (1976):

(1) Evidence was submitted to support the claim that unregulated practice of the occupation group can harm or endanger the health, safety or welfare of the citizens of this state and the potential for harm is recognizable and not remote. Examples of physical harm to the public resulting from poor sanitation controls include: poor, inadequate or incorrect advice concerning location, construction, and operating requirements for water supply, sewage facility, food establishment, or health care facility that result in system breakdowns, exposure to disease-causing organisms or materials, degradation of environmental resources as well as needless expense and loss of income. Environmental Health Specialists/Sanitarians have direct access to the public and work independently.

(2) The practice of the occupation requires specialized skill and training and the public needs and will benefit from assurances of initial and continuing occupational ability. Because of the varied responsibilities and broad scope of knowledge required, a standard for minimal competence for initial entry into the field is necessary to assist public and private agencies to identify and select qualified staff, to provide uniform public health and environmental health practices, and to promote public confidence in environmental health programs.

(3) Evidence was gathered to show that the public is not effectively protected by other means. Uniform employment standards for Environmental Health Specialists/Sanitarians do not exist, except within certain local civil service employment systems. Minimum standards for competency do not exist and any person can claim expertise. Registration can promote reciprocity and/or interstate endorsement with the 35 states that already require registration.

Registration as a proposed mode of regulation is defined in Minnesota Statutes, Section 214.001, Subdivision 3, as a regulatory device "whereby practitioners who will be the only persons permitted to use a designated title are listed on an official roster after having met predetermined qualifications." Registration does not prohibit communities from hiring the person of their choice to perform any of the functions described in these rules nor does it penalize persons who already have responsibilities in the functional areas described as appropriate to an Environmental Health Specialist/Sanitarian. This mode would provide state acknowledgement that an individual registered as an Environmental Health Specialist/Sanitarian has met training and testing requirements as defined by these proposed rules for a minimum level of competent performance.

Minn. Stat. § 214.13, Subd. 3, (1976) provides "that rules promulgated by the Commissioner...may include procedures and standards relating to the registration requirements, the scope of authorized practice, fees, supervision required, continuing education, career progression and disciplinary matters." The proposed rules detail the initial registration requirements, a scope of practice, fee requirements, enforcement procedures and administrative structure.

These rules are statements"... of general applicability and future effect ...made (by the Commissioner) to implement" the responsibilities and duties placed upon the Commissioner by Minn. Stat. § 214.13, (1976) and therefore must be promulgated by rules pursuant to Minn. Stat. § 15.0411, Subd. 3, (1976). The content of these rules was developed in cooperation with a six member technical advisory group representing state, county and city environmental health agencies. A public forum was held concerning these rules in January 1977 in order to gain additional public information and input. The record of this forum is appended to this statement. The proposed rules were submitted for review to the Human Services Occupations Advisory Council in 1977 and then to the Commissioner for final approval to initiate this hearing.

7MCAR 1.546 A. Purpose

This section sets out the scope of the proposed rules in preparing the administrative framework for a system of registration for those persons who want to use the titles of Environmental Health Specialist or Sanitarian.

7MCAR 1.546 B. Definitions

The definitions in these sections provide common meanings in discussing and understanding the substantive provisions of these rules for both

the person who formally requests registration to use the title of Environmental Health Specialist/Sanitarian and the public who can know the standards a person met in order to use the title.

1. An applicant is any person who formally requests materials or information in order to register or renew registration as an Environmental Health Specialist/Sanitarian.
2. Throughout these proposed rules the term "Commissioner" refers to the Commissioner of Health, the Chief administrative officer of the Minnesota Department of Health.
3. For the purposes of these rules "contact hour" shall mean a typical instructional period of approximately fifty minutes. This unit of measurement will be used to award credit for attendance at continuing educational activities and as such, activities that are primarily social, like coffee breaks, registration periods and meals will not be included for credit as learning activities.
4. The term "Council" in these rules will always mean the Environmental Health Advisory Council. The Council will advise the Commissioner and its composition, duties and responsibilities are further explained in the rules, 7MCAR 1.546 - 1.548.
5. "Environmental Health Specialist" and "Sanitarian" are titles utilized by those persons who have met the requirements set forth in these proposed rules which are designed to identify those persons who are qualified to plan, organize, manage, implement and evaluate one or more of the many program areas that are included under the umbrella term of environmental health. The various program areas are listed in the proposed rules. "Environmental Health Specialist" is the broader term often preferred by the newer environmental health official, and it reflects the growth of knowledge and an understanding of the importance of environmental health issues as they impact on human health. "Sanitarian" is an older term preferred by many who have worked in especially the microbiological impact areas like food, milk and lodging sanitation. The two titles reflect the growth and change occurring in the field.

People using these titles must have training in both the biological and physical [illegible] functions can be upset by changes in the physical environment.

They must also be capable of determining control mechanisms to reduce the risk for the entire population. (See Appendix B). Technical as well as administrative skills are required. Much of the work is regulatory in nature; it involves field investigations, data collection, report writing, and enforcement of public health codes. As technology changes, environmental concerns must change also and specialists are required to review and recommend policy and/or regulation changes. A person using the title of "Environmental Health Specialist" or "Sanitarian" has demonstrated the minimum knowledge and skills necessary to perform competently in this diverse field.

6. Registration is defined in Minn. Stat. Sec. 214.001, subd. 3, as a system "whereby practitioners who will be the only persons permitted to use a designmated title are listed on an official roster after having met the standards set forth in these rules can use the title of "Environmental Health Specialist" or "Sanitarian". The initials "R.S." are included because nationally they identify a registered sanitarian.

7. It is reasonable to give the Commissioner some discretion in selecting an appropriate examination for evaluation of persons to be registered. Because registration indicates that persons using the designated title(s) have demonstrated a minimum standard of competency in environmental health program areas, the Commissioner should be able to select the examination(s) which best evaluates an applicant's knowledge and skills. By statute (Minn. Stat. Sec. 214.03), the legislature has mandated that whenever possible this should be a national standardized examination. The following additional criteria have been proposed to aid in this decision.

   a. and/or b. These criteria are concerned with relationship of the knowledge and skills assessed by the examination to the knowledge and skills required of a registrant for actual job performance. Data should be presented to show that either the actual job tasks, work behaviors or skills necessary for job performance are being evaluated or that empirical data exist which demonstrate that the test is predictive of job performance. The latter data are difficult to compile so the Commissioner will consider one or both criteria.

c. Studies should exist to show that the examination was developed and has been proved valid based on an analysis of the actual job tasks, skill levels, and knowledge areas of the occupation for which people may be registered.

d. The job tasks, work behaviors or performance skills used in the test development and subsequent validity studies must include the skills and broad knowledge backgroud outlined in the definition of Environmental Health Specialist/Sanitarian proposed in these rules.

e. The examination must also be shown to be reliable in that the assessment of requisite knowledge and skills would be consistent with repeated administration of the examination. It is reasonable to require that either the parallel forms or internal consistency method of estimating reliability have been applied to eliminate memory as a systematic source of variance. Parallel forms compares two tests with similarly distributed content. Internal consistency compares the outcome of an individual test item to the overall outcome of the entire test.

f. It is reasonable to require that the examination be revised periodically to reflect relevant changes and technical advances in the knowledge area being evaluated.

The examination available at this time that meets all of the above criteria is the sanitarian examination developed by the Professional Examination Service, Morningside Heights, New York City, New York, which was originally a division of the American Public Health Association. This examination is used by at least twenty-three states and the National Environmental Health Association. It tests knowledge of major environmental problems as well as program planning and administration. Documents concerning the test and the testing service are attached as Appendix C.

7MCAR 1.547 REGISTRATION REQUIREMENTS: CAREER PROGRESSION: DISCIPLINARY ACTIONS

A. Initial Registration

1. The requirements proposed in these rules for initial registration are reasonable to expect of a person who would represent him or herself as as Environmental Health Specialist/Sanitarian with a minimum level of competence. It is reasonable to ask each applicant to provide the [illegible] of the applicant's qualifications as set forth in these rules.

To become registered, an applicant must provide evidence of:

a) Receiving at least a baccalaureate degree in environmental health, sanitary science, sanitary engineering or at least 30 semester hours or 45 quarter hour credits in the physical or biological sciences. This kind of academic preparation is necessary to provide the broad knowledge and skills background for the technical as well as the administrative responsibilities required on the job. Although an individual environmental health specialist will probably specialize in his/her area of interest while employed, it is reasonable to require the applicant to demonstrate at least an academic knowledge of the diverse program areas that comprise environmental health. None of these areas is totally distinct from the others so learned skills can be tranferred. This requirement is consistent with the "Knowledges, Skills, and Abilities Necessary for Functioning at Full Productivity," statements included in the State of Minnesota, Department of Personnel, Civil Service Classification, Public Health Sanitarian I, an entry-level professional classification.

b) Employment for one year under the supervision of an Environmental Health Specialist or a Sanitarian or a licensed health professional or an engineer or one of the other public health professionals with equivalent education and experience provides an applicant with applied work experience in an actual work situation. This provides an opportunity to integrate academic knowledge with some real world experience. For many applicants it is an opportunity to learn how government agencies deal with public health issues. This provides experience in applying knowledge learned to solve environmental health problems within the context of a governmental agency or private industry. Again, this experience requirement reflects a similar requirement in the State Civil Service position description noted above.

c) Successful completion of the registration examination demonstrates a knowledge of the broad field of the environmental health and the necessary technical skills.

2. This section of the proposed rules provides an alternative entry route for those applicants who do not have the baccalaureate degree as required for initial registration or who do not want to take the written test after many years of specialized work experience.

MHD. 547 A. This section acknowledges that there are some persons who are competently performing the functions of an "environmental health specialist" or "sanitarian" or "housing code inspector", "quality control inspector", "shoreline zoning administrator", "milk sanitarian", "industrial hygienest", or "occupational health officer" to name just a few of the possible job titles. These persons can be registered within the first six months if they:

a) Provide evidence of being employed in one or more of the program areas listed in these rules in MHD. 546 (B) (5) for five or more consecutive years immediately prior to applying for registration. This demonstrates that the applicant has a minimum number of years of experience to substitute for formal education.

b) The applicant also must submit a statement of satisfactory work performance from his/her employer or supervisor as further evidence of experience and knowledge.

c) He/she must also have passed some sort of qualifying examination for employment in his/her field. Persons in this field usually work for governmental agencies because of their responsibilities for protection of the public health. A qualifying examination based on education, training and experience is required prior to such employment. This type of examination would substitute for the national written examination only for the specified six months. The applicant could also take the registration examination from the Professional Examination Service.

3. The purpose of this proposed rule is to limit the number of times an applicant can challenge the written examination. This examination is designed to evaluate skills and aknowledge necessary to competently perform as an Environmental Health Specialist/Sanitarian. It is not unreasonable to limit the number of times an applicant takes either exam because the amount of material being tested is not so great that a certain amount of memorization is probable.

Allowing an applicant to keep paying the test fees in order to continue taking the tests until he/she passed, does not adequately demonstrate knowledge of the material nor does it adequately protect the public or the integrity of the standard of competency proposed in these rules.

4. This section of the proposed rules applies to those persons who are or have been regulated in a state other than Minnesota. These persons can be registered in Minnesota by providing evidence of having met the same requirements for initial registration as proposed in these rules. The use of the titles "Environmental Health Specialist/Sanitarians" implies certain standards have been met and it is reasonable to require persons from out-of-state to meet these same standards.

B. Renewal Registration

1. It is reasonable to expect persons registered as Environmental Health Specialists/Sanitarians to renew their registration every two years. This multi-year reviewal period would provide flexibility to the registrant in completing continuing education activities and allow for potential difficulties when the location of the offerings, travel time during unpredictable weather, extended illness, or the frequency of appropriate offerings made it difficult to obtain the needed continuing education activities in one year.

Because the knowledge of and techniques in the field of Environmental Health are changing, the continuing education should be taken within the two years preceding the renewal deadline in order to remain current. This change is on-going and increasing, so a need for continuing education to keep current with such development is an on-going and continuing matter. These rules will require that each registrant remain technically skilled. Continuing education will provide opportunities to learn of advances in information from the applied and basic sciences concerning the effects on human health of various contaminants, advances in technology to control or reduce risk to the public, changes in regulated processes and equipment and in

administrative skills required of a registrant who has spent most of his/her career in the field or a specific technical area. For all persons registered by the Commissioner, renewal of registration will be required every two years. Staggered renewal based on birthdate is administratively reasonable because birthdate is a more reliable constant than alphabetical listings.

For the first renewal period more time is allowed in order to avoid penalizing those persons who would have renewal requirements due in a period of less than two years.

It is reasonable to ask each registrant to provide sufficient information to allow the Commissioner to make a complete evaluation of the renewal request to determine that all renewal requirements have been met and thus to carry out regulatory activities. A penalty fee will be required of late applications in order to cover the additional clerical and administrative time spent on a specific renewal application.

2. Twenty-four contact hours is a reasonable biennial registration renewal requirement comparable to that of licensed podiatrists, somewhat less than the fifteen hours per year required of licensed dentists and registered nurses, and substantially less than the fifty hours per year required of licensed physicians. Minn. Stat. § 214.12 states that "the health related and non-health related licensing boards may promulgate by rule requirements for renewal of licenses designed to promote the continuing professional competence of licensees. These requirements of continuing professional education or training shall be designed solely to improve professional skills...". It is reasonable therefore, for the Commissioner to establish acceptable content areas for continuing education activities based on the scope of professional practice of Environmental Health Sanitarian/Sanitarians in 7MCAR § 1.546 (b) (5). Continuing education activities must relate directly to maintenance of the knowledge and skills or development of a new knowledge or technical skills involved in competently planning, organizing, managing, implementing and evaluating one or more of the various program areas of environmental health. As more is learned about the environmental impact on human health from technology, industrial processes and contaminants, Environmental Health Specialists/Sanitarians are the persons who must know the legal requirements and be trained to assess and relate any risk to the general population.

3. Since the Commissioner does not have specific authority to regulate continuing education providers, it is reasonable to reinforce the Commissioner's clear authority to set continuing education requirements which registrants must meet and to place the responsibility upon the registrant to choose continuing education activities in which to participate. By not incurring the cost associated with program approval by the Commissioner, a program provider may find it economically feasible to develop continuing education activities for specific Environmental Health groups with small numbers of potential participants. This would provide a change for more diverse offerings which meet the specific educational needs of more Environmental Health Specialists/Sanitarians.

By not requiring Commissioner's program approval it will also be possible for registrants to take educational offerings in geographic locations other than Minnesota, the registrant determining if the criteria for continuing education activities are met. The criteria to be utilized by each individual are set forth in these rules. No credit for continuing education will be given for activities that do not meet these criteria or those acceptable content areas mentioned above.

(a) It is reasonable to require an activity to have specific written objectives in order to provide the registrant with sufficient information to make a choice among the various activities that will be most useful to him/her. This is important also for the participant to be better able to choose acceptable content areas.

(b) The Commissioner believes it is reasonable that the qualifications of the instructor be stated so that a registrant can determine if the instructor is capable of providing a continuing education activity designed to improve his/her professional skills.

(c) This one contact hour minimum limit is included to eliminate the short in-service/staff meeting type of activity which a registrant may want to use for credit.

(d) It is reasonable to require that an activity have an evaluation mechanism beyond simply requiring attendance. This evaluation mechanism should address whether or not the educational objectives for which the course was designed were actually reached and what the registrant learned. [illegible] able to expect that a continuing education activity have available a mechanism such as testing, written report, annotated outline, or a performance component to document whether or not learning did occur.

e) This rule is needed to assure that registrants have participated in the continuing education activity, not merely paid any fees. Since the proposed compliance program is based on the assumption that registrants are capable of planning for their own educational needs, a written statement is sufficient documentation. However, since registrants are human and some may try to find methods of circumventing the rules, at least this minimal requirement is necessary. If there is some question about credits claimed by a registrant, the Commissioner can check with the program sponsor within a period of three years following the date the program was offered.

4. It is reasonable to provide for an appeal if the Council recommends that the Commissioner not renew a person's registration because the Council needs complete and accurate information to process correctly a registrant's renewal application and this allows the registrant to correct any errors or oversight in submission and submit acceptable documents.

5. Applicants who do not renew their registrations for more than two years beyond their required renewal date will have to demonstrate that they have the necessary knowledge and skills to again use the titles of Environmental Health Specialist/Sanitarian.

The Technical Advisory Group convened to help draft these rules, recognized that environmental health is a rapidly changing field and that a registrant has to update continually his or her knowledge and skills if he or she is to remain minimally qualified. Therefore if a registrant completes his two year registration and then waits two or more years or longer to renew his lapsed registration, the state would not have reviewed the person's qualifications to be registered for at least four years and could not safely assume that the public was adequately protected by the registration of this person.

It is possible to regain registration by successfully completing at that time the registration examination, all continuing education requirements; and submitting the necessary renewal forms and fees.

D. Application Fees

1. Pursuant to Minn. Stat. Sec. 214.06 and 214.13 the Commissioner of Health, with the approval of the Commissioner of Finance, may assess a sufficient amount so that the total fees collected will as closely as possible equal anticipated expenditures. A $30 fee for initial application has been set for all applicants. The $30 charge is a reasonable approximation of the cost of administering this program as may be seen in the attached chart.

2. Again the attached chart demonstrates that, pursuant to Minn. Stat. § 214.06 and § 214.13, the $30 biennial renewal fee accurately reflects the $15 per year per registrant cost of administering the registration program for environmental health specialists.

3. A penalty fee of $10 will be required for registration renewal beyond the required deadline in order to encourage compliance with the regulations. This fee also approximates the cost to the Commissioner to process and administer the renewal application outside of the designated renewal period.

E. Disciplinary Actions

1. The primary purpose of registration is protection of the public through the establishment of minimum standards of competence. Only those persons meeting these predetermined standards can use the title of Environmental Health Specialists/Sanitarians and these rules establish reasonable enforcement mechanisms to protect the public from incompetent and unqualified Environmental Health Specialists/Sanitarians as well as to provide the registrants with all due process protections. All complaints or other communications to the Commissioner or the Council that allege or imply a situation that may require disciplinary action or denial of registration will be investigated. It is necessary to include oral complaints in order to have an accurate record of all complaints and to be able to insure that all complaints are processed appropriately. Oral complaints make the enforcement system more accessible to the public although disciplinary action can only be taken upon written complaints from a member of the public or a member of the council.

The Commissioner is the administrative authority for the registrants but the Council may initiate the investigation as his agent and make a recommendation to the Commissioner on the situation after the investigation in order to assure a reasonably rapid determination on the complaint. If the Commissioner finds that disciplinary action is appropriate, all subsequent activities will proceed following the Administration Procedures Act, Minn. Stat. Ch. 15 (1976 amended) in order to assure all protection of due process.

2. This section identifies the reasons for which the Commissioner may have to take some form of disciplinary action against a registrant. Persons who are registered as Environmental Health Specialists/ Sanitarians are subject to disciplinary action if they:

   (a) Purposely provide false information or misleading evidence of credentials in order to become registered or to renew a registration because in order to carry out meaningfully regulatory procedures and grant a registration, truthful information is needed to determine compliance with predetermined requirements;

   (b) Fail to meet the requirements for the initial or renewal registration because these requirements have been pre-determined by the Commissioner and technical experts in this field to be necessary for competent performance of environmental health skills and this skill level will provide the best possible protection for the citizens of this state;

   (c) Perform environmental health skills or related functions in an incompetent or inappropriate manner based upon the standards for competency set through the initial and renewal requirements for registration.

3. Any disciplinary action will comply with the provisions set forth in the Administrative Procedures Act in order to protect the person being investigated and to assure due process of law for all persons.

4. If it should become necessary to revoke or suspend a registration, it is reasonable to expect the registrant to return to the Commissioner the actual registration document and any current renewal certificates in order that the former registrant not be able to indicate to the public that he/she is in fact still registered by the state.

5. A person who has had his/her registration revoked must wait one year or longer, as specified by the Commissioner before applying for registration. This is a reasonable requirement because the disciplinary actions are necessary to protect competency standards in environmental health services and persons who have been found to violate these standards

must have that they can be met before the registration can be reinstated. For the suspension to be effective use of the title should not be allowed for at least one year.

6. The suspended or revoked title can be reinstated when the applicant can show that all conditions of the suspension or revocation have been met and that all standards for registration renewal have also been satisfied. This is reasonable because the Commissioner is responsible for upholding the standards attached to the title of Environmental Health Specialists/ Sanitarian .

7MCAR 1.548 THE ENVIRONMENTAL HEALTH SPECIALIST/SANITARIAN ADVISORY COUNCIL

A. Membership

Minn. Stat. Sec. 214.13 (Subd. 4) (1976, amended) states "the Commissioner of Health may establish an advisory council to advise it... on matters relating to the registration and regulation of an occupation. A council shall have seven members appointed by the Commissioner of which five are members of the registered occupation or related registered or licensed occupations, and two are public members. A council shall expire, and the terms, compensation and removal of members shall be as provided in Section 15.059".

The membership of the Council was designed with the help of a technical advisory group to provide the best representation of statewide interests in administering registration policy for Environmental Health Specialists/ Sanitarians:

1. The two public members, as required by law, are defined as "a person who is not, or never was, a member of the profession or occupation being licensed or regulated or the spouse of any such person, or a person who does not have or has never had a material financial interest in either the providing of the professional service being licensed or regulated or an activity directly related to the profession or occupation being licensed or regulated".

2. It is reasonable to include the perspective of either a person involved in the training of Environmental Health Specialists/Sanitarians or a person who is part of a regulated industry. An educator can contribute knowledge of curriculum content, current research and other training [illegible]

opportunity for input and a better understanding of responsibilities among all parties.

3. This section was proposed in this way to allow for the change in focus that is occuring gradually in this state. In the past, the trend has been to centralize services at the state level but this philosophy has changed. Environmental health services are among the public health services that are recognized as a local responsibility. At one time most Environmental Health Specialists/Sanitarians would have worked for state agencies, but now representatives of Environmental Health Specialists/Sanitarians should reflect the different employment responsibilities and outlooks of the county, municipal and state agency personnel.

B. ORGANIZATION DUTIES AND RESPONSIBILITIES

1. Minn. Stat. Sec. 15.059 (1976, as amended) as designated in Minn. Stat. Sec. 214.13, Subd. 4, sets forth the terms, the compensation and the removal of members of the council. The Council is also governed by the Commissioner's policies concern only internal management which do not directly affect the rights of or procedures available to the public and are therefore not subject to rule-making procedures.

2. The Council, which is composed of Environmental Health Specialists/ Sanitarians and related professions, will advise the Commissioner regarding these registration rules. They will be working with these rules and it is reasonable to expect that they will have the expertise and experience to keep the rules updated and be best able to establish policy that assures qualified Environmental Health Specialists/Sanitarians. Given their expertise these are the best people to advise the Commissioner on the enforcement of these rules. The Council will be composed of people who are technically expert and representative of all relevant interest areas. They are in a position to be most familiar with the rules and the enforcement issues. The Council is also the body which will assess the qualifications of each applicant and recommend credentialing to the Commissioner based on the pre-determined minimum competency standards established in these rules. Another responsibility of the Council will be to provide for the dissemination of information to

provide for the dissemination of information to the public concerning the competency standards for registration. It is important for the public to be aware of the standards that must be met by a person who uses the titles, Environmental Health Specialist/Sanitarian. Of course, the Commissioner may direct the Council to perform such other activities that are not inconsistent with the policy-making responsibilities of this Council.

Dated: November 3, 1978

STATE OF MINNESOTA
COMMISSIONER OF HEALTH

per Allen Z. Fife, Deputy Commissioner
Warren R. Lawson, M.D.
Commissioner of Health

Proposed Rules of the Commissioner of Health Relating to the Registration of Environmental Health Specialists/Sanitarians

Chapter 30

Human Services Occupations

Part II

7MCAR §§ 1.546 - 1.550 REGISTRATION OF ENVIRONMENTAL HEALTH SPECIALISTS/SANITARIANS

7MCAR § 1.546 PURPOSE AND DEFINITIONS

A. Purpose. The purpose of 7MCAR §§ 1.546 - 1.550 is to establish the administrative structure, the procedures and the requirements for the registration of those persons who are qualified to present themselves as Environmental Health Specialists/Sanitarians.

B. Definitions. For the purposes of 7MCAR §§ 1.546 - 1.550, the words, terms and phrases listed below in this subdivision shall have the meaning stated herein, unless the language and context clearly indicates that a different meaning is intended.

1. "Acceptable continuing education activity" means a learning experience in which a registrant has participated, evidence of which he/she submits to the Council as part of the application for registration renewal, and which meets the requirements stated in these rules.

2. "Applicant" means a person who applies pursuant to these rules, either initially or on a renewal basis, to be registered as an Environmental Health Specialist or Sanitarian.

3. "Commissioner" means Commissioner of Health.

4. "Contact Hour" means an instructional session of fifty consecutive minutes excluding coffee breaks, registration, meals (with or without speaker) or other social activities.

5. "Council" means Environmental Health Specialists' Advisory Council as referenced in 7MCAR § 1.548.

6. "Environmental Health Specialist/Sanitarian" means a person registered pursuant to these rules to plan, organize, manage, implement, and evaluate one or more program areas comprising the field of environmental health. Environmental program areas include but not limited to: food, beverage and lodging sanitation; housing; refuse disposal; water supply sanitation; rodent, insect and vermin control; accident prevention; swimming pool and public bathing facility sanitation; radiation safety; air and water quality, noise pollution, and institutional and industrial hygiene. Implementation includes community education, investigation, consultation, review of construction plans, collection of samples and interpretation of laboratory data, enforcement actions, review and recommendation of policy and/or regulation.

7. "Registration" or "registered" means that an applicant has been found by the Commissioner to meet the qualifications specified in these rules to protect environmental health. Only persons so registered are permitted to use the designated titles of "Environmental Health Specialist" or "Sanitarian" or the initials "R.S.".

8. "Registration Examination" means the examination approved by the Commissioner and administered by the Commissioner or his designated agent. For approval the examination must meet the following criteria:

   a. The examination has been validated by a content validity study which consists of data showing that the examination covers a representative sample of the job tasks, work behaviors or performance skills to be performed on the job for which the applicant is to be evaluated; and/or

performance skills to be performed on the job for which the applicant is to be evaluated; and/or

b. The examination has been validated by a criterion related validity study which consists of empiracal data demonstrating that the selection procedure is predictive of, or significantly correlated with, job performance and which has a validity coefficient significant at the .05 level of significance; and

c. Validity studies are based upon a review of information about the job for which the examination is to be used, which shall include but is not limited to an analysis of job tasks, work behaviors, or performance skills that are relevant to the job; and

d. Job tasks, work behaviors, or performance skills used as a basis for test developments and validity studies must include but are not limited to the knowledge areas in the definition of Environmental Health Specialist/Sanitarian as outlined in 7MCAR S 1.546 B/ 6.; and

e. The examination has been determined to be reliable utilizing the parallel forms or internal consistency methods of estimating reliability and the reliability coefficient is no less than .70; and

f. The examination is revised or a new form is issued when technical advances in the field indicate the examination should be up-dated to acknowledge related changes in the scope of practice.

The Commissioner may adopt for use at his discretion any standardized national test which meets these criteria.

7MCAR § 1.547 REGISTRATION REQUIREMENTS; CAREER PROGRESSION; DISCIPLINARY ACTIONS

A. Initial Registration

1. All applicants for initial registration shall submit an application on a form to be prepared by the Commissioner and fees as prescribed in 7MCAR § 1.547 C. The information requested by the Commissioner on the application shall be such so as to permit a complete evaluation of each applicant to determine whether the applicant meets the requirements for registration as specified in these rules and any applicable statutes. The Commissioner may request an applicant to submit additional information as may be necessary to determine the applicant's qualifications. In order to be registered, an applicant shall provide:

   a. Evidence of receiving a baccalaureate or post-baccalaureate degree in environmental health, sanitary science, sanitary engineering or other related environmental health field which includes at least 30 semester or 45 quarter hour credits in the physical or biological sciences; and

   b. Evidence of at least one year of supervised employment in one or more of the program areas listed in 7MCAR § 1.546. B. 6. definition of "Environmental Health Specialist' Sanitarian". Supervision shall be provided by an Environmental Health Specialist or a Sanitarian or a licensed health professional, or an Engineer or other professional with a graduate degree in one of the physical or biological sciences.

   c. Evidence of passing the registration examination.

2. For a period of six months following the effective date of the rules, an applicant may be registered without having received a baccalaureate or higher degree as provided in 7MCAR § 1.547 A. 1.

if the applicant:

a. Submits evidence of experience in one or more of the program areas listed in 7MCAR 1.546 B.6. definition of an "Environmental Health Specialist" for at least the five years immediately preceeding his/her application;

b. Submits a statement of satisfactory employment by the employer or supervisor which indicates that the applicant has performed competently in one or more of the program areas listed in the definition of Environmental Health Specialist/Sanitarian;

c. Submits evidence of having passed a civil service or other qualifying exam for a job classification of "Environmental Health Specialist" or "Sanitarian" or inspector or public health officer or engineer or other similar job title or of having successfully completed the registration exam.

3. No applicant shall make more than two attempts within the same calendar year to successfully complete the registration examination.

4. Persons who have attained a registration or license outside of Minnesota may be entitled to registration in Minnesota if they can provide evidence of meeting the requirements set forth in 7MCAR §§ 1.547 A. 1. a,b and c.

B. Renewal Registration

1. An applicant's registration shall expire biennially on his/her birthday unless it is renewed. Each applicant shall be required to renew his/her registration every two years except that following the initial registration date, an applicant shall renew his/her registration no less than 24 months and no more than 36 months if he/she is registered for the first time on a date other than his/her

birthday. Every applicant shall submit a completed registration renewal application, on a form provided by the Commissioner together with the renewal fee for the biennium or part thereof. The information requested by the Commissioner on the registration renewal application shall be such so as to permit a complete evaluation of each application to determine whether the applicant meets the requirements for registration renewal as specified in these rules and any applicable statutes. The Commissioner or his agent may request an applicant to submit additional information as may be necessary to determine the applicant's qualifications for renewal Applications submitted after the applicant's birthday must be accompanied by the late fee of $10.00 together with all other information required by this rule.

2. For registration renewal, each registrant shall submit evidence of successful completion of 24 contact hours of acceptable continuing education activities the content of which is related to one or more of the environmental program areas contained in 7MCAR §§ 1.546 B.6.

3. A continued education activity must meet the following criteria in order for credit to be given:

   a. It must have a specific, written objective (s) which describe expected outcomes for the participant;

   b. It must be presented by knowledgeable person(s) who have reviewed the development in the subject being covered in the program within the last two years. His/her qualifications must be documented by one of the following:

      (1) Specialized training in the subject matter;

      (2) Experience in teaching the subject matter;

      (3) Experience in working in the subject areas.

c. It must last at least one contact hour.

d. It must have stated in written form what mechanism was utilized to demonstrate whether or not learning did occur. The mechanism may include, but is not limited to, a successfully completed written test or a performance component.

e. It must utilize a mechanism to validate participation. This may include, but is not limited to, earned credits and/or verification of attendance. Program sponsors shall maintain attendance sheets for three years.

4. The Council shall review the submitted evidence and decide if the evidence demonstrates that the registrant has complied with the renewal requirements set forth in 7MCAR § 1.547 B.2.3. If the Council decides that the evidence demonstrates that the registrant has so complied, the Council will recommend to the Commissioner that the registrant's continuing education activities should be accepted. If the Council decides that the evidence does not demonstrate that the registrant has conplied with 7MCAR § 1.547 B.2.3, the Council will so inform the applicant who will then have an opportunity to submit additional evidence, decide if it demonstrates that the registrant has complied with 7MCAR § 1.547 B.2.3, and recommend to the Commissioner that the registrant's continuing education activities should or should not be accepted. The Commissioner will then make the final decision regarding the acceptability of the registrant's continuing education activities.

5. Applicants who have permitted their registrations to expire for more than two years may regain their registration when they successfully complete the registration examination, complete continuing education requirements, and submit the required renewal forms and fees.

C. Application Fees. Fees to be submitted with initial or renewal applications shall be as follows:

1. Initial application fee: $30.00 plus examination fees.
2. Biennial renewal application fee: $30.00
3. Penalty for late submission of renewal application: $10.00, if not renewed by designated renewal date.

D. Disciplinary Actions

1. Upon receipt of a complaint or other communication, whether oral or written, which alleges or implies the existence of a ground for denial of registration or disciplinary action as specified in 7MCAR § 1.542 E.2, the Commissioner or Council may initiate an investigation. In so doing, the Council may request the registrant to appear before them to determine the merits of the situation in question. In each case the Council shall make a recommendation to the Commissioner as to whether proceedings under the Administrative Procedure Act would be appropriate and should be initiated.
2. The Commissioner may refuse to grant or renew a registration, suspend or revoke a registration, or use any reasonable lesser remedy against a registrant for any of the following reasons:
   a. Submission of false or misleading information or credentials in order to obtain or renew registration; or
   b. Failure to meet the requirements for initial or renewal registration; or
   c. Incompetency; negligence or inappropriate conduct in the performance of environmental health duties or related functions.
3. Disciplinary actions shall comply with the provisions of the Administrative Procedure Act, Minn. Stat. ch. 15 (1976, as amended).
4. Upon revocation or suspension, the registrant shall return to

the Commissioner his/her registration and current renewal certificates.

5. A registrant who has had his/her registration revoked shall not be entitled to apply for re-registration until at least one year following the effective date of the revocation or such longer period of time specified by the Commissioner.

A suspended registration may be reinstated upon fulfillment of the terms of suspension; provided, however, that all requirements of the rules for registration renewal, if applicable, shall be met prior to reinstatement.

7MCAR §§ 1.548 THE ENVIRONMENTAL HEALTH SPECIALIST/SANITARIAN ADVISORY COUNCIL

A. Membership. The Council shall consist of seven members appointed by the Commissioner, as follows:

1. Two public members as defined in Minn. Stat. § 214.02 (1976, as amended);

2. One educator or a representative from a regulated industry for which Environmental Health Specialists/Sanitarians are charged with enforcement of the regulation;

3. Four Environmental Health Specialists/Sanitarians representative of county, municipal and state agencies which reflect the distribution of Environmental Health Specialists/Sanitarians among these employers at the time of appointment.

E

B. Organization, Duties and Responsibilities

1. The Council shall be organized and administered under the provisions of Minn. Stat. § 15.059 (1976, as amended) and the Commissioner's policies relating to advisory councils.

2. The Council shall:

a. Advise the Commissioner regarding Environmental Health Specialist/Sanitarian registration standards;

b. Advise the Commissioner on enforcement of the Environmental Health Specialist/Sanitarian rules;

c. Provide for the dissemination of information regarding Environmental Health Specialist/Sanitarian registration standards;

d. Review applications and recommend applicants for registration or registration renewal.

7MCAR S 1.549 - 1.550 Reserved for future use.

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE COMMISSIONER OF HEALTH

In the Matter of Proposed Rules Relating to the Registration of Environmental Health Specialists/Sanitarians.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing in the Minnesota Department of Health Building, Minneapolis, on November 30, 1978, before Steve M. Mihalchick, Hearing Examiner.

This is a rules hearing pursuant to Minn. Stat. Ch. 15 to determine whether the proposed rules should be adopted.

Appearing for the Department of Health were Colleen L. Coghlan and Kathryn Lamp. Richard Wade, Director of the Environmental Health Division, also testified in favor of the rules. William G. Miller, Special Assistant Attorney General, appeared on behalf of the Department. Twenty-four other persons attending the hearing signed the hearing register. The hearing continued until all interested persons had had an opportunity to participate.

Pursuant to Minn. Stat. § 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

Thereafter, the Commissioner of Health shall, if he proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Commissioner on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. The Commissioner will be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon the record herein, the Hearing Examiner makes the following:

FINDINGS OF FACT

PROCEDURAL REQUIREMENTS

1. On October 6, 1978, the Department filed the following documents with the Chief Hearing Examiner:

   (a) A copy of the proposed rules.
   (b) The Order for Hearing proposed to be issued.
   (c) The Notice of Hearing proposed to be issued.
   (d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On October 30, 1978, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 881.

3. On October 25, 1978, the Department mailed the Notice of Hearing

to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On November 3, 1978, the Department filed the following documents:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Secretary of State's Certificate.
(f) The Statement of Need and Reasonableness.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion published at 2 State Register 2,033 (May 15, 1978).
(h) The names of Department personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through December 7, 1978, for the receipt of written comments and statements.

6. The Notice of Hearing as mailed to persons on the Secretary of State's list (Ex. F) and as published in the State Register (Ex. G) stated that the hearing would be held on "Tuesday, November 30, 1978." November 30, 1978, was a Thursday. Persons who called the Office of Hearing Examiners to inquire as to the discrepancy were told that the hearing would be held on Thursday.

On Tuesday, November 28, 1978, at 8:15 a.m., the following Notice was posted at the entrance to the Board Room in the Minnesota Department of Health Building:

> The Public Hearing on the Proposed Rules to Register Environmental Health Specialists/Sanitarians is to be held on Thursday, November 30. The Notice of Hearing incorrectly listed the day as Tuesday. For more information, please check with the person at the information desk across the hall or call Colleen Coghlan at 296-5532.

No one requested more information, and no one was observed to have read the notice at the door (Exs. O, P and Q).

STATUTORY AUTHORITY, NEED AND REASONABLENESS

7. The Hearing Examiner adopts the attached Statement of Need and Reasonableness (Ex. J) as his Findings demonstrating the statutory authority of the Commissioner to adopt the proposed rules and the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness were filed 25 days prior to the hearing and were available to all persons attending the hearing. Agency personnel summarized the contents of the Statement and expanded upon it in those areas in which persons attending the hearing expressed an interest. The Department proposed some non-substantial modifications to the proposed rules at the hearing (Ex. M) and some corresponding additions to the Statement of Need (Ex. N.). Those modifications are necessary and reasonable.

PUBLIC COMMENTS

8. The most significant concern raised by persons attending the hearing dealt with the scope of authorized practice and, more specifically,

whether persons working in private industry who otherwise fit the definition should be included.

9. An application submitted jointly by the Minnesota Environmental Health Association and Minnesota Sanitarians Association on October 20, 1975, sought credentialling, ". . . for practitioners usually known as Sanitarian or Public Health Sanitarian." In the application, they defined the occupation as follows:

> A sanitarian is trained in and to perform professional work in the promotion of environmental health, education, and the enforcing of codes as it relates to public health. The work involves field investigations, consultations, educational activities, preparation of reports, keeping of records, enforcement actions, sampling and interpretation sample data, etc. These activities may be conducted in such program areas as food sanitation, housing, insect and rodent control, animal control, milk and meat inspection, institutional and industrial hygiene, lodging, sanitation, shoreland management, and land use planning. Supervisory practices and responsibilities will vary considerably depending upon the agency involved. In many cases the sanitarian will not have immediate public health supervision other than that afforded through a medical health officer or state agency. In many other cases there are sanitarians employed at varying levels of supervision including positions as directors of environmental health. The Sanitarian's Joint Council, in their proposed model act, defines a sanitarian as "a public health professional uniquely fitted by education in the arts and sciences, specialized training, and credible field experience to effectively plan, organize, manage, execute, and evaluate one or more of the many diverse elements comprising the field of environmental health.

Under the procedures that existed at that time, the Allied Health Credentialling Advisory Committee referred the application to a Sanitarians' Subcommittee for evaluation. On April 12, 1976, the Subcommittee voted unanimously to recommend that: (1) sanitarians should be credentialled; (2) the credentialling track should be registration, and (3) the administrative structure should be an advisory committee to the State Board of Health. The recommendation of the Subcommittee was adopted by the entire Advisory Committee and by the Board of Health in June, 1976. In its final report, the Sanitarians' Subcommittee stated:

> The Subcommittee spent considerable time working with the applicant group to develop a definition of a sanitarian which would clearly explain the various elements of environmental health with which a sanitarian is concerned. The definition finally accepted reads:
>
> > A sanitarian is a public health professional trained to plan, organize, manage, execute and evaluate one or more of the areas comprising the field of environmental health. Said program areas may include: food, beverage and lodging sanitation; refuse disposal; water supply; sewage disposal; recreational sanitation; rodent, insect and vermin control; accident prevention; swimming pool and public bathing facility sanitation; air quality; water quality; noise; and industrial hygiene. The sanitarian's activities may include: community education, investigations, consultation services, review of construction plans, collection of samples and interpretation of laboratory data, enforcement actions, and reviewal and recommendation of policy and/or regulations.

There are few hard lines which delinate all the functions of this occupation from those performed by other health occupations. However, the Subcommittee feels that the broad knowledge and skills applied by this group make it unique.

The foregoing is thus the definition of the occupation that the Allied Health Credentialling Advisory Committee and Board of Health determined in June, 1976, should be registered. (By statutory amendment, the duties, responsibilities and authorities of those bodies have been assumed by the Human Services Occupations Advisory Committee and the Commissioner of Health, respectively.)

10. The proposed rules in § 1.546 B.6. define the scope of authorized practice by means of the following definition:

> "Environmental Health Specialist/Sanitarian" means a person registered pursuant to these rules to plan, organize, manage, implement, and evaluate one or more program areas comprising the field of environmental health. Environmental /health/ program areas include but /are/ not limited to: food, beverage and lodging sanitation; housing; refuse disposal; water supply sanitation; rodent, insect and vermin control; accident prevention; swimming pool and public bathing facility sanitation; radiation safety; air and water quality, noise pollution, and institutional and industrial hygiene. Implementation includes community education, investigation, consultation, review of construction plans, collection of samples and interpretation of laboratory data, enforcement actions, review and recommendation of policy and/or regulation.

Insertion of the first bracketed word, health, was suggested at the hearing for greater clarity and preciseness, the second bracketed word, are, was apparently a typographical omission.

11. Between the time the definition was adopted by the Board of Health and the rules here were proposed, the concept of a public health professional employed by a public agency disappeared. Persons from private industry at the hearing objected to this at the hearing because they had no desire for themselves or their employees to be registered and saw no need for it, and because they felt they had not been involved in the original credentialling evaluation process.

12. Virtually all the evidence gathered during the credentialling process related to sanitarians employed by public agencies. The only specific reference to sanitarians employed in industry that appears in the Subcommittee Report is in a letter from the Dean of the University of Minnesota School of Public Health. There is no specific justification in the Statement of Need and Reasonableness for expanding the definition beyond public sector employees. However, such justification was presented at the hearing by Dr. Wade who testified as follows:

> I would just like to make one comment about the perspective of public versus private sector. One of the reasons we have been advocating the development of rules for the registration of Environmental Health Specialist/Sanitarians is twofold: (1) as has been indicated earlier, there is a concerted effort on behalf of the State under the Community Health Services Act to delegate a great deal of responsibility for environmental health control and that goes to air pollution, water pollution, noise, food sanitation, water quality, to the community, at the community level. One of the concerns that we have is one of quality assurance of demonstrating

competency of staff whom are to perform these responsibilities. So as part of the community health services effort, the State is, in fact, delegating legal responsibility for assuring quality of air, water, food and so forth. Therefore, we see this as a means to assist us and by having a definition of environmental health specialist/sanitarian in that regard. In response to the questions concerning the private sector, I see a great need for uniformity of standards for the title Sanitarian between the public and private sector as well. A great deal of focus, I believe, in a progressive environmental health program is to put reliance upon the industry themselves for self-enforcement. Where you have a competent professional sanitarian, or environmental health specialist, more responsibility can be delegated because the regulatory agency can be assured, or more reasonably assured, that the person who is conducting the self-inspections on the behalf of the industry, be that a food service establishment, General Mills, General Foods, or whatever, is, in fact, using qualified people to perform this. As evidenced by Mr. Carlson's statement where they are using in the private sector in the concept of sanitarian as a custodial person, that person certainly does not have the qualifications who would be hired in that capacity to perform the quality assurance for the food, water, air or other environmental-related factors. So I see a need for both public and private involvement if we are going to continue on our approach of delegating more responsibility to both comunities and the private sector.

13. At the hearing the Examiner questioned whether the definition of the occupation could be modified once the credentialling decision had been made by the Human Services Occupations Advisory Committee and the Commissioner of Health. There would be seem to be good policy reasons why it should not be. The credentialling process is largely one of gathering information and responses from members of the affected occupation and others. It would seem to be a circumvention of that process to change the occupation significantly after that process is complete.

Counsel for the Department expressed the opinion that the definition of the occupation could be modified because the Commissioner of Health is the ultimate decision-maker in both phases of this process, that is, the initial determination to credential and then adoption of rules implementing a decision to register an occupation. Additionally, the Examiner would note that Minn. Stat. § 214.13, subd. 3, provides that rules promulgated by the Commissioner registering an occupation may include procedures and standards relating to the scope of authorized practice.

The Examiner finds, therefore, that the Department has demonstrated its authority to and a rational basis for its definition of the occupation. However, the Examiner suggests that the Commissioner re-examine the policy expressed by these rules of expanding definitions of occupations beyond those stated in the initial credentialling decision. Specifically, in this matter, the Examiner would suggest that the occupation be limited to public health professionals and that the question of sanitarians employed by private industry be resubmitted to the Human Services Occupations Advisory Council for its consideration. The scope of practice can always be expanded in the future.

14. A second concern expressed at the hearing was use of the term "sanitarian" to designate the registered occupation as opposed to a term

such as "registered sanitarian". (No concern was expressed about the alternate title "Environmental Health Specialist". The need for and reasonableness of that title is well supported in the Statement of Need and Reasonableness.) Section 1.546 B.7., following the definition of registration given in Minn. Stat. § 214.001, subd. 3(c), would permit only persons who are registered pursuant to these rules to use the designated titles of "Environmental Health Specialist" or "Sanitarian" or the initials "R.S."

15. The Human Services Occupations Advisory Committee, according to testimony at the hearing, some time ago adopted a policy of not using the word "registered" in designated titles, apparently because its use is technically a redundancy. It was obviously the desire of persons at the hearing, who were sanitarians working in public agencies, to have exclusive use of the title. They took great offense at a reported job advertisement for a sanitarian that turned out to be seeking a janitor.

16. Persons supporting the use of the full title "registered sanitarian" also have a great deal of support. According to testimony at the hearing, most of the states registering sanitarians, designate them as registered sanitarians. (The initials "R.S.", of course, stand for "Registered Sanitarian". If the Department were to be entirely consistent, it would designate the initial "S." for exclusive use.) In the statutory scheme of registration, any one can perform the functions that are within the defined scope of practice, but only persons who are properly registered can use the designated title. This distinction is apparently recognized in most states and is made clear in the proposed model act for registration of sanitarians, a copy of which is included in the application for credentialling. There, a sanitarian is defined as a public health professional with the appropriate training and experience, and a registered sanitarian is defined as a sanitarian registered in accordance with the provisions of the Act.

In a posthearing comment, the Department stated:

> The very different uses of the same title pointed out in public testimony are an important reason to include all persons who call themselves Environmental Health Specialists/Sanitarians in these rules. The standards proposed in these rules are consistent with the entry-level standards for the position classification labelled sanitarian in the state and most county civil service personnel systems. If other employers use the title "sanitarian" to describe a person who has met different standards, nothing precludes them from changing this title to something else and continuing to have the employed persons do whatever it is they currently do. Identification of appropriate qualifications for persons calling themselves Environmental Health Specialists/Sanitarians is especially important as the state continues to delegate public health responsibility to local governments. In private industry the title of sanitarian is apparently used by persons doing maintenance work. (Ex. R)

In the first place, it seems a bit difficult to accept the proposition that persons who have called themselves "sanitarians" for 20 years will simply be able to change their title to something else. In the second place, it does not seem that it would be necessary for them to do so. Registration only prohibits non-registered persons from the use of the title. In other words, a non-registered person cannot state, "I am

John Jones, Sanitarian." He can legally state, "I work as a sanitarian."; "My job title is sanitarian."; or "I am a sanitarian." Certainly, nothing prohibits the company by which he is employed from calling him or his job anything it desires. There is a difference between a "title" and the name of a person's occupation. Where they are the same, as here, confusion may result, especially where the name of the occupation has been long-standing.

Therefore, while the Department has presented a rational basis for designating the title, "sanitarian", the Commissioner should consider using the title "registered sanitarian" as suggested by some persons at the hearing.

CONCLUSIONS

1. Due, timely and adequate legal notice of the hearing was properly served and published by the Commissioner. All other procedural and substantive requirements have been fulfilled.

2. The Commissioner has demonstrated his statutory authority to adopt the proposed rules.

3. The Commissioner has demonstrated the need for and reasonableness of the proposed rules.

4. Modifications suggested by the Department at the hearing and by the Examiner in this Report do not constitute substantial changes.

5. The recommendations made in the preceding findings are not intended in any way to preclude the Commissioner from making his own non-substantial changes and improvements to the proposed rules.

RECOMMENDATION

The Hearing Examiner recommends that the rules be modified as suggested in the findings and that so modified, they be adopted.

Dated this 21st day of December, 1978.

STEVE M. MIHALCHICK
Hearing Examiner

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Rules
Relating to the Registration of
Environmental Health Specialists/
Sanitarians.
Health - 79-014-5M

FINDINGS AND CONCLUSIONS;
ORDER ADOPTING RULES

The above-entitled matter came on for hearing in the Minnesota Department of Health Building, Minneapolis, on November 30, 1978, before Steve M. Mihalchick, Hearing Examiner, pursuant to Minn. Stat. Ch. 15 to determine whether the proposed rules should be adopted.

Appearing for the Department of Health were Colleen L. Coghlan and Kathryn Lamp. Richard Wade, Director of the Environmental Health Division, also testified in favor of the rules. William G. Miller, Special Assistant Attorney General, appeared on behalf of the Department. Twenty-four other persons attending the hearing signed the hearing register. The hearing continued until all interested persons had had an opportunity to participate.

Pursuant to Statute and rule, the complete hearing record with a copy of the rules as adopted shall be submitted to the Chief Hearing Examiner for his review pursuant to Minn. Stat. §§ 15.052, subd. 4. The Commissioner shall then file the rules with the Attorney General for final review and will notify persons who have indicated that they wish to be notified of such filing.

Based upon the record herein, the Commissioner makes the following:

FINDING OF FACT

PROCEDURAL REQUIREMENTS

1. On October 6, 1978, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On October 30, 1978, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 881.

3. On October 25, 1978, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On November 3, 1978, the Department filed the following documents:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Secretary of State's Certificate.
(f) The Statement of Need and Reasonableness.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion published at 2 State Register 2,033 (May 15, 1978).
(h) The names of Department personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through December 7, 1978, for the receipt of written comments and statements.

6. The Notice of Hearing as mailed to persons on the Secretary of State's list (Ex. F) and as published in the State Register (Ex. G) stated that the hearing would be held on "Tuesday, November 30, 1978." November 30, 1978, was a Thursday. Persons who called the Office of Hearing Examiners to inquire as to the discrepancy were told that the hearing would be held on Thursday.

On Tuesday, November 28, 1978, at 8:15 a.m., the following Notice was posted at the entrance to the Board Room in the Minnesota Department of Health Building:

> The Public Hearing on the Proposed Rules to Register Environmental Health Specialist/Sanitarians is to be held on Thursday, November 30. The Notice of Hearing incorrectly listed the day as Tuesday. For more information, please check with the person at the information desk across the hall or call Colleen Coghlan at 296-5532.

No one requested more information, and no one was observed to have read the notice at the door (Exs. O, P and Q).

STATUTORY AUTHORITY, NEED AND REASONABLENESS

7. The Statement of Need and Reasonableness (Ex. J) demonstrates the statutory authority of the Commissioner to adopt the rules and the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness were filed 25 days prior to the hearing and were available to all persons attending the hearing. Agency personnel summarized the contents of the Statement and expanded upon it in those areas in which persons attending the hearing expressed an interest. The Department proposed some non-substantial modifications to the proposed rules at the hearing (Ex. M) and some corresponding additions to the Statement of Need (Ex. N.). Those modifications are necessary and reasonable.

PUBLIC COMMENTS

8. The most significant concern raised by persons attending the hearing dealt with the scope of authorized practice and, more specifically, whether persons working in private industry who otherwise fit the definition should be included.

An application submitted jointly by the Minnesota Environmental Health Association and Minnesota Sanitarians Association of October 20, 1975, sought credentialling, "...for practitioners usually known as Sanitarian or Public Health Sanitarian." In the application, they defined the occupation as follows:

> A Sanitarian is trained in and to perform professional work in the promotion of environmental health, education, and the enforcing of codes as it relates to public health. The work involves field investigations, consultations, educational activities, preparation of reports, keeping of records, enforcement actions, sampling and interpretation sample data, etc. These activities may be conducted in such program areas as food sanitation, housing, insect and rodent control, animal control, milk and meat inspection, institutional and industrial hygiene, lodging, sanitation, shoreland management, and land use planning. Supervisory practices and responsibilities will vary considerably depending upon the agency involved. In many cases the sanitarian will not have immediate public health supervision other than that afforded through a medical health officer or state agency. In many other cases there are anitarians employed at varying levels of supervision including positions as directors of environmental health. The Sanitarian's Joint Council, in their proposed model act, defines a sanitarian as "a public health profession uniquely fitted by education in the arts and sciences, specialized training, and credible field experience to effectively plan, organize, manage, execute, and evaluate one or more of the many diverse elements comprising the field of environmental health.

Under the procedures that existed at that time, the Allied Health Credentialling Advisory Committee referred the application to a Sanitarians' Subcommittee for evaluation. On April 12, 1976, the Subcommittee voted unanimously to recommend that: (1) Sanitarians should be credentialled; (2) the credentialling track should be registration, and (3) the administrative structure should be an advisory committee to the State Board of Health. The recommendation of the Subcommittee was adopted by the entire Advisory Committee and by the Board of Health in June, 1976. In its final report, the Sanitarians' Subcommittee stated:

> The Subcommittee spent considerable time working with the applicant group to develop a definition of a anitarian which would clearly explain the various elements of environmental health with which a sanitarian is concerned. The definition finally accepted reads:
>
> > A Sanitarian is a public health professional trained to plan, organize, manage, execute and evaluate one or more of the areas comprising the field of environmental health. Said program areas may include: food, beverage and lodging sanitation; refuse disposal; water supply; sewage disposal; recreational sanitation; rodent, insect and vermin control; accident prevention; swimming pool and public bathing facility sanitation; air quality; water quality; noise; and industrial hygiene. The sanitarian's activities may include: community education, investigations, consultation services, review of construction plans, collection of samples and interpretation of laboratory data, enforcement actions, and reviewal and recommendation of policy and/or regulations.
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> There are few hard lines which delinate all the functions of this occupation from those performed by other health occupations. However, the Subcommittee feels that the broad knowledge and skills applied by this group make it unique.

The foregoing is thus the definition of the occupation that the Allied Health Credentialling Advisory Committee and Board of Health determined in June, 1976, should be registered. (By statutory amendment, the duties, responsibilities and authorities of those bodies have been assumed by the Human Services Occupations Advisory Committee and the Commissioner of Health, respectively.)

The proposed rules in §§ 1.546 B.6. defined the scope of authorized practice by means of the following definition:

"Environmental Health Specialist/Sanitarian" means a person registered pursuant to these rules to plan, organize, manage, implement, and evaluate one or more program areas comprising the field of environmental health. Environmental health program areas include but are not limited to: food, beverage and lodging sanitation; housing; refuse disposal; water supply sanitation; rodent, insect and vermin control; accident prevention; swimming pool and public bathing facility sanitation; radiation safety; air and water quality, noise pollution, and institutional and industrial hygiene. Implementation includes community education, investigation, consultation, review of construction plans, collection of samples and interpretation of laboratory data, enforcement actions, review and recommendation of policy and/or regulation.

Insertion of the first bracketed word, health, was suggested at the hearing for greater clarity and preciseness, the second bracketed word, are, was apparently a typographical omission.

Between the time the definition was preliminarily adopted by the Board of Health and the rules here were proposed, the concept of a Sanitarian was clarified. The question of whether or not the definition of a Sanitarian should include a reference to the place he or she worked (e.g. public agency or private sector) was addressed during the formulation of the proposed rules. The deletion of references to place of employment is reasonable because the functions of a "Sanitarian" as defined by these rules are the same regardless of where those functions are performed.

Much of the evidence gathered during the credentialling process related to Sanitarians employed by public agencies. The only specific reference to Sanitarians employed in industry that appears in the Subcommittee Report is in a letter from the Dean of the University of Minnesota School of Public Health. While there was no specific justification in the Statement of Need and Reasonableness for including private sector employees within the scope of the rules, such justification was presented at the hearing by Dr. Wade who testified as follows:

> I would just like to make one comment about the perspective of public versus private sector. One of the reasons we have been advocating the development of rules for the registration of Environmental Health Specialist/Sanitarians is two-fold: (1) as has been indicated earlier, there is a concentrated effort on behalf of the State under the Community Health Services Act to delegate a great deal of responsibility for environmental health control and that goes to air pollution, water pollution, noise, food sanitation, water quality, to the community, at the community level. One of the concerns that we have is one of quality assurance of demonstrating competency of staff whom are to perform these responsibilities. So as part of the community health services effort, the State is in fact delegating legal responsibility for ensuring quality of air, water, food and so forth.

Therefore, we see this as a means to assist us and by having a definition of Environmental Health Specialist/Sanitarian in that regard. In response to the questions concerning the private sector, I see a great need for uniformity of standards for the title Sanitarian between the public and private sector as well. A great deal of focus, I believe, in a progressive environmental health program is to put reliance upon the industry themselves for self-enforcement. Where you have a competent professional Sanitarian, or Environmental Health Specialist, more responsibility can be delegated because the regulatory agency can be assured, or more reasonably assured, that the person who is conducting the self-inspections on the behalf of the industry, be that a food service establishment, General Mills, General Foods, or whatever, is, in fact, using qualified people to perform this. As evidenced by Mr. Carlson's statement where they are using in the private sector in the concept of sanitation as a custodial person, that person certainly does not have the qualifications who would be hired in that capacity to perform the quality assurance for the food, water, air or other environmental-related factors. So I see a need for both public and private involvement if we are going to continue on our approach of delegating more responsibility to both communities and the private sector.

The definition of the occupation may be modified as the Commissioner of Health is the ultimate decision-maker in both phases of this process, that is, the initial determination to credential and then adoption of rules implementing a decision to register an occupation. Additionally, Minn. Stat. § 214.13, subd. 3, provides that rules promulgated by the Commissioner registering an occupation may include procedures and standards relating to the scope of authorized practice. Therefore, the Department has demonstrated its authority to and a rational basis for its definition of the occupation.

9. A second concern expressed at the hearing was use of the term "Sanitarian" to designate the registered occupation as opposed to a term such as "Registered Sanitarian". (No concern was expressed about the alternate title "Environmental Health Specialist". The need for and reasonableness of that title is well supported in the Statement of Need and Reasonableness.) Section 1.546 B.7., following the definition of registration given in Minn. Stat. § 214.001, subd. 3(c), would permit only persons who are registered pursuant to these rules to use the designated titles of "Environmental Health Specialist" or "Sanitarian" or the initials "R.S."

The word "Registered" is not used by the Department in designated titles, because its use is technically a redundancy. It was obviously the desire of persons at the hearing, who were Sanitarians working in public agencies, to have exclusive use of the title. They took great offense at a reported job advertisement for a Sanitarian that turned out to be a janitor.

10. Those persons who supported the use of the full title "Registered Sanitarian" also have support. According to testimony at the hearing, most of the states registering Sanitarians, designate them as Registered Sanitarians. (The initials "R.S.", of course, stand for "Registered Sanitarian".) In the statutory scheme of registration, any one can perform the functions that are within the defined scope of practice, but only persons who are properly registered can use the designated title. This distinction is apparently recognized in most states and is made clear in the proposed model act for registration of Sanitarians, a copy of which is included in the application for credentialling. There, a Sanitarian is defined as a public health professional with the appropriate training and experience, and a registered Sanitarian is defined as a Sanitarian registered in accordance with the provisions of the Act.

In a posthearing comment, the Department stated:

> The very different uses of the same title pointed out in public testimony are an important reason to include all persons who call themselves Environmental Health Specialists/Sanitarians in these rules. The standards proposed in these rules are consistent with the entry-level standards for the position classification labelled Sanitarian in the state and most county civil service personnel systems. If other employers use the title "Sanitarian" to describe a person who has met different standards, nothing precludes them from changing this title to something else and continuing to have the employed persons do whatever it is they currently do. Identification of appropriate qualifications for persons calling themselves Environmental Health Specialists/Sanitarians is especially important as the state continues to delegate public health responsibility to local governments. In private industry the title of Sanitarian is apparently used by persons doing maintenance work. (Ex. R)

Registration only prohibits non-registered persons from the use of the title. In other words, a non-registered person cannot state, "I am John Jones, Sanitarian." He can legally state, "I work as a Sanitarian."; "My job title is Sanitarian."; or "I am a Sanitarian." Certainly, nothing prohibits the company by which he is employed from calling him or his job anything it desires. Although there may be a difference between a "title" and the name of a person's occupation, what that difference is has not yet been determined by rule or legal opinion. Until this clarification occurs, the statutory definition of registration will be interpreted in its broadest sense.

Therefore, the Department has presented a rational basis for [illegible] the title, "Sanitarian".

CONCLUSIONS OF LAW

1. Due, timely and adequate legal notice of the hearing was properly served and published by the Commissioner. All other procedural and substantive requirements have been fulfilled.

2. The Commissioner has demonstrated his statutory authority to adopt the proposed rules.

3. The Commissioner has demonstrated the need for and reasonableness of the proposed rules.

4. The modifications proposed by the Department at the hearing and by the Examiner in this Report which were adopted herein do not constitute substantial changes.

Based upon these Findings and Conclusions, the Commissioner has made the attached Order Adopting Rules.

Dated: 1/19/79

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

Warren R. Lawson, M.D.
Acting Commissioner of Health