

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1010

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2-23-84
DATE FOR REVIEW 3-2-84
DATE DUE 3-8-84

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

Approved 3-9-84 Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State 3-13-84 Revisor approved _____ disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 2.16.84 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 8.8.83

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

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

✓ Mailing list Certificate

✓ Publication in State Register
12.5.83 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

N/A 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

MINNESOTA BOARD OF
PEACE OFFICER STANDARDS AND TRAINING
333 SIBLEY STREET (SUITE 495)
ST. PAUL, MINNESOTA 55101

Executive Director
(612) 296-2620

February 22, 1984

Martha Casserly
Special Assistant Attorney General
Administration-Finance Division
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Dear Ms. Casserly:

On February 16, 1984, the POST Board adopted its proposed rule, 4 MCAR 13.040 Investigation and Resolution of Misconduct Allegations.

Pursuant to state statute and the rules of the Attorney General, the enclosed documents related to this rule are being submitted for your review and approval.

If you 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 as stated

CHECKLIST FOR DOCUMENTS TO BE SUBMITTED TO ATTORNEY GENERAL

A. Rules as Adopted (original & 3 copies to A.G.)

B. Order Adopting (original & 3 copies to A.G.)

C. Resolution Adopting (original & 3 copies to A.G.)

D. Notice of Intent to Solicit Outside Opinion with Written Comments

E. Order for Notice to Adopt a Rule Without a Public Hearing

F. Authorizing Resolution

G. Notice of Intent to Adopt Rule Without Public Hearing

H. Affidavit of Mailing Notice of Intent to Adopt a Rule Without a Public Hearing

I. Mailing List Certificate

J. Rule as Proposed Published in State Register

K. Findings of Fact and Conclusions

L. Statement of Need and Reasonableness

M. Petition for Adoption, Suspension

N. Written Comments on the Rule or Requests for Public Hearing

O. Certificate of Compliance with Rulemaking

P. Affidavit of Mailing Notice of Submission to the Attorney General and Accompanying Notice

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT POST Board

Office Memorandum

TO: File

DATE: 2/7/84

FROM: William R. Carter, III
Standards Coordinator

PHONE:

SUBJECT: Notice of Submission to the Attorney General

The POST Board did not receive any requests for notice of submission to the Attorney General.

WRC:mb

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT POST Board

Office Memorandum

TO: File

DATE: 2/7/84

FROM: William R. Carter, III
Standards Coordinator

PHONE:

SUBJECT: Petition for Adoption, Suspension, Amendment or Repeal to Rule

This rulemaking process was not in response to a petition filed pursuant to Minn. Stat. 14.09.

WRC:mb

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT POST Board

Office Memorandum

TO: File

DATE: 2/7/84

FROM: William R. Carter, III
Standards Coordinator

PHONE:

SUBJECT: Written Comments on Rule

Since the Notice of Intent to Adopt a Rule Without a Public Hearing was published on December 5, 1983, the POST Board has not received any written comments or requests for a public hearing.

WRC:mb

EXHIBIT C

MINNESOTA BOARD OF PEACE OFFICER STANDARDS AND TRAINING

STATEMENT OF NEED AND REASONABLENESS

4 MCAR § 13.040 Investigation and Resolution of Misconduct Allegations

Introduction

In the last legislative session, the POST Board was directed to adopt rules with respect to:

> The establishment, and use by any political subdivision or state law enforcement agency which employs persons licensed by the board of procedures for investigation and resolution of misconduct by persons licensed by the board. The procedures shall be in writing and shall be established on or before October 1, 1984.

Laws of 1983, Ch. 269, §3. The Board's powers and duties were amended as well to include the following clause:

> To assist and cooperate with any political subdivision or state law enforcement agency which employs persons licensed by the board to establish written procedures for the investigation and resolution of allegations of misconduct of persons licensed by the board, and to enforce licensing sanctions for failure to implement such sanctions.

Laws of 1983, Ch. 269, §4.

This rule-making process is undertaken for the purpose of complying with that legislative mandate. The Legislature, in all aspects of law enforcement officer licensing, has recognized the need for some responsibility and supervision at the state level. At the same time, it has recognized that in most areas there is a need for a balance of state and local responsibility and supervision over law enforcement officers. The statutes, and this proposed rule, attempt to maintain that balance by requiring that general procedures be established to investigate allegations of misconduct by law enforcement officers, but leaving the discretion for the specific form of these procedures to the local units of government.

The need for flexibility in the form of procedures for resolution of allegations of misconduct is clear from an examination of those agencies which will be affected by the rule. There are approximately 625 law enforcement agencies which will be required to establish these procedures. Those agencies employ any number from one to over 700 persons licensed by the Board. Eighty-seven of the agencies are sheriffs' departments, and three are state law enforcement agencies. The remaining number are city or township law enforcement agencies.

Since there exists this wide variety of agencies to be affected, it is not surprising that many of these agencies currently use widely varying methods for dealing with allegations of peace officer misconduct. Some licensees may be subject to disciplinary procedures by a local civil service commission; others may answer to the city manager, mayor or city council. Some law enforcement officers may come under the jurisdiction of the local police commission, and still others may be governed by the provisions of union collective bargaining agreements.

The legislation mandating this rule does not direct adoption a new statewide uniform system through which investigations into allegations of misconduct will be effected. Rather, the legislation indicates that this new procedure can be incorporated into existing investigative and disciplinary systems. The focal point of the legislation, and of the corresponding proposed rule, is that of local responsibility: local law enforcement agencies must establish standards and procedures, which they deem appropriate for their unique situations, in the area of discipline and supervision of peace officers.

Specific Provisions of the Rule

The definitions of the terms "data" and "misconduct" which appear in Section A are necessary to clarify the use of the terms throughout the rule. They also make the rule easier to read.

The definition of the term "misconduct" is of substantive significance to the rule, because it vests the local agency with the authority to determine acts or omissions which may result in disciplinary action. The reasonableness of allowing such authority may be illustrated by the following example.

Some agencies have policies which prohibit two or more officers from dining together while on duty. This policy results from the judgment that allowing such conduct reduces the level of police coverage during the time the officers are in the restaurant together. Conversely, other agencies may encourage officers to dine together to a reasonable extent. Such acts may be seen as desirable in a public relations sense. In addition, the activity may foster communication between officers regarding the detection of criminal activity.

It is clear that the choice between these conflicting policies is not one which directly affects the protection and safety of the public. Both policies have merit; it must be left to the local unit of government to determine which approach best suits its needs.

Section B relates to the scope of the rule and the Board's enforcement authority. This statement is needed to clarify the Board's jurisdiction to the licensee, the citizen, the appointing authority, and the law enforcement agency. It reinforces the legislative mandate that the system be developed and implemented at the local government level. This rule is reasonable in that it eliminates the potential for misinterpretation of the Board's authority. It is clear that procedures may be implemented at the local government level without state intervention.

Section C specifies the elements which must be included in the written procedures required by this rule and the date by which the procedures must be established. The specification of these elements is necessary to provide officers and the public notice of the rules of conduct and how the system operates. The licensee needs to know the standards to which she will be held and the process by which she may defend against allegations of misconduct. The citizen must know the conduct which the local government unit views as inappropriate and the process by which he may have such inappropriate actions reviewed. Both the citizen and the licensee need to know the date on which the procedures will take effect.

This section of the rule is reasonable. The elements which must be included in the written procedures are recognized as minimum elements of personnel policies throughout the country. [The Board has compiled a bibliography of materials dealing with such personnel policies. The bibliography is available upon request.]

Section D requires each agency to submit an affirmation of compliance with section C to the Board not later than October 15, 1984, or 15 days after the agency begins operation, whichever is later. The requirement is necessary in order for the Board to fulfill its role in insuring that a system is adopted and utilized by each agency.

An affirmation of compliance is the only feasible means for the Board to monitor the establishment of the required procedures. Requiring the agency to submit its procedures in each case would require an unreasonable amount of paperwork and storage space on the Board's part. Additionally, this type of documentation requirement is the common practice of the Board in other areas of peace officer licensing. The agency is required to maintain the written procedures which are to be made available to the Board at its request.

Approximately five new agencies begin operations each year. It is reasonable to require that an affirmation of compliance be submitted within 15 days of the beginning of their operations to insure compliance with the rule.

Section E relates to the availability of copies of the written procedures to the public and, in effect, specifies that they are public documents. It is necessary that the procedures be available to the public in order that citizens may know the conduct which is proscribed and the procedure through which allegations of misconduct will be reviewed. It is also necessary and reasonable that licensees be provided copies of the written procedures so that they may know the standards to which they will be held.

Section F relates to the documentation which must be maintained by agencies on specific allegations of misconduct. This section is necessary as a clarification to the local law enforcement agency. There is a great deal of confusion among local agencies with regard to the status of internal affairs data and the length of time for which it must be maintained. This section serves as a clarification that the Data Practices Act applies to the information referred to in this rule, and that retention schedules must be developed for that information.

This section deals only with data which is classified as public. The rule does not affect the dissemination of data which is classified as private or confidential.

Section G is the primary enforcement provision of this rule, holding the chief law enforcement officer responsible for the development, implementation and application of the required procedures. It is necessary, indeed, it is legislatively mandated, for the Board to enforce licensing sanctions for failure to implement the required procedures. It is reasonable, then, for the chief law enforcement officer to be held responsible for failure to comply with this rule. That individual is responsible for the operation of the agency and the highest ranking official over whom the Board has jurisdiction. The practice of holding the chief responsible is common for the Board. In 4 MCAR § 13.028 A., for example, the chief law enforcement officer is required to notify the Board of the appointment of any person to the position of peace officer before the first day of the officer's employment. The chief law enforcement officer is also required to maintain documentation regarding the completion of selection standards and various other requirements for licensing.

There is also, of course, clear case law holding chief law enforcement officers civilly liable for the acts of their officers. This concept of liability stems from the fact that those who supervise have the greatest level of control or ability to control the acts of the supervised. That concept applies in the case of procedures for allegations of misconduct as well.

Conclusion

This rule is proposed as a necessary and reasonable means of implementing Chapter 269 of the 1983 Laws. In addition, agencies should find a good deal of assistance, should they need it, in developing the required procedures. POST is cooperating with the Bureau of Criminal Apprehension in the development of training courses on the development of procedures. POST also offers its assistance to individual agencies who have problems meeting the requirements of the statute and the rule.

STATEMENT OF COMPLIANCE WITH

RULEMAKING PROCEDURES

I, Special Assistant Attorney General Richard D. 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.

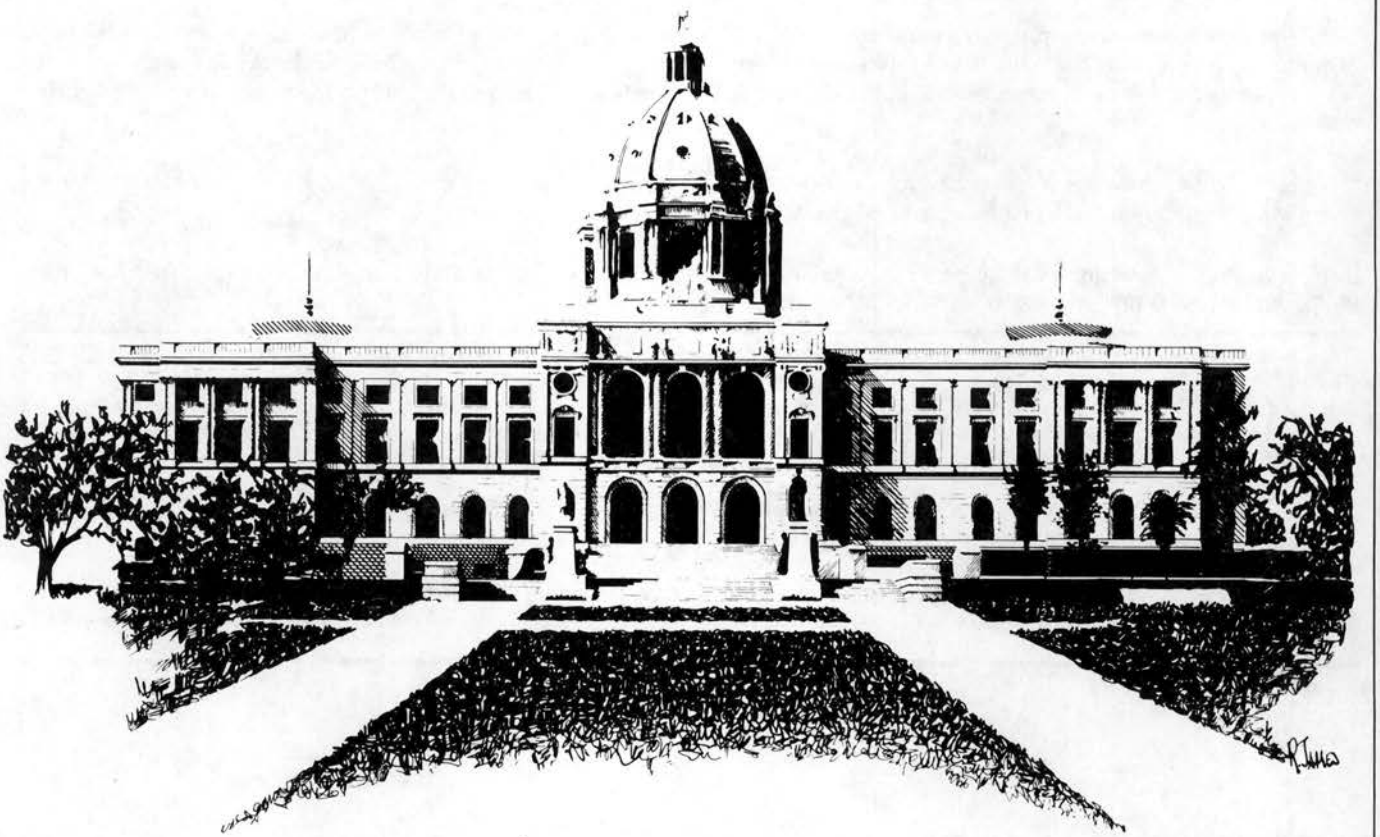
Richard Hodsdon

Richard D. Hodsdon
Special Assistant Attorney General

Dated: February 22, 1984

STATE REGISTER

STATE OF MINNESOTA



VOLUME 8, NUMBER 23

December 5, 1983

Pages 1285-1368

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 8		
24	Monday Nov 28	Monday Dec 5	Monday Dec 12
25	Monday Dec 5	Monday Dec 12	Monday Dec 19
26	Monday Dec 12	Friday Dec 16	Monday Dec 26
27	Friday Dec 16	Friday Dec 23	Monday Jan 2

*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. § 14.46. 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.

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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*.

Rudy Perpich
Governor

Sandra J. Hale
Commissioner
Department of Administration

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Marsha Storck
Editor

Robin PanLener
Editorial Staff

Margaret Connelly
State Register Index Editor

Debbie Kobold
Circulation Manager

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

rules (24.5 percent minus 17.75 percent equals 6.75 percent). Six and three-fourths (6.75) percent is the amount assigned to the disabled condition after apportionment.

D. Where the pre-existing disability and the subsequent permanent partial disability affect more than one member, apportionment must be determined as follows:

1. For each member, determine the percentage of whole body disability under A.-C., as appropriate.

2. Combine the percentages obtained in 1. in the manner set forth in Minnesota Statutes, section 176.105, subdivision 4, clause (c).

Effective Date. Rulel 8 MCAR §§ 1.9001~~-1.9023~~ 1.9025 [Temporary] are effective January 1, 1984.

Board of Peace Officer Standards and Training

Proposed Adoption of Rules Governing Investigation and Resolution of Misconduct Allegations

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 rule without a public hearing. The Board has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21-14.28 (1982).

Persons interested in this rule shall have 30 days to submit comments on the proposed rule. The proposed rule 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 the 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 sections 14.13-14.20 (1982).

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

Mark K. Shields
Board of Peace Officer Standards and Training
333 Sibley Street, Suite 495
St. Paul, Minnesota 55101
(612) 296-2620

Authority for the adoption of this rule is contained in Laws of 1983, Chapter 269, sections 3-6, Minn. Stat. sections 626.843, Subd. 3(d) (1982), and 626.845 (i) (1982). 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 Rules 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 rule as proposed for adoption, should submit a written statement of such request to the above address.

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

Free copies of this Notice and the proposed rule are available and may be obtained by contacting the Board of Peace Officer Standards and Training.

State of Minnesota
Mark K. Shields, Executive Director

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.

Rule as Proposed (all new material)

4 MCAR § 13.040 Investigation and resolution of misconduct allegations.

A. Definitions. For the purposes of this rule the terms defined have the meanings given them.

1. "Data" means personnel data as defined in Minnesota Statutes, section 13.43, subdivision 1, which is public if it falls within the categories listed in subdivision 2 of that statute.

2. "Misconduct" means an act or omission by an employee or appointee of an agency licensed by the board which may result in disciplinary action by the agency or appointing authority.

B. Scope. The board recognizes the importance of the need for each agency and appointing authority to have and to use written procedures for the investigation and resolution of allegations of misconduct. The agency and appointing authority have the responsibility to impose the disciplinary sanctions they find appropriate for misconduct that occurs. Nothing in this rule shall be interpreted or is intended to authorize the board to approve, deny, or modify in any manner sanctions which may or may not be imposed by the agency or appointing authority.

C. Development of written procedures. On or before October 1, 1984, the chief law enforcement officer shall establish written procedures for the investigation and resolution of allegations of misconduct against licensees employed or appointed by his agency. These procedures shall minimally specify:

1. the misconduct which may result in disciplinary action;
2. the process by which complaints will be investigated;
3. the sanctions which may be imposed if a complaint is sustained;
4. the appeal process for the licensee;
5. the process which will be used to notify the complainant of the investigation and disposition; and
6. the effective date of the procedures or subsequent modifications of the procedures.

D. Affirmation of compliance. The chief law enforcement officer shall affirm to the board compliance with C. no later than October 15, 1984. If an agency begins operation after October 1, 1984, the chief law enforcement officer shall affirm to the board compliance with C. no later than 15 days after the agency begins operation.

E. Copies of procedures. Copies of current written procedures governing allegations of misconduct shall be available to the public on request. Copies of written procedures governing allegations of misconduct and any subsequent modifications of the procedures shall be distributed by an agency to licensees who are employed or appointed by the agency.

F. Documentation of complaints. The chief law enforcement officer or his designee or designees shall maintain data concerning all allegations of misconduct by licensees employed or appointed by the agency according to the provisions of Minnesota Statutes, sections 15.17 and 15.171. The board may request copies of this data. The chief law enforcement officer shall supply the data and an affidavit of compliance with C.2. to the board within five days of the request, excluding Saturdays, Sundays, and legal holidays. If compliance is not possible within that time, the chief law enforcement officer shall inform the board and shall have an additional five days to comply with the request, excluding Saturdays, Sundays, and legal holidays.

G. Processing of complaints. Complaints which allege misconduct by a licensee shall be processed according to the agency's written procedures. Failure to comply with these procedures or any other provisions of this rule shall be grounds for disciplinary action against the chief law enforcement officer's license.

Department of Labor and Industry
Occupational Safety and Health Division

Proposed Revisions to the Occupational Safety and Health Standards

Request for Comments

Notice is hereby given that the Department of Labor and Industry proposes to adopt the following revisions to the Minnesota Occupational Safety and Health Codes, as authorized under Minn. Stat. § 182.655 (1982), establishing or modifying the Occupational Safety and Health Standards described below. This is an action to adopt standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration.

Complete copies of the specific standard are available by writing: Occupational Safety and Health Division, Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101; or by calling: (612) 297-3254.

Board of Peace Officer
Standards and Training

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Procedures for Investigation and Resolution of Allegations of Misconduct by Persons Licensed by the Board.

Notice is hereby given that the Board of Peace Officer Standards and Training is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing the procedures for investigation and resolution of allegations of misconduct by persons licensed by the Board. The promulgation of these rules is authorized by Laws of 1983, Ch. 269, §§ 3-6, which requires the agency to develop administrative rules.

The Board of Peace Officer Standards and Training requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Mark K. Shields, Executive Director
Board of Peace Officer Standards and Training
333 Sibley Street, Suite 495
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-2620 and in person at the above address.

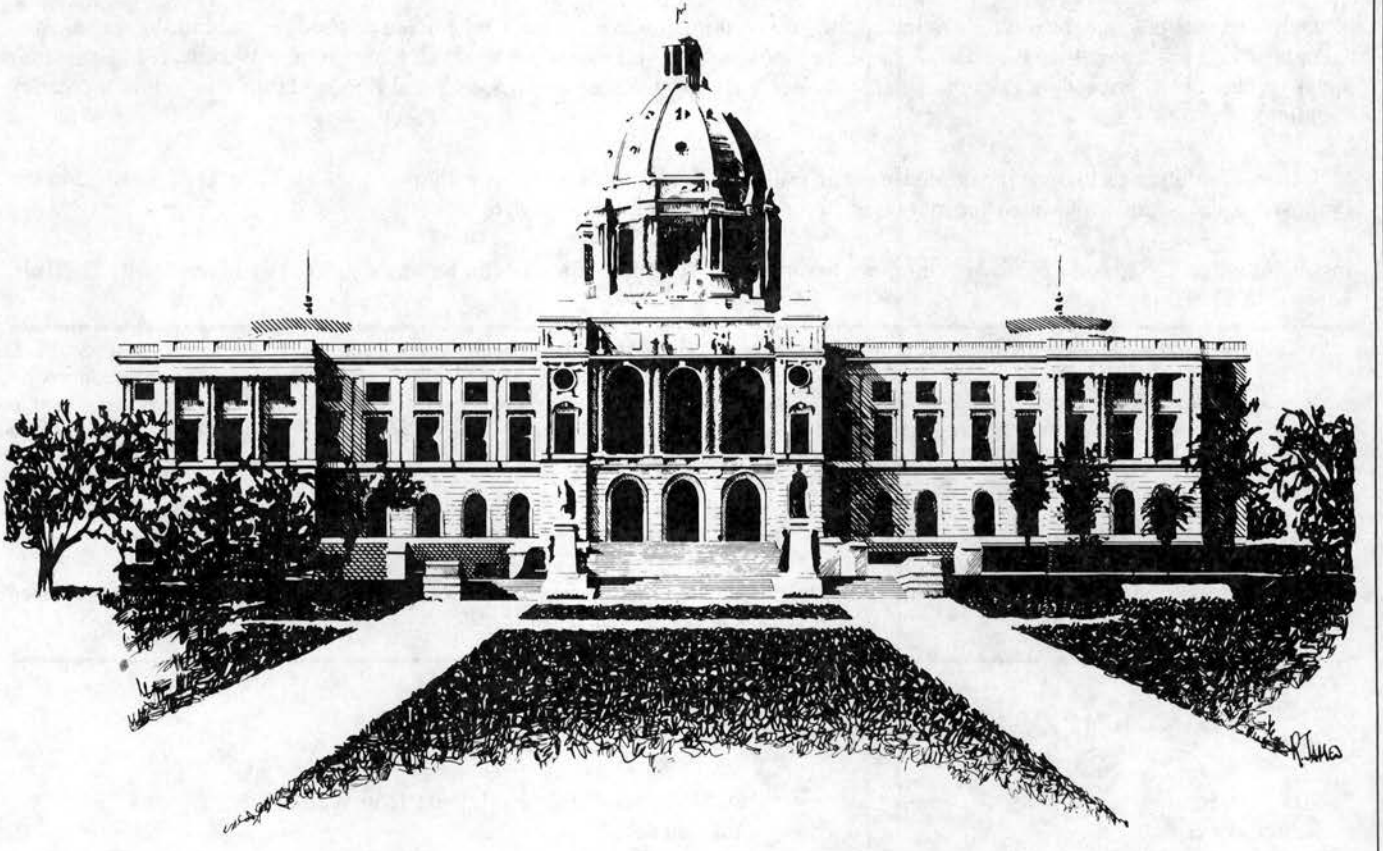
All statements of information and comment shall be accepted until September 8, 1983. Any written material received by the Board of Peace Officer Standards and Training shall become a part of the record in the event that the rules are promulgated.

Mark K. Shields
Executive Director

RECEIVED
AUG 15 1983
POST

STATE REGISTER

STATE OF MINNESOTA



VOLUME 8, NUMBER 6

August 8, 1983

Pages 185-216

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 8		
7	Monday Aug 1	Monday Aug 8	Monday Aug 15
8	Monday Aug 8	Monday Aug 15	Monday Aug 22
9	Monday Aug 15	Monday Aug 22	Monday Aug 29
10	Monday Aug 22	Monday Aug 29	Monday Sept 5

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Carol Anderson Porter
Editor

Paul Hoffman, Robin PanLener, Jean Walburg
Editorial Staff

Margaret Connelly
State Register Index Editor

Debbie Kobold
Circulation Manager

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

Interested or affected persons or groups may submit statements of information or comment orally or in writing. Statements shall be accepted until September 16, 1983 and should be directed to:

Joyce M. Schowalter, RN
Executive Secretary
Minnesota Board of Nursing
718 Delaware St. SE
Minneapolis, MN 55414
Phone: (612) 623-5493

Any written material received by the Board of Nursing shall become part of the record in the event that the rules are promulgated.

Joyce M. Schowalter, RN
Executive Secretary

Board of Peace Officer Standards and Training

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Procedures for Investigation and Resolution of Allegations of Misconduct by Persons Licensed by the Board

Notice is hereby given that the Board of Peace Officer Standards and Training is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing the procedures for investigation and resolution of allegations of misconduct by persons licensed by the board. The promulgation of these rules is authorized by Laws of 1983, ch. 269, §§ 3-6, which requires the agency to develop administrative rules.

The Board of Peace Officer Standards and Training requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Mark K. Shields, Executive Director
Board of Peace Officer Standards and Training
333 Sibley Street, Suite 495
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-2620 and in person at the above address.

All statements of information and comment shall be accepted until September 9, 1983. Any written material received by the Board of Peace Officer Standards and Training shall become a part of the record in the event that the rules are promulgated.

Mark K. Shields
Executive Director

Minnesota Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Regarding Redesignation of the Twin Cities Sulfur Dioxide Nonattainment Area

Notice is hereby given that the Minnesota Pollution Control Agency (agency) is seeking information from sources outside the agency regarding redesignation of the Twin Cities sulfur dioxide nonattainment area. An area which does not comply with a National Ambient Air Quality Standard is required to be designated nonattainment by the U. S. Environmental Protection Agency (EPA) and stringent air pollution control measures are required. As these measures bring the area into attainment, the state may request redesignation by EPA. Since most of the seven county metropolitan area is now attaining the sulfur dioxide standard, redesignation to attainment for most of this area is appropriate.

The agency requests information concerning the geographical area that should be redesignated as attainment of the sulfur

whether the following waters shall be designated public waters or wetlands pursuant to Minn. Stat. § 105.391 (1980) and the criteria contained in Minn. Stat. § 105.37, subds. 14 and 15 (1980). Please take notice that waters listed in para. A.2. may sometimes also be considered for designation, in the alternative, as wetlands.

A. PUBLIC WATERS

1. Watercourses.

Name	From Section	From Township	From Range	To Section	To Township	To Range
None.						

2. Preliminarily designated under section 105.37, subds. 14(a)-14(h).

Number and Name	Section	Township	Range
None.			

B. WETLANDS

Number and Name	Section	Township	Range
18-345: Unnamed	2	136 (City of Breezy Point)	28

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 14.63 to 14.69 (1982).

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1980). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minn. Stat. § 105.391, subds. 10 and 12 (1980).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this notice and order may be directed to any member of the hearings unit or to

David B. Milles
DNR—Division of Waters
Third Floor, Space Center Building
444 Lafayette Road
St. Paul, MN 55101
Telephone: 612/296-0516.

July 29, 1983

Joseph N. Alexander, Commissioner
Department of Natural Resources

Board of Nursing

Notice of Intent to Solicit Outside Opinions Regarding Proposed Rules Pertaining to Programs for Study for Certified Registered Nurse Anesthetists and Certified Nurse Midwives

Notice is hereby given that the Board of Nursing is seeking information or opinions from sources outside the agency in preparing to promulgate rules governing the program of study required of Certified Registered Nurse Anesthetists and Certified Nurse Midwives who receive payment from insurance carriers.

The promulgation of these rules is authorized by Minnesota Laws, 1983, chapter 221, section 2, which requires the board to establish and maintain a list of acceptable programs of study.

POLICE OFFICERS FEDERATION OF MINNEAPOLIS

312 CENTRAL AVENUE SOUTHEAST — SUITE 516
MINNEAPOLIS, MINNESOTA 55414

3 1

President
LANCE J. ZENTZIS

Vice President
ROBERT W. O'BRIEN

Secretary
GERALD R. BRIDGEMAN

Treasurer
MARTIN H. OTTING

Guide
DAVID H. PALMER

Sgt.-at-Arms
WILLIAM C. CHAPLIN

Trustees
DALE N. BARSNESS
DAVID A. LINDMAN
PHILIP L. NEESE

September 1, 1983

Mark K. Shields
Executive Director,
Minnesota Board of
Police Officers Standards and Training
333 Sibley Street, Suite 495
Saint Paul, Minnesota 55101

Dear Mark:

Thank you for your letter and the copy of proposed rule.

We have reviewed the proposed new rule 4MCAR S 13.040 and find no problem with the intent or the rule as stated. We do find a problem with the fact that there is no mention of the fact that the chief law enforcement officer may be allowed to expunge the documentation of complaints after a period of time. By not specifically addressing that issue in the rule, it tacitly implies that the complaints be kept forever. We would recommend that some mention be made addressing that issue in the rule to forestall future problems.

Thank you for your attention to this suggestion. Should you wish to discuss, please feel free to call, 379-8425.

Yours very truly,

David A. Lindman
dg

David A. Lindman
Trustee

DAL/dg

RECEIVED
SEP 6 1983
POST

9-16-83-
Spoke w/ Mr. Lindman
discussed Minn. Stat. 15.17-15.171
And Minn. Stat. 138.163 and 138.17.

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 the Investigation and Resolution of Misconduct Allegations

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 18th day of November, 1983 that a Notice of Intent to Adopt Rules Without 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

Mark K. Shields

Mark K. Shields, Executive Director
Board of Peace Officer Standards
and Training

CERTIFICATE OF BOARD'S

AUTHORIZING RESOLUTION

I, John Erskine, 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 4th day of November, 1983, 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 he hereby is 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 Investigation and Resolution of Misconduct Allegations, 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 4th day of November, 1983.

John Erskine, Board Chairperson

Attest by one other Board member

Board of Peace Officer Standards and Training

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing Investigation and Resolution of Misconduct Allegations.

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 rule without a public hearing. The Board has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21 - 14.28 (1982).

Persons interested in this rule shall have 30 days to submit comments on the proposed rule. The proposed rule 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 the 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 sections 14.13 - 14.20 (1982).

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

Mark K. Shields
Board of Peace Officer Standards and Training
333 Sibley Street, Suite 495
St. Paul, Minnesota 55101
(612) 296-2620

Authority for the adoption of this rule is contained in Laws of 1983, Chapter 269, sections 3-6, Minn. Stat. sections 626.843, Subd. 3(d) (1982), and 626.845 (i) (1982). 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 Reasonablenss, all written comments received, and the final Rules 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 rule as proposed for adoption, should submit a written statement of such request to the above address.

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

Free copies of this Notice and the proposed rule are available and may be obtained by contacting the Board of Peace Officer Standards and Training.

State of Minnesota

Mark K. Shields

Mark K. Shields, Executive Director
Board of Peace Officer Standards and Training

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 the Investigation and Resolution of Misconduct Allegations

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

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

That on the 2nd day of December, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing, 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 agency.

Marge Braun

Subscribed and sworn to before me
this 2 day of December, 1983.

William R. Carter, III
Notary Public

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 the Investigation and Resolution of Misconduct Allegations

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 14.14, Subd. 1, 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 2nd day of December, 1983.

William R. Carter, III

These were sent on 12/2/83

RULES MAILING LIST

Catherine Gasteyer, Executive Secretary
MN Private Det. & Protective Agent Board
1246 University Avenue
St. Paul, MN 55104

Dale Peterson, City Administrator
City of Littlefork
Littlefork, MN 56653

Don Woodward
Route 3
Kenyon, MN 55946

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

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

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

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

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

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

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

Kathleen Burek, Executive Director
Legislative Commission to Review
Administrative Rules
Room 510 State Office Building
St. Paul, MN 55155

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

Senator Howard Knutson
1907 Woods Lane
Burnsville, MN 55337

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

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

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

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

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

Craig Kinney, Chief
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

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

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

Scott Neft, Attorney
Box 1086
Virginia, MN 55792

Mr. Ron Beyer
Box 130
Pelican Rapids, MN 56572

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

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

Mr. Don Adams
City of Dalton
Dalton, MN 56324

Stan Clark, Mayor
City of Remer
Box 202
Remer, MN 56672

Mr. Richard Ellison
Box 34
Int'l Falls, MN 56649

A.T.O.M.
Box 27282
Minneapolis, MN 55427

Henry Malzahn
Osseo Police Department
Box 330
Osseo, MN 55369

Criminal Justice Educators Assn.
c/o Stephen Enochson
Willmar Community College
Willmar, MN 56201

MN Chief's of Police Assn.
Daryl Plath, Secretary
107 West 5th Street
Hastings, MN 55033

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

Peter Donohue, Attorney
916 St. Germain Street, Box 971
St. Cloud, MN 56301

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

MN Board of Nursing
717 Delaware Street NE
Minneapolis, MN 55414

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

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

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

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

M.P.P.O.A.
200 South Robert, Suite 200
St. Paul, MN 55107

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

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

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

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

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

Mel Kilbo, President
MN Chief's of Police Assn.
P. O. Box 86
Crystal Bay, MN 55323

Philip Finkelstein
Law Enforcement Labor Services
10800 Lyndale Avenue South
Bloomington, MN 55431

Lyle Goeddertz, Chief
Willmar Police Department
415 West Sixth Street
Willmar, MN 56201

AG copy

Board of Peace Officer Standards and Training

Adopted Rule Governing Investigation and Resolution of Misconduct Allegations

Rule as Adopted

4 MCAR S 13.040 Investigation and resolution of misconduct allegations.

A. Definitions. For the purposes of this rule the terms defined have the meanings given them.

1. "Data" means personnel data as defined in Minnesota Statutes, section 13.43, subdivision 1, which is public if it falls within the categories listed in subdivision 2 of that statute.

2. "Misconduct" means an act or omission by an employee or appointee of an agency licensed by the board which may result in disciplinary action by the agency or appointing authority.

B. Scope. The board recognizes the importance of the need for each agency and appointing authority to have and to use written procedures for the investigation and resolution of allegations of misconduct. The agency and appointing authority have the responsibility to impose the disciplinary sanctions they find appropriate for misconduct that occurs. Nothing in this rule shall be interpreted or is intended to authorize the board to approve, deny, or modify in any manner sanctions which may or may not be imposed by the agency or appointing authority.

C. Development of written procedures. On or before October 1, 1984, the chief law enforcement officer shall establish written procedures for the investigation and resolution of allegations of misconduct against licensees employed or appointed by his agency. These procedures shall minimally specify:

1. the misconduct which may result in disciplinary action;

2. the process by which complaints will be investigated;

3. the sanctions which may be imposed if a complaint is sustained;

4. the appeal process for the licensee;

5. the process which will be used to notify the complainant of the investigation and disposition; and

6. the effective date of the procedures or subsequent modifications of the procedures.

D. Affirmation of compliance. The chief law enforcement officer shall affirm to the board compliance with C. no later than October 15, 1984. If an agency begins operation after October 1, 1984, the chief law enforcement officer shall affirm to the board compliance with C. no later than 15 days after the agency begins operation.

E. Copies of procedures. Copies of current written procedures governing allegations of misconduct shall be available to the public on request. Copies of written procedures governing allegations of misconduct and any subsequent modifications of the procedures shall be distributed by an agency to licensees who are employed or appointed by the agency.

F. Documentation of complaints. The chief law enforcement officer or his designee or designees shall maintain data concerning ~~all allegations of~~ misconduct by licensees employed or appointed by the agency according to the provisions of Minnesota Statutes, sections 15.17 and 15.171. The board may request copies of this data. The chief law enforcement officer shall supply the data and an affidavit of compliance with C.2. to the board within five days of the request, excluding Saturdays, Sundays, and legal holidays. If compliance is not possible within that time, the chief law enforcement officer shall inform the board and shall have an additional five days to comply with the request, excluding Saturdays, Sundays, and legal holidays.

G. Processing of complaints. Complaints which allege misconduct by a licensee shall be processed according to the agency's written procedures. Failure to comply with these procedures or any other provisions of this rule shall be grounds for disciplinary action against the chief law enforcement

officer's license.

APPROVED AS TO LEGALITY

March 8, 1984

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Gary D. Harris
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 13 1984
Joan Anderson Growe
Secretary of State
10:25 a.m.

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 the Investigation and Resolution of Misconduct Allegations

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 December 5, 1983 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes Section 14.14, Subd. 1, on December 2, 1983. 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 Investigation and Resolution of Misconduct Allegations are adopted this 16th day of February, 1984, pursuant to authority vested in the Board by Laws of 1983, Chapter 269, Sections 3-6, Minn. Stat. 626.843, Subd. 3(d)(1982) and 626.845 (i)(1982).

STATE OF MINNESOTA

Mark K. Shields

Mark K. Shields, Executive Director
Board of Peace Officer Standards
and Training

CERTIFICATE OF BOARD'S

RESOLUTION ADOPTING RULES

I, John D. Erskine, 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 16th day of February, 1984, 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 the Investigation and Resolution of Misconduct Allegations be and they hereby are approved and adopted, pursuant to authority vested in us by Laws of 1983, Chapter 269, Sections 3-6, Minn. Stat. 626.843, Subd. 3(d)(1982) and 626.845 (i) (1982) 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 16th day of February, 1984.

John D. Erskine, Chairman
Board of Peace Officer Standards
and Training

Attest by one other Board member

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 the Investigation and Resolution of Misconduct Allegations

FINDINGS OF FACT AND CONCLUSIONS

Notice of the Board's intent to adopt the above-entitled rules without a public hearing was published in the State Register on December 5, 1983, after proper notice required by Minnesota Statutes 14.14, Subd. 1 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, the Board finds the following:

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

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

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

4. The rules as set forth in Exhibit B constitute changes as to form but not substance from the rules as published and proposed in the State Register on December 5, 1983, 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

SP-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: MARK K. SHIELDS
Executive Director
Board of Peace Officer Standards

DATE: 3/13/84

Attn: RICHARD D. HODSON

FROM: Special Assistant Attorney General

PHONE: 297-3493

LARRY D. STARNS LDS
Special Assistant Attorney General

SUBJECT:

Adopted Rule Governing Investigation and Resolution of Misconduct Allegations

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.

cc: Ms. Kathy Burek
Mr. Duane Harves

LDS:sa