

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA BOARD OF
PEACE OFFICER STANDARDS AND TRAINING
500 METRO SQUARE BUILDING
ST. PAUL, MINNESOTA 55101

Executive Director
(612) 296-2620

November 16, 1982

Ted Martinez
Special Assistant Attorney General
Administration-Finance Division
2nd Floor, Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Dear Mr. Martinez:

The enclosed rules and documents are being submitted for your review and approval. The following documents have been omitted because they are not applicable:

Notice of Intent to Solicit Outside Opinion

Petition for Adoption, Suspension, Amendment, or Repeal of a Rule

Affidavit of Mailing Notice of Submission to the Attorney General

If you should have any questions, please feel free to call Richard Hodsdon, the Board's attorney, or me.

Sincerely,

Mark K. Shields
Executive Director

By: William R. Carter, III
Standards Coordinator

WRC:mb

Enclosures

Our File No. 865

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 11-16-82
DATE FOR REVIEW 11-29-82
DATE DUE 11-30-82

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved _____ Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved 11.17.82 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed see SR

✓ Order Adopting 10.28.82 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
9.29.82 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
9.20.82 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO Mark K. Shields, Executive Director DATE: 11/24/82

Attn: Richard Hodsdon, Special Asst. Atty. General

FROM : Ted Martinez TAM PHONE:296-4692
Special Assistant
Attorney General

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Board of Peace Office Standards and Training Governing Affirmative Action Plans and Remedial Examination Procedures

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.

TAM/las
cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy.

Board of Peace Officer Standards and Training

Adopted Rules Governing Affirmative Action Plans and Remedial Examination Procedures

Rules as Adopted

4 MCAR S 13.024 Certification of schools.

A. Application. Upon filing a proper application, a school desiring certification shall be reviewed by the board. No certification will be issued unless the school files with the board satisfactory proof that the school will offer courses meeting the prescribed learning objectives, has reasonable training equipment and facilities, and has qualified instructors. Further, the coordinator shall file with the board a semiannual affirmative action plan and such other relevant information as the board may require. The affirmative action plan must describe objectives for the recruitment and retention of minority students and women in the law enforcement program. "Minority student" means a person of Black, Hispanic, Asian, American Indian, or native Alaskan heritage. Relevant information may include lesson plans and course outlines.

B.-F. [Unchanged.]

4 MCAR S 13.026 Licensing examinations.

A. and B. [Unchanged.]

C. Retaking examinations. An applicant who fails an examination will be allowed to retake that examination two times, upon furnishing to the board a renewed written application and appropriate fee.

D. Remedial examination procedures. A third or subsequent retake of the examination will require the applicant to submit a remedial training plan to the executive director for board approval. This plan must be directed at deficiencies indicated in previous examinations and must include, at a minimum, the following:

1. training activities to be completed;

2. evaluation process to be used in verifying satisfactory completion of the listed activities; and

3. date of completion of all activities.

An additional written application and appropriate fee will be required for each administration of the examination.

APPROVED AS TO LEGALITY
Nov. 24 19 82
WARREN SPANNAUS, ATTORNEY GENERAL
BY Ted A. Martinez
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV 29 1982
Joan Anderson Growe
Secretary of State

10:30 AM

STATE OF MINNESOTA

BOARD OF PEACE OFFICER STANDARDS AND TRAINING

In the Matter of the Proposed Adoption of Rules of the Board of Peace Officer Standards and Training Governing Affirmative Action Plans and Remedial Examination Procedures

ORDER ADOPTING RULES

Notice of the Board's intent to adopt the above-entitled rules without a public hearing was published in the State Register on September 20, 1982 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on September 17, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as 4 MCAR 13.034 A, 4 MCAR 13.026 C-D, are adopted this 28th day of October, 1982 pursuant to authority vested in the Board by Minn. Stat. §§ 626.84 - 626.861 and Minn. Stat. Ch. 214.

BOARD OF PEACE OFFICER STANDARDS AND TRAINING

Mark K. Shields

Mark K. Shields
Executive Director

STATE OF MINNESOTA

BOARD OF PEACE OFFICER STANDARDS AND TRAINING

In the Matter of the Proposed Adoption of Rules of the Board of Peace Officer Standards and Training Governing Affirmative Action Plans and Remedial Examination Procedures

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 17th day of September, 1982, that a Notice of Intent to Adopt Rules Without a Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Board of Peace Officer Standards and Training for that purpose and be published in the State Register.

STATE OF MINNESOTA

BOARD OF PEACE OFFICER
STANDARDS AND TRAINING

Mark K. Shields

Mark K. Shields
Executive Director

CERTIFICATE OF BOARD'S

AUTHORIZING RESOLUTION

I, Gerald Gerald Bridgeman, do hereby certify that I am a member and the Vice Chairman of the Board of Peace Officer Standards and Training, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Peace Officer Standards and Training duly and properly called and held on the 22nd day of July, 1982, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that Mark K. Shields, Executive Director of the Board of Peace Officer Standards and Training, be and is hereby granted the authority and directed to sign an Order of the Board directing that Notice be given of the Board's intent to adopt without a public hearing rules governing affirmative action requirements for schools and licensing examinations. To sign the Notice thereof, and to perform any and all acts incidental thereto. In the event a public hearing becomes necessary, he hereby is granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as perform any and all acts incidental thereto, including but without being limited to signing an Order for Hearing and Notice of Hearing as well as acting as the Board's representative at all hearings."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 22nd day of July, 1982.

Gerald R Bridgeman

Gerald Bridgeman

Attest by one other Board member

Board of Peace Officer
Standards and Training

In the Matter of the Proposed Adoption of Rules of the Board of Peace Officer Standards and Training Governing Affirmative Action Plans and Remedial Examination Procedures.

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Minnesota Board of Peace Officer Standards and Training proposes to adopt the above-entitled rules without a public hearing. The Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, subdivision 4h (1980 and Supp. 1981 and 1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on a proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivisions 4-4g.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Mark K. Shields, Executive Director
Board of Peace Officer Standards and Training
500 Metro Square Building
St. Paul, MN 55101
(612) 296-2620

Authority for the adoption of this rule is contained in Minnesota Statutes sections 214.03, 626.843, and 626.845. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the board upon request.

Upon adoption of the final rule without a public hearing, the proposed rule, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rule as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the above address.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting the Board.

State of Minnesota

Mark K. Shields
Executive Director

Attach.

Proposed Amendments of Rules Governing Licensing of Peace Officers

Rules as Proposed

4 MCAR S 13.024 Certification of schools.

A. Application. Upon filing a proper application, a school desiring certification shall be reviewed by the board. No certification will be issued unless the school files with the board satisfactory proof that the school will offer courses meeting the prescribed learning objectives, has reasonable training equipment and facilities, and has qualified instructors. Further, the coordinator shall file with the board a semiannual affirmative action plan and such other relevant information as the board may require. The affirmative action plan must describe objectives for the recruitment and retention of minority students and women in the law enforcement program. "Minority student" means a person of Black, Hispanic, Asian, American Indian, or native Alaskan heritage. Relevant information may include lesson plans and course outlines.

B.-F. [Unchanged.]

4 MCAR S 13.026 Licensing examinations.

A. and B. [Unchanged.]

C. Retaking examinations. A ~~person~~ An applicant who fails an examination will ~~only~~ be allowed to retake that examination two times, upon furnishing to the board a renewed written application and appropriate fee.

D. Remedial examination procedures. A third or subsequent retake of the examination will require the applicant to submit a remedial training plan to the executive director for board approval. This plan must be directed at deficiencies indicated in previous examinations and must include, at a minimum, the following:

1. training activities to be completed;
2. evaluation process to be used in verifying satisfactory completion of the listed activities; and

APPROVED BY THE REVISOR OF STATUTES OFFICE BY: Paul E. Rohde

3. date of completion of all activities.

An additional written application and appropriate fee will be required for each administration of the examination.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:
Paul E. Bobbe

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD244

Agency: Peace Officer Standards and Training Board

Division:

Agency Contact: William Carter, III

Rule Numbers: 4 MCAR SS 13.024 and 13.026

Title: Proposed Amendments of Rules Governing Licensing of Peace Officers

Type of Rules: Permanent

Incorporations by Reference: None
Rule Number: Material Incorporated:

Duplication of Statutory Language: None
Rule Number: Statutory Section Duplicated:

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Paul E. Rohde
Senior Assistant Revisor
Phone: 296-0953
Date: 9/7/82

In the Matter of the Proposed Adoption of Rules of the Board of Peace Officer Standards and Training Governing Affirmative Action Plans and Remedial Examination Procedures

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marge Braun, being first duly sworn, deposes and says:

That on the 17th day of September. 1982. at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Board of Peace Officer Standards and Training for the purpose of receiving notice of the proposed adoption of rules by this Board.

Marge Braun
Marge Braun

Subscribed and sworn to before me this 29 day of October, 1982.

William R. Carter, III

WILLIAM R. CARTER, III
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Oct. 7, 1989

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the Board of Peace Officer Standards and Training Governing Affirmative Action Plans and Remedial Examination Procedures

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I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with and maintained by the Board of Peace Officer Standards and Training for the purpose of receiving notice of the proposed adoption of rules by this agency, is accurate and complete as of 1:00 PM, this 17th day of September, 1982.

William R. Carter, III

These were sent on 9/17/82

RULES MAILING LIST

Ken Nissen, Chief of Police
Owatonna Police Department
135 West Main Street
Owatonna, MN 55060

Mr. H.E. Maitland
MN Railroads Association
203 Hanover Building
St. Paul, MN 55101

Gregory Schol, Chief of Police
Chaska Police Department
205 East 4th Street
Chaska, MN 55318

Galen Wills, Chief of Police
Arlington Police Department
322 West Main Street
Arlington, MN 55307

Director
Office of Emergency Preparedness
1380 Frost Avenue
Maplewood, MN 55109

Mr. Doug Trouten
The Staples World
224 North 4th Street
Staples, MN 56479

Senator Don Moe
Room 323 State Office Building
St. Paul, MN 55155

Robert Heid, Chief of Police
Browerville Police Department
City Hall, Main Street
Browerville, MN 56438

Representative Arlene Lehto
Room 238 State Office Building
St. Paul, MN 55155

Hennepin County Sheriff's Office
Training Division
Room 6, Courthouse
Minneapolis, MN 55415

Mr. Scott Neft, Attorney
Box 1086
Virginia, MN 55792

John Scherer, Chief of Police
Winona Police Department
Law Enforcement Center
Winona, MN 55987

Steve Neet, Chief of Police
Long Prairie Police Department
239 Central Avenue
Long Prairie, MN 56347

Edward Williams, Sheriff
Grant County Sheriff's Office
Courthouse
Elbow Lake, MN 56531

Susan Robertson, Exec. Director
Legislative Commission to
Review Administrative Rules
Room 430 State Office Building
St. Paul, MN 55155

Senator Howard Knutson
1907 Woods Lane
Burnsville, MN 55337

Representative Steve Wenzel
Room 333 State Office Building
St. Paul, MN 55155

Mr. Stan Peskar
League of MN Cities
183 University Avenue East
St. Paul, MN 55101

Leonard Bursott, Chief of Police
South St. Paul Police Department
125 Third Avenue North
South St. Paul, MN 55075

Sgt. Raymond Hager
Brown County Sheriff's Office
New Ulm, MN 56073

Deputy Chief Fred Sowl
Duluth Police Department
Room 104 City Hall
Duluth, MN 55802

Mr. Ron Beyer
Box 130
Pelican Rapids, MN 56572

Mr. Peter S. Popovich
Peterson, Popovich, Knutson and
Flynn, Professional Association
314 Minnesota Building
St. Paul, MN 55101

Mr. Don Adams
City of Dalton
Dalton, MN 56324

Mr. Richard Ellison
Box 34
International Falls, MN 56649

Mr. Henry Malzahn
Osseo Police Department
Box 330
Osseo, MN 55369

MN Chiefs of Police Association
Daryl Plath, Secretary
107 West 5th Street
Hastings, MN 55033

Phillips Legislative Service Inc.
459 Rice Street
St. Paul, MN 55103

Bob Franklin, City Editor
Minneapolis Tribune
425 Portland Avenue
Minneapolis, MN 55488

MN State Sheriffs' Association
P. O. Box 623
South St. Paul, MN 55075

MN Police & Peace Officers Assn.
200 South Robert Street
Suite 200
St. Paul, MN 55107

Ms. Roanne Chelich
Metro Council
300 Metro Square Building
St. Paul, MN 55101

Duane Bahn, Chief of Police
Osakis Police Department
P. O. Box 84
Osakis, MN 56360

Ivan Fossen, Chief of Police
Glenwood Police Department
137 East Minnesota Avenue
Glenwood, MN 56334

Mr. Sam Ruhle
Office of Administrative Hearing
400 Summit Bank Building
310 South 4th Avenue
Minneapolis, MN 55415

Stan Clark, Mayor
Box 202
Remer, MN 56672

ATOM
P. O. Box 27282
Minneapolis, MN 55427

Criminal Justice Edocators Assn.
c/o Stephen Enockson
Willmar Community College
Willmar, MN 56201

Jean Dawson, Editor
The MN Government Report
B-12 Press Room, State Capitol
St. Paul, MN 55155

MN Board of Nursing
717 Delaware Street S.E.
Minneapolis, MN 55414

Mr. Barry Schrieber
St. Cloud State University
Criminal Justice Studies
St. Cloud, MN 56301

Mr. Herb Anderson
St. Louis County Courthouse
Virginia, MN 55792

Lt. Porth
Bloomington Police Department
2215 West Old Shakopee Road
Bloomington, MN 55431

Mr. Pete Mikkelson no forwarding address - mail returned 9-31-82
P. O. Box 94
Clarissa, MN 56440

Dennis Brekke, Sheriff
Marshall County Sheriff's Office
Law Enforcement Center
Warren, MN 56762

Peter Donohue, Attorney at Law
916 St. Germain Street
P. O. Box 971
St. Cloud, MN 56301

STATE REGISTER

STATE OF MINNESOTA

RECEIVED
SEP 21 1982
POST



VOLUME 7, NUMBER 12

September 20, 1982

Pages 337-396

STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
	SCHEDULE FOR VOLUME 7		
13	Monday Sept 13	Monday Sept 20	Monday Sept 27
14	Monday Sept 20	Monday Sept 27	Monday Oct 4
15	Monday Sept 27	Monday Oct 4	Monday Oct 11
16	Monday Oct 4	Monday Oct 11	Monday Oct 18

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 15.051. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at $130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at $3.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

Albert H. Quie
Governor

James J. Hiniker, Jr.
Commissioner
Department of Administration

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Carol Anderson Porter
Editor

Paul Hoffman, Robin PanLener, Roy Schmidtke, Jean Walburg
Editorial Staff

Margaret Connelly
State Register Index Editor

Debbie Kobold
Circulation Manager

Cover graphic: *Minnesota State Capitol*, ink drawing by Ric James.

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4 MCAR §§ 4.001-4.002, 4.016, 4.046, 4.061-4.062, 4.066, 4.092, 4.100, 4.133-4.135, 4.140-4.141, 4.202-4.204, 4.211-4.212, 4.215, 4.250 (proposed) 302

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PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Peace Officer Standards and Training

Proposed Rules Governing Affirmative Action Plans and Remedial Examination Procedures

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Board of Peace Officer Standards and Training proposes to adopt the above-entitled rules without a public hearing. The board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, subdivision 4h (1980 and Supp. 1981 and 1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on a proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivisions 4-4g.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Mark K. Shields, Executive Director
Board of Peace Officer Standards and Training
500 Metro Square Building
St. Paul, MN 55101
(612) 296-2620

Authority for the adoption of this rule is contained in Minnesota Statutes sections 214.03, 626.843, and 626.845. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the board upon request.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the above address.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting the board.

Mark K. Shields
Executive Director

Rules as Proposed

4 MCAR § 13.024 Certification of schools.

A. Application. Upon filing a proper application, a school desiring certification shall be reviewed by the board. No certification will be issued unless the school files with the board satisfactory proof that the school will offer courses meeting the prescribed learning objectives, has reasonable training equipment and facilities, and has qualified instructors. Further, the coordinator shall file with the board a semiannual affirmative action plan and such other relevant information as the board may require. The affirmative action plan must describe objectives for the recruitment and retention of minority students and women in the law enforcement program. "Minority student" means a person of Black, Hispanic, Asian, American Indian, or native Alaskan heritage. Relevant information may include lesson plans and course outlines.

B.-F. [Unchanged.]

4 MCAR § 13.026 Licensing examinations.

A. and B. [Unchanged.]

C. Retaking examinations. ~~A person~~ An applicant who fails an examination will ~~only~~ be allowed to retake that examination two times, upon furnishing to the board a renewed written application and appropriate fee.

D. Remedial examination procedures. A third or subsequent retake of the examination will require the applicant to submit a remedial training plan to the executive director for board approval. This plan must be directed at deficiencies indicated in previous examinations and must include, at a minimum, the following:

1. training activities to be completed;

2. evaluation process to be used in verifying satisfactory completion of the listed activities; and

3. date of completion of all activities.

An additional written application and appropriate fee will be required for each administration of the examination.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Agriculture
Food Inspection Division

Adopted Rules Governing the Candling and Grading of Eggs

The rules proposed and published at *State Register,* Volume 7, Number 1, pages 5-11, July 5, 1982 (7 S.R. 5) are adopted as proposed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Department of Agriculture
Grain Inspection Division

Notice of Withdrawal of Proposed Rules Governing the Licensing of Local Grain Warehouses and Warehouses Other than Grain or Cold Storage (Chapters Nine and Ten: PSC 240-269)

The rules proposed and published at *State Register,* Volume 6, Number 5, pages 129-136, August 3, 1981 (6 S.R. 129) are withdrawn in their entirety by the department. The rules are being withdrawn because amendments to the enabling statute, passed by the Minnesota Legislature and effective July 1, 1982, must be incorporated into the rules. The department intends to republish the rules with this additional material at a future date.

Department of Energy, Planning and Development
Energy Division (Minnesota Energy Agency)

Temporary Rules for the Administration of the District Heating Bonding Act Regarding Construction Loans

Notice of Continuation

Notice is hereby given that the temporary rules governing Construction Loans under the District Heating Bonding Act, which are cited 6 MCAR §§ 2.4021 through 2.4034 [Temporary], are continued in effect for an additional 180 days or until permanent rules are effected, whichever comes first.

These temporary rules appear in the February 22, 1982 issue of the *State Register* (6 S.R. 1465) with minor modifications appearing in the April 12, 1982 issue (6 S.R. 1716). Rules became effective on March 26, 1982 when they were approved by the Attorney General.

The rules shall continue in effect for no more than 180 days from September 22, 1982.

Kent Eklund, Commissioner

Department of Energy, Planning and Development

Adopted Rules Governing Implementation of the State Energy Supply Conservation and Allocation Plan during a Petroleum Shortage

The rules published and proposed at the *State Register,* Volume 7, Number 3, page 86, July 19, 1982 are now adopted without change.

Minnesota Environmental Quality Board

Adopted Rules Governing the Environmental Review Program

The rules proposed and published at *State Register,* Volume 6, Number 10, pages 355-393, September 7, 1981 (6 S.R. 355) are adopted with the following modifications:

Rules as Adopted

Chapter Eleven: Authority, Purpose, Definitions, Responsibilities

6 MCAR § ~~3.001~~ 3.021 Authority, purpose and objectives.

A. Authority. Rules 6 MCAR §§ ~~3.001-3.036~~ 3.021-3.056 are issued under authority granted in Minn. Stat. ch. 116D to implement the environmental review procedures established by the Minnesota Environmental Policy Act.

B. Application. Rules 6 MCAR §§ ~~3.001-3.036~~ 3.021-3.056 apply to all governmental actions. Rules 6 MCAR §§ ~~3.001-3.036~~ 3.021-3.056 shall apply to ~~actions~~ projects for which environmental review has not been initiated prior to the rule's effective date. For any ~~action~~ project for which environmental review has been initiated by submission of a citizens

STATE OF MINNESOTA

BOARD OF PEACE OFFICER STANDARDS AND TRAINING

In the Matter of the Proposed Adoption of Rules of the Board of Peace Officer Standards and Training Governing Affirmative Action Plans and Remedial Examination Procedures

FINDINGS OF FACT AND CONCLUSIONS

Notice of the Board's intent to adopt the above-entitled rules without a public hearing was published in State Register on September 20, 1982, after proper notice required by Minnesota Statutes § 15.0412 was served upon all persons, associations, and other interested groups registered with the Board of Peace Officer Standards and Training for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced upon the records, files, and proceedings herein, I find the following:

1. The rules, as to be adopted; a copy of which is attached hereto as Exhibit A.

2. The Statement of Need and Reasonableness; a copy of which is attached hereto as Exhibit B.

3. The rules as set forth in Exhibit A do not have any changes of form or substance from the rules as published and proposed in the State Register on September 20, 1982, and therefore are not controversial and are adopted without additional public hearings or comment.

STATE OF MINNESOTA

BOARD OF PEACE OFFICER
STANDARDS AND TRAINING

Mark K. Shields

Mark K. Shields
Executive Director

Board of Peace Officer Standards and Training

Adopted Rules Governing Affirmative Action Plans and Remedial Examination Procedures

Rules as Adopted

4 MCAR S 13.024 Certification of schools.

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An additional written application and appropriate fee will be required for each administration of the examination.

Exhibit B

4 MCAR 13.024 Certification of Schools

The statutory authority for adopting rules with respect to certification of schools is found in Minn. Stat. 626.843. The proposed rule change would require coordinators of law enforcement programs to file with the board a semiannual affirmative action plan. Documentation of the plan must include a statement of objectives for the recruitment and retention of minority students and women in the law enforcement program.

Law enforcement has traditionally been a field in which few minorities and women have been members. The societal implications associated with becoming a police officer tended to discourage those groups from entering the profession. Recognizing that there is no rational basis for such an exclusion, and that it is necessary to remedy the problem, this rule proposes a reasonable solution.

The rule will require, for some institutions, the introduction of recruitment programs which have heretofore been nonexistent, and would place special emphasis on the recruitment of minorities and women.

The rule which is now in effect allows the applicant to take the licensing examination only three times; if the applicant fails each of the three examinations, his or her only alternative is to complete the academic, skills, part-time peace officer or constable training program in its entirety. This alternative is clearly inappropriate when it is considered that the applicant may be deficient in only one area of the program.

Other professional licensing boards have set a precedent in the area of examination procedures. At the time the present rule was adopted, most boards had similar rules in effect; if a student failed the examination more than the number of times allowed, the student's only recourse was to complete the required education once again. In recent staff research, it was discovered that all of those licensing boards have amended their rules to provide for a system such as the one proposed here.

The proposed rule would allow, as does the present one, for two retakes of the examination without restriction. When the student fails these three examinations, he or she will be required to submit to the executive director a remedial training plan. The training plan would be specifically aimed at deficiencies indicated in the previous examinations. The plan must propose appropriate training activities to be completed, the evaluation process by which successful completion of those activities will be measured, and the date of completion of the activities. Upon approval and completion of the training program, the student would be allowed to retake the examination, provided he or she makes application and pays the appropriate fee.

This rule allows for a reasonable means of dealing with students who have demonstrated inadequate preparation through repeated failures of the licensing examinations. It also sets forth for the student a much more palatable alternative to a second completion of the learning objectives, since it is specific to his or her demonstrated problems and is significantly less time-consuming. Implementation of the rule may also serve to alleviate some of the anxieties a student is certain to feel in retaking the examination.

The statutory authority for establishing examination procedures is found in Minn. Stat. §§ 626.843 and 626.845. It is necessary to provide for a procedure which allows students such an alternative. At the same time, after three failures of a licensing examination the Board becomes decidedly more concerned about the individual's competence to practice law enforcement. It is reasonable to charge the Board with a greater level of supervision over these students.

CERTIFICATE OF BOARD'S

RESOLUTION ADOPTING RULES

I. Richard Setter, do hereby certify that I am a member and the Chairman of the Board of Peace Officer Standards and Training, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Peace Officer Standards and Training, duly and properly called and held on the 28th day of October, 1982, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

"RESOLVED, that the rules relating to Affirmative Action Plans and Remedial Examination Procedure be and they hereby are approved and adopted, pursuant to authority vested in us by Minn. Stat. §§ 626.84-626.861, and Minn. Stat. Ch. 214, and that Mark K. Shields, the Executive Director of the Board of Peace Officer Standards and Training, be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 28th day of October, 1982.

Richard Setter

Richard Setter, Chair

Gerald L Bridgeman

Attest by one other Board member

Statement of Need + Reasonableness

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STATEMENT OF COMPLIANCE WITH

RULEMAKING PROCEDURES

I, Special Assistant Attorney General Richard Hodsdon, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Dated: November 16, 1982

Richard Hodsdon

Richard Hodsdon
Special Assistant
Attorney General