

MINNESOTA CODE OF AGENCY RULES

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1982 Reprint



All rules as in effect on September 15, 1982

Prepared by

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PREFACE

Several offices have been charged with the duty to compile and publish the administrative rules of state agencies. The responsibility to provide regulations for "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 adopted any regulations, 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.

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 the agencies adopting the regulations. In 1975 the commissioner of administration became the publisher of the rules as well as compiler. The commissioner was also given by law the first formal mandate for a set to be published under a particular name. The law mandated the publication of a "Manual of State Agency Rules." In response to that mandate on July 1, 1976, the commissioner retitled the old Minnesota State Regulations set. The old set remained otherwise unchanged.

In further response to the 1975 legislative mandate, in June 1977 the commissioner of administration began publishing an entirely new set 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.

Laws of Minnesota 1980, chapter 615, mandated 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 both permanent and 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. Part of the recompilation task included the preparation of appropriate tables, cross-references, explanatory notes, and indexes that are all absent from the present rules' publication. 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.

The change in the manner of publication of administrative rules was motivated by several problems in the existing method. 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 has gaps in its text and displays a wide variety of formats. MCAR is really an aggregation of separate publications, not a unitary publication. Because it is an aggregation, it has a ragged appearance. In addition, MCAR has no research tools and lacks a common index by which a rule could be found. It was also believed that the existing form of the rules detracted from their status as having the "force and effect of law." The form, which seemed to be second class compared to the publication form of the statutes, indicated that the rules had some secondary status when compared to the statutes.

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 process and result would be similar to that of the publication of Minnesota Statutes.

Work on recompiling the administrative rules began on July 1, 1980. It was the revisor's initial intention to terminate MCAR on July 1, 1982, and introduce a new publication, Minnesota Rules, by September. Unfortunately, after the initial appropriation the state's fiscal situation deteriorated and the office went through a series of budget reductions. By the midpoint in the biennium, the revisor's budget was reduced three times. In all, the funds originally requested were cut by more than 20 percent. 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 deferred for one year until September 1983.

MCAR subscribers were not abandoned in the interim period. The legislature provided sufficient funds to allow MCAR to be maintained for an additional year. However, rather than continuing the supplement service, it was decided to reprint MCAR in its entirety in a set of 70 paper-covered volumes as a substitute for the 15 loose-leaf volumes now used. This reprint is a one time occurrence to fill the gap between the end of MCAR and the first publication of Minnesota Rules.

The reprint has several advantages over the existing loose-leaf set of MCAR. Most importantly, it contains all rules in force at its publication, including many not published in the existing loose-leaf MCAR. Its format, one volume for each agency, is more convenient than the larger loose-leaf volumes. Since all volumes are bound, the set is always complete and free from filing errors. To help users in finding rules, the set contains a users' guide, an alphabetical listing of agencies, a general table of contents, and individual chapter analyses. Since the set will not be supplemented, the tedious task of inserting updates is eliminated. Users must rely on the State Register to find changes occurring after the publication date of the set.

To be sure, this MCAR reprint is not as good as the recompiled rules will be when they are published. The recompiled rules, when published, will entirely recodify the administrative rules, contain all the rules, be indexed, and contain such research aids as notes on statutory authority and publication dates of proposed rules and amendments. In this reprint, rules remain in outline format, will still be a mixture of the MCAR and departmental numbering systems, and have not been indexed. It does, however, solve some of the serious problems with the existing loose-leaf set.

The text in these volumes represents the best possible determination of the rules currently in effect and is the text being recompiled. If readers find that the reprint shows repealed rules as still effective, fails to show effective rules, or contains other discrepancies, they could do us, the affected agency, and the public, a favor by notifying the revisor's office of the problem. Without this information, we can only carry the error forward to the recompiled rules. The address of the person to contact is:

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State Office Building, Room 670
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The office's telephone number is (612) 296-7145. The office may also be contacted for information on the editorial progress on Minnesota Rules. Information about purchasing the publication may be obtained from the State Register and Public Documents

Division. The division's address and phone number are shown on the page after the title page.