

MINNESOTA RULES 1989

USER'S GUIDE

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HISTORICAL INFORMATION

Minnesota Rules 1989 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 1987 and incorporates rules adopted from March 31, 1987 to April 3, 1989.

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 printed an eleven-volume publication 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 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 Recompile 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 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 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 Print Communications 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. Minnesota Rules 1985 was based on Minnesota Rules 1983 with changes adopted between August 1, 1983 and April 8, 1985.

Minnesota Rules 1985 was the first republication of the complete set of administrative rules after the original recompilation was published in 1983, and included several improvements. The number of volumes increased to ten from the previous seven in 1983. The result was less bulk per volume, making the set easier to manage and better able to accommodate pocket part supplements.

Another change was the inclusion of historical notes, the source of each change to a part since the 1983 recompilation of the rules. 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 implemented in 1985 was the inclusion of a table of amendments to rules in volume 10. The table listed those parts of Minnesota Rules affected by action after the original publication and the source where the notice of adoption appeared in the State Register. The table aided users in locating the source of changes to any individual part quickly and easily.

An effort was made in the 1985 edition to make changes in text resulting from agency reorganizations or terminology changes directed by actions of the legislature.

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 were recompiled into the 1985 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 1985, the concordance table was reprinted with an additional part including those rules adopted after the original cut-off date in 1983. The combined tables provided users with a complete table reflecting the recompilation of all administrative rules from MCAR to Minnesota Rules format.

Minnesota Rules 1986 Supplements. Two supplements to Minnesota Rules 1985 were published in 1986. The first, published in April, contained changes to Minnesota Rules 1985 adopted through December 2, 1985. The second, printed in October, contained the changes printed in the first supplement as well as additional ones adopted through July 28, 1986.

Minnesota Rules 1987. Several changes appeared in the 1987 edition. As part of the effort to make the rules as accurate as possible, the task of locating and updating obsolete terms and numerical references, begun in 1985, continued in 1987.

Several agency rules were renumbered into locations more appropriate to agency and subject matter. Selected rules of the Departments of Administration, Commerce, Energy and Economic Development, Health, Human Services, and the Environmental Quality Board fell under this category. Because of the extensive renumbering, rules that were renumbered were listed as a part of the table

of amendments in volume 11. The addition of renumbered rules to the table aided users in finding a complete listing of all rules substantially altered after the 1985 edition in one location.

A new table was published for the first time in the 1987 edition of Minnesota Rules. The table listed the sections in Minnesota Statutes providing the authority for promulgating administrative rules. By consulting the table, users could locate the rules promulgated under any given statute cite.

Other tables were eliminated in the 1987 edition. The concordance table listing the relationship of MCAR and departmental numbering schemes to the Minnesota Rules numbering scheme was dropped in 1987. Since the transition to Minnesota Rules is now complete, the need for continued publication of the table no longer exists; the status of the table is now historical. The table of departmental abbreviations used in conjunction with the concordance table was also eliminated. Users can consult the 1985 edition should the need arise to use the historical information carried in the tables.

Minnesota Rules 1988 Supplements. Two supplements to Minnesota Rules 1987 were published in 1988. The first, published in April, contained changes to Minnesota Rules 1987 adopted through November 30, 1987. The second, printed in October, contained the changes printed in the first supplement as well as additional ones adopted through August 8, 1988.

Minnesota Rules 1989. Several changes appear in this edition. To make the rules as accurate as possible, the task of locating and updating obsolete terms and references has been ongoing in this edition.

Several agency rules have been renumbered into locations more appropriate to agency and subject matter. Selected rules of the Departments of Commerce, Jobs and Training, Energy and Economic Development, Public Service, and the Pollution Control Agency fall under this category. Rules that have been renumbered are listed as a part of the table of amendments in volume 11.

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 of 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 Minnesota 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 may consult Minnesota Rules to find material that some other document has cited. A typical citation looks like this: Minnesota Rules, part 4830.0100, subpart 5, item A. In court materials, a citation might appear in this form: Minn. R. 4830.0100, subp. 5, 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 4830.0100 is in chapter 4830. 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 Minnesota Rules 1985, volume 10.

The concordance table in the 1985 edition is printed in two parts. The first part contains a list of those rules compiled into the original edition of Minnesota Rules and adopted before August 1, 1983. The second lists those rules adopted between August 1, 1983, and April 8, 1985.

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. A complete list of departmental abbreviations and their meanings appears in Minnesota Rules 1985, volume 10.

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 1990.

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 user's guide to the index in volume 11.

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 "Meat Inspection." 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 4830, for example, editorial headings such as "State Scholarships and Grants-in-Aid" and "Part-time Student Grants" separate the part numbers applicable to each of those subjects.

If you have a statutory authority cite. If you have a citation to Minnesota Statutes and want to find the rules promulgated under the statute, consult the statutory authority table in volume 11. The left column lists the statute followed by a list of Minnesota Rules for which the authority is cited.

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.

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 in Minnesota Rules 1985, volume 10 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

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use the postcards to notify the revisor of the problem. Any comments and suggestions for improvements to the publication are also welcome.

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