

**USER'S GUIDE**

## USER'S GUIDE

### HISTORICAL INFORMATION

Minnesota Rules 1985 is compiled, edited, published, and distributed by the Office of the Revisor of Statutes under the mandate of Minnesota Statutes, section 14.47. This publication is based on Minnesota Rules 1983 and incorporates rules adopted from August 1, 1983, to April 8, 1985.

Historically, several offices have been charged with the duty to compile and publish the administrative rules of state agencies. The responsibility to establish "a uniform manner and form for the preparation, printing, and indexing of regulations" was given in 1945 to a publication board. The commissioner of administration, the attorney general, and the secretary of state (or their designees) served as the board's members. Under this mandate individual agencies published their own rules. No consolidated set of the rules of all agencies existed. Since the publications board neither met nor established any forms, the format of the regulations varied widely.

In 1955 the revisor of statutes was directed to compile and index the rules while the board retained the publication duty and the commissioner of administration sold the rules. However, no funds were ever appropriated to the revisor to accomplish the mandated work, so the form of publication of the rules remained unchanged. In 1963 the compilation and indexing duties were shifted from the revisor back to the commissioner of administration.

**Minnesota State Regulations.** In 1970 the commissioner of administration published an eleven-volume set entitled "Minnesota State Regulations." This was the first attempt to publish a uniform set of regulations. It was supplemented quarterly by a service entitled "Minnesota State Regulations Service." The set and service simply collated those regulations individually printed by agencies. In 1975 the commissioner of administration became the publisher of the rules as well as compiler. The commissioner was also given the first legal mandate for a set to be published under a particular name. The law called for the publication of a "Manual of State Agency Rules." In response, on July 1, 1976, the commissioner retitled the old Minnesota State Regulations set but left it otherwise unchanged.

**Minnesota Code of Agency Rules.** In further response to the 1975 legislative mandate, in June 1977 the commissioner of administration began publishing an entirely new set of rules called the Minnesota Code of Agency Rules (MCAR). The change was important because it represented the first attempt at a comprehensive numbering system for the entire set. New binders were also issued, and the set was expanded from 11 to 15 volumes. While the commissioner tried to give the set the appearance of an integrated publication with consistent numbering, in reality each agency controlled the printing of its rules and the conversion to the MCAR numbering system. As a result, many rules were never renumbered into the MCAR numbering scheme, and many other rules were never even printed in the set.

**The Recompilation Project.** Laws of Minnesota 1980, chapter 615 provided for comprehensive changes in the publication of rules effective July 1, 1980. It directed the revisor of statutes to formulate a plan for the compilation of permanent and, if practicable, temporary agency rules in a manner convenient for public use, to publish this compilation and any necessary pamphlets, supplements, or new rule compilations, and to sell them for a reasonable fee. During the recompilation, the revisor could change the order of rules and their format but could not rewrite the rules or change the meaning of any rule. The recompilation task included the preparation of appropriate tables, cross-references, explanatory notes, and indexes, all absent from the Minnesota Code of Agency Rules. The revisor could integrate the rules with the statutes or publish them separately and could use outside contractors to do any of the work

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involved. The authority of the commissioner of administration to publish MCAR expired July 1, 1982.

These sweeping changes were motivated by several problems in MCAR. The sole statutory authority of the Department of Administration to publish MCAR was to "allow for economic publication and distribution and efficient use." (Minnesota Statutes 1978, section 15.047.) In practice, since each agency controlled the timing of publication and had its own form guidelines, the MCAR set had gaps in its text, displayed a wide variety of formats, and had a ragged appearance. Readers felt that the existing form of the rules detracted from their status as law equal in force to the statutes and session laws. In addition, MCAR was without research tools and lacked a common index by which a rule could be found.

The intent of Laws of Minnesota 1980, chapter 615 was to place all responsibility for compiling and publishing rules in a single office with a full set of appropriate powers; the goal of the change was an improved rules format and the addition of necessary research tools including a common index. The law was also intended to improve the appearance of the published rules to give them the prestige they deserve.

**The MCAR Reprint.** Work on recompiling the administrative rules began on July 1, 1980. The revisor originally intended to terminate MCAR on July 1, 1982, and introduce a new publication, Minnesota Rules, by September, but the drastic budget cuts of 1981 made the original goals unworkable. Among the funds eliminated were those for the indexing, composition, and printing of the recompiled rules. As a result, the publication date of Minnesota Rules was postponed.

The legislature provided sufficient funds to allow MCAR to be maintained for an additional year. However, rather than continuing the supplement service, the revisor reprinted MCAR in its entirety in a set of 70 paper-covered volumes as a substitute for the 15 loose-leaf volumes previously used. The 1982 MCAR Reprint was intended only to fill the gap between the end of MCAR and the first publication of Minnesota Rules.

In the reprint, rules remained in outline format, were still a mixture of the MCAR and departmental numbering systems, and were not indexed. The reprint did, however, contain the rules in force at its publication, including many not published in the previously existing loose-leaf MCAR. Its format, one volume or more for each agency, was more convenient than the larger loose-leaf volumes. Since all volumes were bound, the set was complete and free from filing errors. To help users in finding rules, the set contained a user's guide, an alphabetical listing of agencies, a general table of contents, and individual chapter analyses. The set was not supplemented, but users could rely on the State Register to find changes occurring after the publication date of the set.

**Minnesota Rules 1983.** When budget difficulties ended, the work of recompiling and publishing the rules went forward. As part of the plan to recompile the administrative rules, the revisor contracted for the keyboarding of text into a database compatible with the revisor's computer system. While compiling the materials to be keyboarded as the textual source of the recompiled rules, the revisor's staff compared the text of MCAR with the text on file with the State Register and Public Documents Division. Any discrepancy in the text was checked against the secretary of state's files to ensure the accuracy of the revisor's database. Rules were then renumbered and arranged into a uniform, comprehensive decimal numbering scheme that would allow for future integration of amendments, repeals, and additions to agency rules. Various tables, editorial headings, editorial notes, and statutory authority citations were included to make the publication more useful as a source of information and as a drafting tool. Agencies were asked to review their rules as recompiled and submit their comments and suggestions prior to final publication. In addition,

the revisor contracted for the preparation of an index to the rules, the first time ever that agency rules had been indexed. When Minnesota Rules 1983 appeared, it was distinctly different from the earlier publications of agency rules.

**Minnesota Rules 1984 Supplement.** A supplement to Minnesota Rules 1983 was published in November 1984. The supplement, published in pocket part format, included parts, subparts, or items that were amended, repealed, or added in rules adopted between August 1, 1983, and August 31, 1984.

**Minnesota Rules 1985.** The source of the text for Minnesota Rules 1985 is agency rules adopted as of April 8, 1985. Any rule adopted August 9, 1985, or after will be included in the first supplement to this publication, scheduled for spring of 1986. A second supplement is scheduled for winter of 1986.

Minnesota Rules 1985 is the first republication of the complete set of administrative rules since the original recompilation was published in 1983, and it includes several improvements. The number of volumes has increased to ten from the previous seven in 1983. The result is less bulk per volume, making the set easier to manage. The thinner volumes are also better able to hold pocket parts.

Another change in this edition is the inclusion of historical notes. The notes give the source of each change to a part since the 1983 recompilation of the rules. Each historical note contains a volume number and page number reference to the State Register where the notice of adoption for the action taken (amended, repealed, or new) on each rule was published. The original plan was to trace each rule back to its origin. However, researching the history of rules proved to be difficult because the rules had lacked a standard numbering system and had sometimes gone unpublished. The difficulty was worsened by the rearrangement, division, and combining of individual rules. For this reason, it was decided to include historical notes only for changes adopted after the 1983 edition.

An additional change in this edition is the inclusion of a table of amendments to rules in volume 10. The table lists those parts of Minnesota Rules affected by action adopted between August 1, 1983, and April 8, 1985 and the source where the notice of adoption is found. The table will aid users in locating the source of changes to any individual part quickly and easily.

An effort was made in this edition to make changes in text resulting from agency reorganizations or terminology changes directed by actions of the legislature. There is still much left to do in this area. Given the nonexistence of any uniform method of rules publication prior to Minnesota Rules 1983, a profusion of obsolete terms appears throughout the text of the administrative rules. The task of locating and updating these terms was begun in this edition. We expect this work to continue in future editions.

Laws of Minnesota 1984, chapter 640, section 25, codified as Minnesota Statutes, section 14.385, directed agencies to submit all rules exempt from the Administrative Procedure Act to the revisor for publication in Minnesota Rules. The law further provided that any exempt rule not submitted to the revisor for publication in Minnesota Rules no longer "has the force and effect of law as of January 1, 1985." In response to this legislative mandate, the revisor notified all state agencies of the requirement. Six agencies submitted rules to the revisor, and the rules have been compiled into this edition.

The 1983 edition of Minnesota Rules contained a concordance table showing the MCAR number and the corresponding Minnesota Rules number assigned to it in its recompilation. In this edition, the concordance table has been reprinted with an additional part that includes those rules adopted after the original cut-off date in 1983. The combined tables will now provide users with a near-complete table reflecting the recompilation of all administrative rules from MCAR to Minnesota Rules format.

We expect that future editions of Minnesota Rules will include incremental improvements that will further enhance the utility of the publication. Among the plans for future editions are a rule cross-reference table showing, for every part number, a list of the parts in which it is cited.

In addition, work on the first revisor's rule will begin. This work will involve the drafting of a rule to clarify, modernize, or simplify the text without material change to the substance or effect of a rule. Included in the revisor's rule will be items that do not involve substantive change, but lie outside the revisor's authority to correct editorially. The revisor's rule will result in a more accurate set of administrative rules.

### HOW TO FIND A RULE

**How the rules are organized.** Rules are usually grouped under the state agency that administers them. Some agencies are allotted one chapter; others have many chapters. The chapters appear in alphabetical order by agency name; that is, the rules of the Board of Abstracters appear first, and the rules of the State Zoological Board appear last. In instances where an agency name has been changed, the rules of the agency have not been moved to a new alphabetical location. For example, rules of the Department of Human Services retain their original alphabetical arrangement under the Department of Welfare. The chapter listing in the front of each volume will help you find the agency you are looking for.

Within each chapter the rules are arranged in a decimal numbering system. In the decimal system, the numbers are arranged by relative mathematical value rather than numerical sequence. For example, a rule numbered 1002.1850 comes between 1002.1800 and 1002.1900. The decimal system allows for the later insertion of new rules without disturbing the original numbering scheme.

In a part number, the four digits to the left of the decimal point match the chapter number. The four digits to the right of the decimal point assign a unique number to each rule in the chapter. No part number is smaller than .0001 or larger than .9999. All four decimal places are always expressed, even if they are filled by zeros.

**If you have a citation to Minnesota Rules.** Readers usually consult Minnesota Rules to find material that some other document has cited. A typical citation looks like this: Minnesota Rules, part 4800.2800, subpart 2, item A. In court materials, a citation might appear in this form: Minn. R. 4800.2800, subp. 2, A. These numbers and letters tell you exactly where to look for the cited material.

To find the right volume and chapter, look at the first four digits of the part number, before the decimal point. Part 4800.2800 is in chapter 4800. Look at the spines of the volumes to see which volume contains the chapter you need.

Each page of the text has a number in its upper left or right hand corner. The part number on the left indicates the part number of the text starting that page; the part number on the right indicates the part number of the text ending that page. To find the correct page, scan the numbers at the upper corners of each pair of facing pages. To find the part, scan the left margins.

To find smaller divisions, such as subparts, items, and subitems, scan the left margin of the part. Subparts are marked "Subpart 1," "Subp. 2" and so on. Items are marked with capital letters, subitems with arabic numbers in parentheses. Occasionally, smaller divisions appear--units, marked with lowercase letters, and subunits, marked with lowercase roman numerals. Item letters are indented five spaces; subitem numbers, ten spaces, and so on.

**If you have a citation to MCAR.** If you have a citation in the form "3 MCAR S 2.001," you can find the correct text in Minnesota Rules by using the concordance table in volume 10.

The concordance table in this edition is printed in two parts. The first part contains a list of those rules compiled into the original edition of Minnesota

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Rules and adopted before August 1, 1983. The second lists those rules adopted between August 1, 1983, and April 8, 1985.

Check the left column of the concordance table to find the cited MCAR number. Then look at the right column and find the Minnesota Rules part number opposite the MCAR number. The number on the right tells you what part to consult to find the material that once appeared under the MCAR number you have.

The left column of the concordance table lists MCAR numbers or departmental abbreviations and numbers of rules adopted through July 31, 1983, (in the first portion of the table) or April 8, 1985, (in the second portion of the table). A rule number repealed in MCAR will not be listed.

The left column of the concordance table lists agencies alphabetically. An alphabetical list of agencies, together with the range of numbers used by each agency in MCAR, appears in volume 10. Within each agency listing, the rule numbers are usually arranged decimally. The right column of the concordance table lists the corresponding Minnesota Rules number. Rules may have been combined or divided into parts. Divisions below the level of part are not included.

Understanding MCAR numbering is helpful in finding a number in the table. The MCAR numbering system groups rules into 14 titles. Each title represents an area of government operation. The title number is printed before the letters "MCAR." The MCAR titles are:

- 1 MCAR - Constitutional Offices
- 2 MCAR - Administration
- 3 MCAR - Agriculture
- 4 MCAR - Commerce
- 5 MCAR - Education
- 6 MCAR - Environment
- 7 MCAR - Health
- 8 MCAR - Labor
- 9 MCAR - Law
- 10 MCAR - Planning
- 11 MCAR - Public Safety
- 12 MCAR - Social Service
- 13 MCAR - Taxation
- 14 MCAR - Transportation

The MCAR system subdivides each title into parts. A part represents an agency or department. The part number is printed after the letters "MCAR." For example: 1 MCAR 2 means Office of the Secretary of State. "2" is the part number for the secretary of state's office.

A part is further subdivided into individual rules by use of numbers after a decimal point. For example, in the reference 1 MCAR S 2.0101, ".0101" indicates a rule of the secretary of state's office dealing with voter registration.

**If you have a citation in some other form.** The departmental numbering system was in use before the MCAR system began. The departmental system uses an abbreviation for the department, or for a division within a department, and a number. For example, EDU 6 means a Department of Education rule, and RevLL 2 means a Department of Revenue rule concerning levy limitations. A complete list of departmental abbreviations and their meanings appears in volume 10.

In most cases when a rule was amended after the MCAR system was established the departmental number was changed to an MCAR number, but the numerical part of the departmental number was incorporated into the MCAR number, after the decimal point. For example, SecStat 102 became 1 MCAR S 2.102.

In the MCAR Reprint the two numbering systems were often intermingled. For example, in the rules of the Board of Medical Examiners the numbers appeared as follows:

- ME10 - Annual registration fee.
- ME11 - Midwives.
- 7 MCAR S 4.012 - Continuing medical education.
- ME31 - Sworn statement to the board.

The rule numbers were usually arranged decimally rather than sequentially.

**If you cannot find the part being cited.** If a Minnesota Rules part does not appear where you expect it, first check the explanation of decimal numbering. If you still cannot find the part number, check the **pocket part**, the pamphlet that fits in a pocket inside the back of each volume. Pocket part supplements to this edition will be published in April and December of 1986.

If neither the volume nor the pocket part contains the part you need, consult the **State Register**, the weekly publication that gives official notice of proposed and adopted rules. Each issue of the State Register contains a table showing what existing parts have been amended and what new parts have been proposed or adopted in that issue. Begin by looking at the first issue to appear after the publication date of the pocket part you have checked; continue checking each later issue until you find the part you need.

**If you have a title or subject.** Unfortunately, in some documents, rules are not cited precisely but are referred to vaguely as "the rules on liquor license fees" or "the rules pertaining to pari-mutuel horse racing." If this is the only reference you have you will find it harder to locate the rules you need, but not impossible.

The **index** to the rules will help you most. For more detailed information on how to use the index, see the introduction in volume 10.

The table listing chapter titles in the front of each volume can also help. If you know which state agency administers the rules you need, consult the table to learn what chapters contain that agency's rules. The title of a chapter may tell you that it contains the rules you need. For example, chapter 1540 is entitled "Minnesota Meat Inspection Regulations." If the chapter titles do not help, consult the chapter analysis at the beginning of each chapter. The chapter analysis is a listing of all part numbers in the chapter followed by headings that summarize the contents of each part. Some chapters and chapter analyses contain editorial headings that point out the major subject areas within the chapter. In chapter 4800, for example, editorial headings such as "Scholarships and Grants-in-Aid" and "Student Loan Program" separate the part numbers applicable to each of those subjects.

### INTERPRETING THE RULES

**Headnotes.** Every part has a headnote, a word or phrase in boldface capitals that tells the subject of the part. Subparts also have headnotes in boldface uppercase and lowercase letters. These headnotes are intended to be catchwords only. They are not part of the text of the rules.

**The language of rules: using Minnesota Statutes, chapter 645.** The rules in this publication have the force of law and are generally interpreted by courts according to the same criteria used for statutes. Many of these criteria appear in Minnesota Statutes, chapter 645, which contains the law on statutory construction. Knowing that chapter will help you understand words and phrases whose meaning might be in dispute. For example, it helps to know that in a phrase like "from January 1 to March 31," the word "to" includes the second date.

**The content of rules: using the rules and statutes together.** Rules alone may not tell you everything about the requirements you must meet or the duties you must perform. It is best to read the statutes as well. There should be a set of Minnesota Statutes wherever there is a set of Minnesota Rules. To find the

statutes most closely related to the rules you have read, check the Statutory Authority note at the end of each part.

**Incorporations by reference.** Incorporation by reference is the process by which an agency makes certain publications or documents a part of its rules even though the text of the publication or document is not printed as a part of the rule. The following example from Minnesota Rules, part 3545.1100, subpart 2, has two publications incorporated by reference into it, the AICPA Professional Standards and the Office of Management and Budget Circular A-102:

**Example:**

Subp. 2. **Audited financial statements.** An audit is an examination of the various financial statements of the funds and account groups of a district by the state auditor or an independent certified public accountant. This examination shall be performed in accordance with generally accepted auditing standards as set forth in AICPA Professional Standards, issued by the American Institute of Certified Public Accountants (New York, New York, 1974). It shall also meet the audit requirements contained in the Office of Management and Budget Circular A-102 Revised and published in the Federal Register, volume 42, pages 45828 to 45891 (1977).

The legal effect of an incorporation by reference is that the publication or document is treated as though it were part of the rule. The incorporation by reference, like any other properly adopted rule, has the force of law. (Minnesota Statutes, sections 14.07, subdivision 4 and 14.38.)

Minnesota Statutes, section 14.07, subdivision 4, allows an agency to incorporate by reference into its rules the text from Minnesota Statutes, Minnesota Rules, United States Statutes at Large, United States Code, Laws of Minnesota, Code of Federal Regulations, the Federal Register, and other publications and documents which are determined by the revisor of statutes to be conveniently available to the public. A publication or document is defined as "conveniently available to the public" if it is available for loan or inspection and copying to a person living anywhere in Minnesota through a statewide interlibrary loan system or in a public library without charge except for reasonable copying fees and mailing costs. (Minnesota Statutes, section 14.07, subdivision 4, paragraph (b).)

As part of its form approval for proposed and adopted rules the revisor's office permits agencies to incorporate by reference only those publications and documents that have been found to be conveniently available. The form approval by the revisor has been in effect since July 1, 1981.

A list of the publications or documents that the revisor has approved as conveniently available and the place where they can be found is located in the Incorporation by Reference Table in volume 10.

**Statutory authority.** Agencies and departments may adopt rules only if given authority to do so by the legislature. Therefore, for any given rule there is a section in Minnesota Statutes or Laws of Minnesota that can be cited as the source of the authority to adopt the rules. The authority is popularly referred to as "statutory authority."

Generally the statutory authority is not stated in the content of the rule. The Office of Administrative Hearings rules, Minnesota Rules, part 1400.0300, requires agencies to publish the statutory authority in the State Register as part of the Notice of Intent to Adopt Rules without a Public Hearing or the Notice of Hearing.

Minnesota Rules, as an aid to the user, provides a citation to the statutory authority for each part. The citation is printed at the end of each part and appears as follows:



**Example:****6800.0600 POSTING LICENSE.**

Each pharmacy license shall be posted in a conspicuous place in the pharmacy for which the license has been issued.

**Statutory Authority:** *MS s 151.06 subd 1; 151.19*

In the example, Minnesota Statutes, sections 151.06, subdivision 1, and 151.19 give the pharmacy board the authority to promulgate rules on posting of licenses in a pharmacy.

The statutory authority information for the 1983 edition of Minnesota Rules was provided to the Office of the Revisor of Statutes by each agency. For rules adopted after the 1983 publication, the revisor's office obtains the statutory authority information from the State Register when the rules are proposed.

**Historical notes.** A change in any part of Minnesota Rules adopted on or after August 1, 1983, is shown in a historical note after the affected part. This history contains a volume number and page number reference to the State Register where the notice of adoption for the action taken on each rule was published.

**Example:**

**History:** *8 SR 1079*

This example indicates that the notice of adoption appears on page 1079 of volume 8 of the State Register. The notice refers the reader elsewhere for the full text of the change.

**Notes.** Throughout Minnesota Rules, editor's notes appear wherever special information about a chapter or part will aid the reader's understanding. Notes call a reader's attention to such things as a cross-reference to another rule that could not be translated to a Minnesota Rules number because the MCAR or departmental number was repealed or is nonexistent, or to a rule or series of rules promulgated by one agency but enforced by another.

**Example:****8007.0200 CHANGE IN ACCOUNTING METHODS.**

The taxpayer must secure permission from the commissioner to change his method of accounting or in reporting income and deductions. . . . A change in the method of accounting or basis of reporting income and deductions means any change in the treatment of items of income and deductions such as change from cash receipts and disbursements basis to the accrual basis or vice versa; a change in the method of inventory valuations; or a change permitted by the commissioner involving any other specialized method of accounting for income and deductions except bad debts, the treatment of which is set forth in 2009 (6)-5 and parts 8009.2100 to 8009.2700.

For adjustments which are required when a change is made in an accounting method, see Minnesota Statutes, section 290.07, subdivision 3.

**Statutory Authority:** *MS s 290.52*

**NOTE:** Regulation 2009 (6)-5 has been repealed.

**IF YOU NEED HISTORICAL DATA**

If you need to find out how a rule was changed by amendment prior to this publication, you can trace the information by consulting the State Register which lists amendments and adoptions of rules. Since rules prior to recompilation were cited by MCAR or departmental numbers, the reverse concordance table will help you locate the rule number you will trace in the State Register.

The left column of the reverse concordance table lists Minnesota Rules

numbers in decimal order. The right column lists the corresponding previously used MCAR or departmental abbreviation and number.

The table of amendments in volume 10 will help you locate changes to the rules adopted after July 1, 1983. The left column lists the part number followed by the State Register cite where the notice of adoption for the change can be found.

### IF YOU FIND AN ERROR

Each set of Minnesota Rules includes addressed postage paid postcards. A user of the rules who finds an apparent error in the text or index of the set may use the postcards to notify the revisor of the problem. Any comments and suggestions for improvements to the publication are also welcome.

### ACKNOWLEDGEMENTS

The original concept of an improved publication of administrative rules in the format of Minnesota Rules is that of Senator David D. Schaaf, the author of House File No. 874 (Laws of Minnesota 1980, chapter 615). This act set up the mandate for the publication of Minnesota Rules and provided the revisor of statutes with the necessary editorial powers to carry out the initial recompilation project and to publish the rules as an ongoing process.

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