
MINNESOTA RULES

Drafting Manual *with Styles and Forms*

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INTRODUCTION

This manual explains the process of rule drafting to those who write administrative rules for Minnesota state agencies. It describes the work done by the revisor's office in preparing proposed and adopted rules for publication in the State Register, and it provides drafters with brief directions and ready examples of style and form in Minnesota Rules.

Minnesota Rules is the completely recompiled collection of the state's administrative rules. The old Minnesota Code of Agency Rules (MCAR), with its many printing formats and mixed numbering systems, was reorganized in a consistent format with a single numbering system, and the new version was published as Minnesota Rules 1983. New editions are published every odd-numbered year with supplements published in every even-numbered year. The form requirements in this manual are designed to make newly drafted rules fit cleanly into the rules format.

Two Rulemaking Tools: Manuals and Guide

Because this manual is primarily about drafting, it does not present the complete process of rulemaking. That information appears in *Rulemaking in Minnesota: A Guide* by Paul M. Marinac, available from the revisor's office. Those who are new to rulemaking or who work with rules infrequently will need to use the two publications together in order to adopt a rule. Neither the manual nor the rulemaking guide discusses legal questions that bear on administrative rulemaking, and neither discusses in detail the work of the Office of Administrative Hearings. Drafters who want to learn more about these matters should consult Minnesota Statutes, chapter 14 and the rules of the Office of Administrative Hearings.

The Interagency Rules Committee has also put together a very useful manual on rulemaking. It contains many useful forms and checklists that can be used by rulemakers. Copies of the Minnesota Rulemaking Manual may be obtained from Dave Orren of the Minnesota Department of Health.

Agencies Not Bound by the Administrative Procedure Act

Minnesota Statutes, chapter 14, exempts some agencies and some rules from the requirement to submit rules to the revisor and publish them in the State Register. The legislature from time to time also grants specific rulemaking exemptions for specific programs. If an exempt agency wants its rules to appear in Minnesota Rules, the agency must follow the form requirements in chapter 4 in this manual and submit its drafts to the revisor for form approval.

If an agency adopts an exempt rule under Minnesota Statutes, section 14.386 or 14.388, clauses (1) and (2), the rules are effective only for two years and will not be published in Minnesota Rules.

A Word About Notices

Minnesota Statutes, chapter 14, requires agencies to give notice to the public at several points in the rulemaking process. The revisor's office does not control the form of these notices. We do, however, approve the form of notices of adoption. See the examples of these notices on page 83. They are discussed only for clarity and completeness in explaining other matters, and they are not subject to the revisor's form review.

To find out what notices are required and when they are required, consult *Rulemaking in Minnesota: A Guide*. For information about the form of notices, consult copies of the State Register or Minnesota Rules, parts 1400.2000 to 1400.2560, the rules of the office of administrative hearings regarding rules review.

1 THINGS TO KNOW BEFORE YOU START TO DRAFT

Know What a Rule Is

A rule, by law, is "every agency statement of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by that agency or to govern its organization or procedure." (Minnesota Statutes, section 14.02) In plainer English, you are writing a rule if you are writing

a statement of your agency
that will be binding on everybody that fits its terms
from the time it takes effect

AND

that is meant to relate to your agency's LAW in a specific way:
to IMPLEMENT it, or put it into practice, or to make its
requirement SPECIFIC.

Whenever this sort of statement is adopted, amended, suspended, or repealed, you are doing rulemaking.

Although the definition has many parts, for most drafters the stress is on the word "specific." Your task is to begin with the law and to give readers enough specific information to comply with it.

Know the Law that Provides Your Statutory Authority

In order to begin with the law, you have to know what it is. The legislature may have given your agency a specific mandate to write rules to address a particular situation—say, establishing a procedure for accrediting continuing education courses for real estate brokers. This sort of rulemaking authority appears in Minnesota Statutes, section 82.22, subdivision 13. In that case, your directions are very clear and clearly limited. If the statute establishes time limits, the rules must be consistent with them. If the statute establishes requirements for course content, the rules cannot require less, or more. If it sets special procedures, the rules must fit them.

Your rules might also be based on a very general statute in the chapter that sets up your agency. Statutes of this type probably give your agency authority to make rules about anything in its purview. An example of general rulemaking authority appears in the commerce department law:

45.023 RULES

The commissioner of commerce may adopt, amend, suspend, or repeal rules in accordance with chapter 14, and as otherwise provided by law, whenever necessary or proper in discharging the commissioner's official responsibilities.

Whether your authority is general or specific, you cannot go beyond the statements in the law.

It is also possible to base rules on the authority of the Administrative Procedure Act (APA) itself. The APA contains two standing grants of rulemaking authority: Minnesota Statutes, sections 14.06 and 14.388. Section 14.06 addresses agency policies and procedures, while section 14.388 provides authority for the special process called "exempt rules." (Before 1996, the analogous process was called "emergency rulemaking.")

Section 14.06, paragraph (a) orders agencies to adopt rules "setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties to the extent that those procedures directly affect the rights of or procedures available to the public."

Paragraph (b), new in 1995, addresses the situation of agencies that have amassed a body of law by applying the APA's contested case procedures for a number of years. The legislature ordered agencies to make that law accessible to the public by putting it through the rulemaking process rather than allowing it to remain unpublished agency precedent. The requirement applies "[u]pon the request of any person, and as soon as feasible and to the extent practicable..." It requires agencies to "adopt rules to supersede those principles of law or policy lawfully declared by the agency as the basis for its decisions in particular cases it intends to rely on as precedents in future cases." One specific agency is exempted: the public utilities commission. For other agencies, a request to put precedent into rules will let you invoke the authority in this paragraph.

Know the Laws that Determine How Your Rule Will Be Read

Experience has taught lawmakers that, in order to avoid disputes, they need standard ways of interpreting certain phrases. In Minnesota, those standard ways are in Minnesota Statutes, chapter 645. The chapter applies to rules as well as to laws, so rule drafters need to be familiar with it. It codifies standard rules of statutory interpretation that apply.

Basic Concepts

Chapter 645 states when laws become effective (645.02), how amendments are read together (645.29 to 645.33), how repeals work (645.34 to 645.43), how time is computed (645.071, 645.14, 645.15, 645.151), how references to subdivisions and paragraphs work (645.46, 645.47), what "to" means in range references (645.48), and which law controls when amendments to the same section cannot be reconciled (645.28). All these matters are basic to drafting. Other matters that are also important but that do not affect every draft are the provisions about special laws (645.021 to 645.024), penalties (645.24, 645.241), and surety bonds (645.10).

Definitions

In day-to-day drafting, the things next in importance in chapter 645 are its lists of definitions. Unless a different definition is provided in a draft, the definitions in chapter 645 will control. The list of terms defined includes technical matters like "final enactment" and everyday concepts like "child." Drafters need to know which terms are there.

They also need to know that many other definitions of general application are found in the statutes, but outside of chapter 645. Examples include the definitions of "rule" in section 14.02 and the definition of "official newspaper" in section 331A.01. The main heading DEFINITIONS in the index to Minnesota Statutes can help a drafter learn whether there is a general definition that might apply to a draft.

Rules of Construction

Besides drafting basics and definitions, chapter 645 also contains a collection of well-known rules about statutory construction. These rules are of three basic types: rules about language, rules about the application of laws, and rules about legislative intent.

Mandates on language use in drafting.

Some of the rules of construction in chapter 645 answer questions that are purely linguistic or grammatical—for example, "Roman and Arabic numerals are parts of the English language" (645.09) and "Provisos [expressions that begin with "provided that"] shall be construed to limit rather than to extend the operation of the clauses to which they refer" (645.19). A number of these provisions are sometimes cited as mandates governing drafting, but not all drafters see them as absolutes. Here are the most important linguistic or grammatical concepts, with some annotations to show how they actually apply:

- (1) "The singular includes the plural, and the plural, the singular..." (645.08). Most drafting texts advise drafters to use the singular when possible. See Reed Dickerson, *The Fundamentals of Legal Drafting*, pp. 124-125.
- (2) "Words of one gender include the other genders" (645.08). The policy of the revisor's office is to draft in a gender-neutral style. The revisor has the authority to change statutes and rules editorially to remove gender-specific words that are not essential to meaning. Drafters are advised to avoid the various forms of "he" and "she" unless they are essential. See chapter 3 of this manual for more information on gender-neutral drafting.
- (3) "Shall" is mandatory; "may" is permissive (645.44). In practice, some drafters also use "must" as a verb of mandate even though it is not defined by statute.

A complication that is almost a contradiction is that "shall" is often construed as

directory rather than mandatory; and "may" in some contexts is construed as mandatory. Context nearly always determines the meaning more surely than does the verb alone. While drafters should know that the definitions in chapter 645 exist, they should not rely on them as a substitute for care in drafting. For advice on choosing wording for mandates, directions, permissions, and entitlements, see Reed Dickerson, *Materials on Legal Drafting* (West Publishing, 1981), p. 182.

- (4) Provisos and exceptions (645.19). Even though the statute tells how to construe them, drafters would do well not to draft provisos. Most of them are really conditions, which should begin with "if", or exceptions, which should begin with "except that." See Dickerson, *Fundamentals*, pp. 128-129.
- (5) Headnotes are catchwords, not part of the statute (645.49). See *In re Dissolution of School District No. 33*, 239 Minn. 439, 60 N.W.2d 60 (1953). But, in the Uniform Commercial Code, the headnotes are made part of the act by section 336.1-107 and are available as an aid to statutory construction.

Readers make use of headnotes even if judges may not, and the point of having a headnote is to use it as a finding aid. Drafters should write headnotes that help readers. There is no rule that headnotes should be single words. For advice about writing headnotes, see chapter 3 of this manual; and Daniel Felker et al., *Guidelines for Document Designers*, (Washington, 1981), pp. 17-20.

Status and application of laws.

Another group of provisions in chapter 645 deals with legal ideas about the status and application of laws. Among these are:

- (1) Severability (the question of whether sections that were passed together remain valid individually if one of them is declared unconstitutional) (section 645.20).
- (2) Retroactivity (the question of whether a section can apply to cases that arose before it was passed) (section 645.21).
- (3) Saving clauses (clauses designed to preserve certain rights, duties, or privileges that would otherwise be destroyed by an enactment). The sections in chapter 645 prohibiting retroactive effect and governing amendments and repeals contain many general savings provisions. Those sections make it unnecessary to draft special savings clauses in most cases. See also *State v. Chicago Great Western Railway Co.*, 222 Minn. 504, 25 N.W.2d 294 (1946) and *Ogren v. City of Duluth*, 219 Minn. 555, 18 N.W.2d 535 (1945).
- (4) The application of laws to the state (section 645.27).

Know the Common Problems of Construction

The words of chapter 645 do not guarantee the way a specific rule will be read. Readers of statutes, and courts in particular, take a variety of approaches to the text. They can decide whether the statute has a "plain meaning" or needs to be construed. They can choose whether to supplement their understanding of the text with other materials: things said and done during the proceedings of the law's passage, the history of the amendments to the text, statutory precedents, the views of an administrative agency, and common knowledge. Even if they limit themselves to the text of the statute alone, they have a choice of many, sometimes opposing, canons of construction.

A good source for the study of all these matters is *Statutes and Statutory Construction*, an exhaustive multivolume set. The work is commonly cited as *Sutherland Statutory Construction* after its original author.

Some other comprehensive works on interpretation are these:

Dickerson, Reed. *The Interpretation and Application of Statutes*. Boston: Little, Brown, 1975.

Hart, Henry M., and Albert M. Sacks. *The Legal Process: Basic Problems in the Making and Application of Law*. Cambridge: tentative edition 1958.

What Makes a Law Unclear?

Although judges can declare any statute plain, they will always have a rich fund of ways to declare it unclear. English has a multitude of ways to be vague, or over-general, or ambiguous, or all three, although the differences are important.

Ambiguity exists when words can be interpreted in more than one way. For example, is a "light truck" light in weight or light in color? *Vagueness* exists when there is doubt about where a word's boundaries are. If a law applies to the blind, who exactly is blind? What degree of impairment counts? *Over-generality* exists when the term chosen covers more than it should. If a law applies to "communicable diseases," is it really meant to cover the common cold? Legislatures sometimes choose to be vague or general and to let administrative agencies supply the specifics. They rarely choose to be ambiguous.

Readings on ambiguity and vagueness:

Dickerson, Reed. "The Diseases of Legal Language," 1 *Harvard Journal on Legislation* 5 (1964)

Christie, George C. "Vagueness and Legal Language," 48 *Minnesota Law Review* 885 (1964)

Evans, Jim. "Ambiguity" (chapter 4) and "Vagueness" (chapter 5), in *Statutory*

Interpretation: Problems of Communication, Oxford University Press 1988.

Readings on specific problems leading to ambiguity:

Dickerson, Reed. "Substantive Clarity: Avoiding Ambiguity" in *Fundamentals of Legal Drafting*, 2nd ed., 1986.

Child, Barbara. "Choosing Language: Vagueness, Generality, and Ambiguity," in *Drafting Legal Documents: Materials and Problems*, West Pub. Co., 1988.

Of course, not every case of ambiguity, vagueness, or over-generality arises from drafting errors. The many participants in the legislative process, and the need for compromise among them, sometimes produce indefinite wording. A case in point is the 1991 Civil Rights Act (105 Stat. 1070, 1991); its passage was complicated by a fight to create competing legislative histories to bend later interpretation of language left uncertain (New York Times, Nov. 18, 1991).

Sometimes, too, new ideas, inventions, and situations appear that the legislature did not foresee, so that they are not clearly included under a statute, or are included when reason says they should not be. A classic example of this sort of unclarity is an ancient law of Bologna, forbidding the spilling of blood in the streets. Logically it forbids emergency surgery at the scene of an accident, but history tells us that violence, not surgery, is what its drafters had in mind.

Language-related Canons of Construction

Besides the text of the laws itself, judges can make use of canons of construction. Some of the language-related canons are codified in chapter 645 and were discussed above. Others are not codified, but are useful for drafters to know:

Noscitur a sociis (*associated words*). The meaning of doubtful words may be determined by their reference to associated words.

Readings: Sutherland Statutory Construction, sec. 47.16; *State v. Suess* 236 Minn. 174 52 N.W.2d 409 (1952).

Ejusdem generis. General words following a listing of specific words are interpreted to be limited to the same sort of words specifically listed. This canon is codified at section 645.08.

Readings: Sutherland Statutory Construction, sec. 47.17 to 47.22; *State v. Walsh* 43 Minn. 444 45 N.W. 721 (1890); but see also *Olson v. Griffith Wheel Company*, 218 Minn. 48, 15 N.W.2d 511 (1944).

Last antecedent. When a series of words of general meaning is followed by words of limitation—grammatically, a relative clause or phrase—their limitation will apply to the last antecedent on the list. For instance, in a statute providing "Licensees may hunt moose, deer, geese, and ducks which are not on the endangered species list," the words "which are not on the endangered species list" will apply only to *ducks*, the last antecedent on the list.

Expressio unius est exclusio alterius. The expression of one thing is the exclusion of another.

Readings: Sutherland Statutory Construction, sec. 47.24; *Northern Pacific Ry. Co. v. Duluth*, 243 Minn. 84, 67 N.W.2d 635 (1954).

By now it should be clear that sentences in law can be slippery and that drafters always run the risk of being misunderstood. Knowing this is an excellent inducement to ask for assistance in drafting rules. The revisor's office provides this help.

Be Aware of the Problem of Unacceptable Discretion

Weasel Words

Sometimes the hardest thing about trying to bind people with words is that you are not free to rely on "common sense." Suppose a rule reads this way:

The swimming pool, swimming pool equipment, and appurtenances shall be maintained in a satisfactory operating condition.

Who is it who has to be satisfied? The agency's inspector? If so, that person has discretion to decide what "satisfactory" means, and the decisions might not be the same for all similar cases. The phrasing leaves the door open for unequal enforcement.

Here is one more example:

The commissioner may grant a license if the candidate meets appropriate educational requirements.

This statement doesn't set a clear standard. How do applicants know how to qualify? Moreover, it gives the commissioner the authority to grant or deny the license, which could mean unequal enforcement, and which could allow the agency to circumvent the APA. Words like "satisfactory," "required," "reasonable," "appropriate" and other words that call for judgment—called "weasel words" by one experienced drafter—need to be avoided.

May and Discretion

Another word that needs care is *may*. Some teachers of drafting ask students to circle every *may* and think about its implications. Consider:

The commissioner may deny benefits to an applicant who fails to submit a completed application within 30 days. The commissioner may extend this 30-day period if good cause is shown.

An official who has authority to deny benefits also has authority not to deny them. If "good cause" is shown, the commissioner has permission to extend the period, but also has permission not to do so. To specify what is allowed, these sentences need *shall* or *must*.

Be especially careful of sentences on the pattern "A person may do this or that." It is normal in English to use *may* when you want to show that a person is free to do one thing or its alternative, although the person has to do one or the other. However, this type of *may* can also be interpreted to mean that the person is free not to do either. It may look like a perverse interpretation, but it can easily be avoided: Write "A person shall do this or that," which makes it clear that the person has to choose one course or the other.

Permissible Discretion, Limits to Specificity

At this point drafters may be wondering if there is any room at all for agency discretion and judgment in their regulatory scheme. There is some: If absolute specificity is simply impossible given the matters your agency regulates, then absolute specificity is not required. A situation of this type is discussed in *Can Manufacturers Institute, Inc. v. State*, 289 NW2d 423. In that case, which concerned solid waste generation, the court decided that it was "unlikely that the regulations could be more precise in this kind of regulatory scheme."

Finally, if the authorizing statute gives the agency discretion, then discretion can be used in the rules. Always begin by knowing the underlying law.

Legal Questions and the Revisor's Review

The Office of Administrative Hearings is charged with approving or disapproving the substance of rules. However, if an agency asks for drafting help from the revisor's office, an attorney there can help identify problems that might cause rules to be disapproved and that could be corrected in the drafting stage. The revisor's office tries to answer a number of basic questions: Are these rules within the agency's statutory authority? Are they specific enough to tell people what is prohibited, to provide standards for enforcement, to let a reviewing body judge the agency's actions, and to be consistently applied? Do they give the agency too much discretion?

Certain words and phrases that raise red flags are discussed in this manual, but there are many more possibilities. It can be timesaving to have rules drafted in the revisor's office so that the more common drafting problems, problems of both form and substance, can be corrected early.

2 THE FORM OF RULES

Finding the Current Text: The Rules Publication Cycle

Drafters new to rules or not familiar with law publications need to learn a bit about rules publishing in order to find (and help readers find) the rules text they need.

Proposed rules are printed in the State Register. When they are adopted, the notice of adoption and any modifications to their text appear in another, later issue of the State Register. Ordinarily, cite the issue containing the notice of adoption.

Exempt rules generally appear only in the State Register, but other rules become part of the permanent set of Minnesota Rules. They may be published first in a pocket-part supplement. Supplements are cumulative, and each one specifies, on the cover, its cutoff dates.

Remember that a particular part might be published in the full edition, published again, as amended, in a supplement, and published a third time with more amendments in the State Register. To be certain that you are reading the current text of rules, check all three publications. Rule drafts are checked in the revisor's office to ensure that the current text is being amended.

You can also ask the revisor's office for a printout of the current text, which can be provided triple-spaced for easier editing. As an alternative to a printout, you can ask the revisor to provide you with a copy of current text on disk. You can also find out how the rules read by following the instructions under "How to Find a Rule" in the User's Guide in volume 1 of Minnesota Rules.

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 Accountancy 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 listings in the front of each volume will help you find the agency you are looking for. One of the tables lists a numerical arrangement of chapter numbers. A second table appears as an alphabetic arrangement by agency name.

Within each chapter, the rules are arranged in a decimal numbering system. 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.

Organizing Your Draft: Elements to Avoid

To make material easy to cite, the revisor requires all rule material to be within a numbered part. This requirement means that drafters may not use prefaces, notes, appendixes, or other material that falls outside numbered parts.

Appendixes

If your draft has a section that you think of as an appendix, either put it in a numbered part so that it is clearly a rule or omit it from your proposed rules.

Footnotes

Do not use footnotes in rule drafts. Include the material in the text of the rule, or omit the material. For reference forms see chapter 4.

Prefaces

Do not use prefaces in rule drafts. If your draft has a section that you think of as a preface, either put it in a numbered part so that it is clearly a rule or omit it from your proposed rule.

The Part and Its Divisions

The word "rule" is often loosely used to mean a numbered unit in Minnesota Rules. Actually, the term "rule" refers to any statement in Minnesota Rules, however short, and to any amendment or repeal of such a statement. The phrase "this rule" is therefore ambiguous and should not be used. The legal definition of the term "rule" can be found in Minnesota Statutes, section 14.02, subdivision 4.

The basic numbered unit in Minnesota Rules is called, not a rule, but a part. The divisions of rules are the part, subpart, item, subitem, unit, and subunit. The part is designated by an eight-digit number, such as 1001.0100. The subpart is designated by an Arabic number, such as Subpart 1. The item is designated by an uppercase letter, such as A. The subitem is designated by an Arabic number enclosed in parentheses, such as (1). The unit is designated by a lowercase letter in parentheses, such as (a), and the subunit by a lowercase roman numeral.

Parts numbers, or coding. All material in Minnesota Rules must have a part number; there are no unnumbered introductions or appendixes. A part number has eight digits. The four digits before the decimal point match the number of the chapter that contains the part. The four digits after the decimal point give the part a location within the chapter. So in chapter

1325 a reader might find parts 1325.0100, 1325.0150, 1325.0200, and so on in decimal order. Once part numbers are assigned to permanent rules, those part numbers cannot be reused.

The revisor's office will decide the coding of a new set of rules, but if an agency wants its rules coded in a specific place, it should suggest coding. If an agency wishes to change the numbering of its rules, it may do so.

Part headnotes. The part headnote announces the part's contents. It is not part of rule text and can be changed editorially by the revisor's office. Part headnotes should be typed in full capitals, ended with a period.

Subpart numbers. A part can be divided into subparts. The first is labeled "Subpart 1"; the second is labeled "Subp. 2"; all the rest are abbreviated like the second.

If the part has subparts, there should be no text between the part headnote and the words "Subpart 1." This ensures that all text is contained within the subparts. When rules are first drafted, there can be no subpart 1 without a subpart 2.

Subpart headnotes. Every subpart should have a headnote typed in upper and lowercase letters and end with a period.

Item letters. A part or subpart can be divided into items, labeled A, B, C, and so on. There can be no item A without an item B. Generally, item letters are used when the subpart contains some introductory material followed by a list. The listed items can be parts of a single sentence, separate sentences, or sometimes groups of sentences, so their capitalization and punctuation can vary. See the examples on pages 50 to 52. Items are not given headnotes.

In an actual list, item letters are followed by periods, like this:

1900.1700 COMPLETED APPLICATIONS.

The applicant is responsible for the quality and the nature of the responses in the application form and the supporting materials.

A complete application includes the following:

- A. the appropriate application form with all spaces completed;
- B. authorizing signatures on the application form;
- C. a complete data summary form;
- D. all required resumes attached; and
- E. in applications from organizations, the name of the project director.

In citations, no periods are used: "The steps listed in items A to D must be followed in contested cases."

When a subpart contains several paragraphs that are not part of a list, they are left undesignated, not given item numbers. If they need designations so that they can be cited individually, they should be made separate subparts.

A part can be divided directly into items, skipping the subpart level. This is done when the part consists of a single paragraph but contains a complex list. See the example on page 14.

Subitem numbers. If an item contains a list, it can be divided into subitems, labeled (1), (2), and so on.

Smaller divisions than the subitem—the unit labeled (a), (b) and the subunit labeled i, ii—exist in theory, but their use is discouraged. A part that is so far subdivided is probably too long and needs to be broken up into several parts.

The examples on pages 14 and 15 show the basic layout of parts, subparts, and smaller divisions. Drafts of new or amendatory rules should use the patterns of indentation, capitalization, and punctuation shown on these pages.

Example: Part Divided into Subparts

9400.0900 APPLYING FOR EXAMINATION.

Subpart 1. **Form and time.** The applicant must apply for examination to the commissioner or director on forms prescribed by them. The application form must be submitted at least 15 days before the date when the examination will be given.

Subp. 2. **Proof of attendance.** The commissioner may require the applicant to submit a copy of the school or college diploma, equivalency certificate, or other proof of school or college attendance or graduation.

Subp. 3. **Fee.** The examination fee must accompany the application.

Subp. 4. **Review.** The appropriate reviewing authority must review all information and documents needed to determine eligibility for examination and must notify the applicant of the applicant's status.

Example: Part Divided Directly into Items

4670.0820 PUBLIC HEALTH MERIT SYSTEM COUNCIL.

The council has the following duties:

A. to establish general policies for administering merit examinations and hearing personnel appeals as provided in parts 4670.3500 to 4670.3550;

B. to hear appeals or to appoint either an appeal board of three members or a referee to hear appeals on its behalf; and

C. to consult with the supervisor in formulating procedures to ensure conformity with the rules and the policies of the council.

Example: Subpart Divided into Items and Subitems

Subpart 1. **Certificate for classes A, S-A, B, S-B, C, or S-C.** Persons who apply for a Class A, S-A, B, S-B, C, or S-C certificate may substitute education for experience according to the formulas contained in items A and B:

A. Except as noted in item B, the council may reduce the experience required in part 9400.0700, subparts 2 to 7, by up to six months for the successful completion of:

(1) each academic year beyond high school in which the applicant took courses relating to water supply and wastewater treatment, or in an appropriate branch of engineering, or the chemical or biological sciences; or

(2) 100 contact hours of courses relating to water supply or wastewater treatment.

B. The council may not substitute the education referred to in item A for experience so as to reduce the experience requirement to less than one year.

Devices for Grouping Parts: Centered Headings

A long set of rules sometimes needs headings that group its parts into subject areas. Even a short set of rules may need a heading to separate it from other rules in the chapter where it appears.

In *Minnesota Rules*, the centered headings work with the chapter titles and headnotes to help readers find particular subjects. If the running head says "Minnesota plumbing code," the centered heading says "Installation of devices" and the headnote says "Water meters," then you, the reader, know where you are in the universe of rules.

If headings are used within a draft of proposed rules, they must be in full capitals and centered on the page. Like headnotes to parts and subparts, they are editorial devices and are subject to change by the revisor's office.

General Format of Rule Drafts

In rule drafts, the following elements should appear in order:

- agency name
- division
- rule title
- the text of the rules arranged in numerical order as follows:
 - purpose or scope statement, if any
 - definitions in alphabetical order
 - basic provisions
- renumbering or relettering instructions, if any
- repealer, if any
- effective date, if needed

As well as following the format set out here, the draft should follow the style of punctuation, capitalization, forms of reference, and other mechanical matters set out in chapters 4 and 5. The complete format of a short amendatory rule appears in the example on page 18.

Striking and Underscoring Text

New text in rules is marked with an underscore, like this. Text to be removed is shown with strikeouts, ~~like this~~.

The form for entirely new proposed rules is fairly simple, as the example on page 23 shows. After the heading, the new parts appear in numerical order, following the form requirements in chapter 1.

Most rule drafts, though, are for amendatory rules or combinations of new and amendatory rules. These drafts need special care on several matters of content and form.

Should You Amend or Repeal?

Sometimes a drafter must decide whether to amend rules extensively or repeal them and reenact their substance in corrected, reorganized form. Each method has pluses and minuses. Rewriting and reenacting frees you to correct style and organization problems and usually gives you more part numbers to use, but it destroys the editorial history of the rules and makes it easy to lose material. Rewriting may also mean that existing requirements, which have already been reviewed and approved, may need to be reviewed all over again just because they are being presented in different words. Amending is sometimes tedious, but it preserves history. It also gives readers a clearer view of the changes you make.

Term Changes

An agency sometimes needs to substitute one term for another throughout a chapter or within a range of several parts. For example, the term "mentally retarded persons" was changed to "persons with mental retardation or related conditions." Changes of this kind should be accomplished by an uncoded part with the headnote "Term changes," as shown in the following example.

TERM CHANGES. The term "client" or similar term is substituted for "patient," "resident," "patient or resident," or similar terms wherever they appear in Minnesota Rules, parts 9515.1200 to 9515.2600.

The term "cost of care" is substituted for "per diem," wherever it appears in Minnesota Rules, parts 9515.1200 to 9515.2600.

Preparing Copy for the Revisor's Office

If you submit drafts of amendatory rules to the revisor's office, you should not retype the text of the rules. Instead, photocopy the most up-to-date version of the rules. The revisor's office will supply clean copy of the current text. Handwritten changes on the photocopy, preferably in brightly colored ink. Even if you must prepare clean copies for your agency's needs, send marked photocopies to the revisor's office. Be sure to account for all the text within a part.

Deciding How Much Text to Show

If you amend parts 1005.0100 and 1005.0300, your draft need not show part 1005.0200. But if you amend subpart 2 of a part that has five subparts, your draft must account for all five subparts; if you amend item A in a series that goes to item R, you must account for items B to R. Accounting for them does not necessarily mean printing their full text. You need only show enough text to give the public adequate notice of the nature of the amendment.

To account for subparts, items, or subitems whose text you decide not to show, write the note:

[For text of, see M.R.]

after the appropriate number or letter.

A note at the subpart level accounts for everything within that subpart; a note at the item level, for everything within that item, and so on.

Example: Amendatory Rule Using [For text of] at Subpart Level

Pollution Control Agency

Proposed Permanent Rules Relating to Low-Level Radioactive Waste Generator Fees

7042.0030 LOW-LEVEL RADIOACTIVE WASTE GENERATOR FEES.

[For text of subpart 1, see M.R.]

Subp. 2. **Amount of fees.** A generator of low-level radioactive waste is subject to the following fees:

A. A generator who ships 1,000 cubic feet or more of low-level radioactive waste per year to a facility for disposal is subject to a fee of ~~85 cents~~ \$6.65 per cubic foot of low-level radioactive waste shipped per year.

B. A generator who ships at least 100 cubic feet of low-level radioactive waste per year to a facility for disposal is subject to a fee of \$100 per year.

Example: Amendatory Rule Using [For text of] at Item Level

4525.0300 CONTENTS OF COMPLAINT.

A complaint ~~shall~~ must contain:

[For text of items A to C, see M.R.]

D. a statement that the complainant understands that any hearing or action of the board concerning any complaint or investigation is confidential and all information obtained by the board is privileged until the board makes a finding on whether there is probable cause to conclude that a violation of Minnesota Statutes, sections 10A.01 to 10A.34 or other campaign laws has occurred, and that any person violating the confidentiality provisions is guilty of a gross misdemeanor;

[For text of items E and F, see M.R.]

Renumbering or Relettering Instructions

Subparts are not renumbered. To insert a new subpart between existing subparts 3 and 4, number it subpart 3a. If you add or delete material so that items or subitems need to be renumbered or relettered, you can renumber or reletter in one of two ways:

1. If the text of the item or subitem being renumbered or relettered is also being changed with strikeouts and underscoring, strike the old letter or number and insert and underscore the new one.

Example: Different Methods of Relettering

2100.5100 LICENSE APPLICATION.

Subpart 1. **Verified statement.** A person desiring to operate a barber school in Minnesota ~~shall~~ must present to the board a verified statement showing at least the following:

[For text of items A and B, see M.R.]

C. ~~the address of the proposed school;~~

~~D.~~ a complete financial statement showing all assets and liabilities of the applicant and the plan of financing; and

~~E.~~ D. a plan of operation of the school setting forth the following information:

[For text of subitems (1) to (8), see M.R.]

[For text of subps 2 and 3, see M.R.]

2. If the text of the item or subitem is not being changed, write a renumbering or relettering instruction at the end of the document. See the example on page 20.

Whenever you reletter or renumber, check for internal references to the relettered and renumbered portions and correct them.

Example: Relettering With a Relettering Instruction at End

2100.5100 LICENSE APPLICATION.

Subpart 1. **Verified statement.** A person desiring to operate a barber school in Minnesota shall present to the board a verified statement showing at least the following:

[For text of items A and B, see M.R.]

~~C. the address of the proposed school;~~

D. and E. See relettering instruction.

[For text of subps 2 and 3, see M.R.]

RELETTERING. Minnesota Rules, part 2100.5100, subpart 1, items D and E are relettered as C and D.

Repealing Rules

To repeal an entire part or parts use the following form. Give the complete part number of every part being repealed. Do not use a range reference such as "parts 1005.0100 to 1005.1000.

Proposed Repeal of Rules on Nurses' Registration

REPEALER. Minnesota Rules, parts 6310.0200; 6310.0300; 6310.0400; 6310.0500; and 6310.0600, are repealed.

To repeal a subpart, follow the form in the example on this page. When a part or subpart has been repealed, its number cannot be reused. The number will continue to appear in Minnesota Rules with an editorial note of the State Register cite of the repealer.

Example: Repealer of Part and Subpart

4500.4000 SAMPLE BALLOT PREPARED BY A CANDIDATE.

A candidate who prepares and distributes a sample ballot ~~which~~ that contains the names of other candidates must include the proper disclaimer required for independent expenditures and must report the total cost of the preparation, printing, and distribution of the sample ballot unless the candidate is making an approved expenditure.

4500.4100 ~~SIGNING~~ TAX CREDIT SUBSIDY AGREEMENT.

A candidate may sign a tax credit subsidy agreement at any time after registering a principal campaign committee for the office sought or held through December 31. An agreement signed on or after January 1; does not apply to a preceding calendar year.

4510.0400 OBLIGATION TO REPORT.

[For text of subpart 1, see M.R.]

Subp. 2. **Alternative report.** Notwithstanding subpart 1, a lobbyist whose reportable disbursements in a reporting period total less than \$100 ~~and whose disclosure under part 4510.0600 would be less than \$20~~ may file a statement to that effect in lieu of a lobbyist disbursement report. All previously unreported disbursements must be disclosed annually on the October 15 report, even though the total for the year is less than \$100.

Subp. 3. {See repealer.}

REPEALER. Minnesota Rules, parts 4500.4050; and 4510.0400, subpart 3, are repealed.

Do not repeal anything smaller than a subpart. If you need to cancel the text of an item or subitem, or a sentence or clause within a paragraph, do it with strikeouts, in an amendment. Remember to do the necessary renumbering or relettering when you remove an item or subitem.

Checking Cross-References

Whenever you repeal, renumber, or reletter material, check throughout Minnesota Rules for references that need to be changed or removed. The revisor's office can do a computer search for references to specific part numbers. The search will show, for each part number, the other parts in which that part is cited.

Amending Headnotes

If you change the existing headnotes of parts or subparts, show the changes with strikeouts and underscoring. If you insert an entirely new part or subpart, do not underline the headnote. See the example on page 23.

Changing Chapter Titles and Centered Headings

The set of Minnesota Rules is divided into chapters, and certain chapters are further divided with centered headings. See, for example, Minnesota Rules, chapter 1400, which has centered headings for its rules on administrative rulemaking hearings, contested case hearings, and revenue recapture act hearings.

If you amend rule text in a way that makes a chapter heading or centered heading inaccurate, amend that text as well. The revisor's office is technically responsible for editorial matters such as titles and headings, since they are not part of the text of the rules, but the revisor's office benefits from agencies' help in catching inaccuracies.

Special Types of Amendments

Amendments after rules have been proposed. The special case of changes to rules after proposal, but before adoption, is discussed on page 83.

Submitting the Rules to the State Register

The revisor's office will deliver two copies of the proposed rules, approved for form, to the agency for submission to the State Register. The agency will also receive four extra copies of the rule for its own use. The copies produced by the revisor's office, with its form approval, are the only copies that may be submitted to the State Register.

Example: Rule as Proposed

5219.0010 PURPOSE.

This chapter is intended to provide a schedule of reasonable charges for copies of health care providers' records or reports substantiating the nature of a medical bill and its relationship to the work injury. The privacy of medical reports or records under other law is not affected by this chapter.

5219.0020 SCOPE.

This chapter applies to charges for copies from health care providers as defined in Minnesota Statutes, section 176.011, subdivision 24.

5219.0030 COST OF MEDICAL RECORDS.

Subpart 1. Doctor's office notes. No charge is allowed for a copy of a doctor's office notes covering the services billed.

Subp. 2. Schedule of charges. Reasonable charges for other copies of existing medical records or reports obtained from health care providers under Minnesota Statutes, section 176.135, subdivision 7, are as follows for each patient:

- A. \$5 per file as a retrieval fee;
- B. 75 cents a page for up to 20 pages;
- C. 50 cents a page for the next 32 pages; and
- D. 25 cents a page for all remaining pages.

Subp. 3. First report form, maximum medical improvement. Part 5220.2590, subpart 4, governs the physician's first report form and the maximum medical improvement form. No charge is allowed as provided in that part.

Example: Adding a Subpart

4510.0400 OBLIGATION TO REPORT.

Subpart 1. **Lobbyist disbursement report.** A lobbyist ~~shall~~ must file a lobbyist disbursement report on each reporting date indicating whether or not the lobbyist has any reportable disbursements during a reporting period.

Subp. 1a. **Alternative report.** Notwithstanding subpart 1, a lobbyist whose reportable disbursements in a reporting period total less than \$100 and whose disclosure under part 4510.0600 would be less than \$20 may file a statement to that effect in lieu of a lobbyist disbursement report. All previously unreported disbursements must be disclosed annually on the October 15 report, even though the total for the year is less than \$100.

[For text of subp 2, see M.R.]

Example: Draft Combining New and Amendatory Rules

4505.0200 PUBLIC OFFICIAL.

An individual who is employed or appointed as an acting public official or who is employed part time as a public official is required to file a statement of economic interest.

4505.1000 JOINT INTERESTS.

A public official who holds a joint interest in a security, or in a partnership, must disclose ownership in the security or the partnership if the official's proportionate share of the holding is valued at \$2,500 or more.

4510.1400 CONTESTED CASE HEARING.

Subpart 1. **Representative of a party must register.** A representative of a party to a contested case rate proceeding before a state hearing examiner is required to register as a lobbyist if the representative meets the other qualifying requirements of Minnesota Statutes, section 10A.01, subdivision 11.

Subp. 2. **Attempt to influence appeals.** An individual who attempts to influence appeals proceedings which may follow determination of a rate, power plant and powerline siting, or granting of a certificate of need under Minnesota Statutes, chapter 116H, is not required to register as a lobbyist.

4515.0300 APPLICABILITY OF THE CONFLICTS OF INTEREST PROVISIONS.

~~Any~~ A public official who, in the discharge of official duties, would be required to take action or make a decision ~~which~~ that would substantially affect ~~his~~ the official's financial interests, or those of a business with which ~~he~~ the official is associated, must file a potential conflict of interest notice, unless the effect ~~on him~~ is no greater than on other members of ~~his~~ the official's business classification, profession, or occupation.

Example: A Complete Draft of Proposed Rules

1900.0100 DEFINITIONS.

[For text of subs 1 to 6, see M.R.]

Subp. 6a. **General support.** "General support" means a program that provides unrestricted operational grants assistance to eligible organizations which meet the standards contained in this chapter.

[For text of subp 7, see M.R.]

Subp. 8. [See repealer.]

[For text of subs 9 and 10, see M.R.]

Subp. 10a. **Project.** "Project" means an activity or series of closely related activities for which funds are requested from the Minnesota State Arts Board or a regional arts council. The activity or series of activities must be completed within 24 months of the notification of the receipt of a grant in support of the activities.

[For text of subs 11 to 13, see M.R.]

Subp. 14. **Regranting.** "Regranting" means the process of allocating block grant funds to arts funding applicants to a regional arts council for the purpose of funding arts projects or programs or services described in the applications to regional arts councils.

Subp. 15. **Services.** "Services" means nongrant activities including, but not limited to, information services, technical and consultative services, planning, reporting, evaluation, and other program development efforts that are provided by the Minnesota State Arts Board or regional arts councils.

Subp. 15a. **Sponsor assistance.** "Sponsor assistance" means a program which provides grants assistance to eligible organizations, which meet the standards contained in this chapter, that host arts events by contracting for the services of another organization or individual to provide arts programming to their community.

[For text of subp 16, see M.R.]

1900.0300 PURPOSE.

The purpose of this chapter is to set forth procedures and standards to be followed by the board in receiving, considering, and reviewing requests for and distribution of grants, ~~loans, and other forms of assistance~~. Any actions taken by the board, its staff, and advisory committees ~~related to the review and distribution of grants~~ must be clearly based on the standards in rule form. Explanation of actions requested by applicants must be offered in the context of the standards in rule form.

1900.1000 ELIGIBILITY REQUIREMENTS FOR INDIVIDUALS APPLYING FOR GRANT ASSISTANCE.

~~Arts Board assistance is available to individuals, non-profit, tax exempt organizations, schools and governmental units and departments and agencies of the state.~~

~~Local/regional arts development assistance is available to non-profit, tax exempt organizations or units of government, including schools. This assistance is for the creation and production of arts programs or projects which are for the development or enhancement of local or regional artists or arts resources.~~

~~Arts Board grants assistance is available to the following individual applicants:~~

~~A. artists who directly produce new works of art such as, but not limited to, playwrights, composers, librettists, creative prose writers, independent filmmakers, video artists, visual artists, craftspeople, choreographers, poets, fiction writers, conceptual artists and artists working in multi-media fields;~~

~~B. arts teachers, only if the teacher is pursuing professional development as an artist, not as a teacher;~~

~~C. individual artists, who have received a MSAB Fellowship grant, cannot apply for another Fellowship grant until two fiscal year after the receipt of the Fellowship grant;~~

~~D. students, those who are pursuing either full time or part time a performance or academic degree in their creative field, may not apply for Fellowships, but may apply for Project or Works in Progress grants.~~

Subject to parts 1900.5200 to 1900.5500 and the other provisions contained in parts 1900.0100 to 1900.2000, an individual artist is eligible for grants assistance only if that artist is:

A. a resident of Minnesota according to the voting requirements of the state; and

B. not involved in executing work initiated or completed by another individual or organization as their agent, or not solely involved in the organization or presentation of other artists' works.

1900.1300 DEFINITIONS.

[For text of subpart 1, see M.R.]

Subp. 2. **Applicant.** "Applicant" means any Minnesota resident who submits an application for a grant, ~~loan, or other form of assistance,~~ or any organization, department or agency of the state, or political subdivision on whose behalf an application for a grant is submitted.

[For text of subps 3 and 4, see M.R.]

Subp. 4a. **Cosponsor.** "Cosponsor" means a partnership of two or more organizations and/or governmental units to present arts activities within a community or school which submits one grant application.

Subp. 5. **Fiscal agent.** "Fiscal agent" means any Minnesota nonprofit tax-exempt organization or governmental unit which applies to the board on behalf of an organization or group not meeting the nonprofit tax-exempt requirements. The fiscal agent must sign the application and, if a grant is received, sign the grant letter/contract. The fiscal agent is legally responsible for the completion of the project and for the proper management of the grant funds.

[For text of subps 6 to 14, see M.R.]

1900.1700 COMPLETED APPLICATIONS.

The applicant is responsible for the quality and the nature of the responses in the application form and the supporting materials.

A complete application includes the following:

- A. the appropriate application form with all spaces completed;
- B. authorizing signatures on the application form;
- C. a complete data summary form;
- D. all required resumes attached;
- E. in applications from organizations, the name of the project director;
- F. in applications from individual artists, the required supporting materials;
- G. where applicable, a copy of the contract with the fiscal agent; and
- H. postmark or delivery by the stated deadlines in program information.

REPEALER. Minnesota Rules, parts 1900.0100, subpart 8; and 1900.0450, are repealed.

3 READABILITY IN DRAFTING

Before You Draft, Identify Your Audience

Often an agency's rules are perfectly clear to staff members in that agency but confusing to others. To avoid this problem, aim your draft at its most appropriate audience outside state government. If your rules regulate migrant labor and order recruiters and employers to put workers' terms in writing, then employers, recruiters, and workers are your audience, part of it an audience with limited education. On the other hand, if you are drafting rules regulating securities sales, then brokers and bankers are your audience, and your rules will have to use the technical vocabulary of their trade. Rules addressed to people in general—for example, rules prohibiting dumping in state parks—must aim at people of average intelligence and average education.

Writing for a less knowledgeable audience means that you must work hard at keeping sentences short and eliminating or defining difficult words. For sophisticated readers you may be able to be briefer; you can pack information into specialized words. For other readers your material must spell out more information. Identifying your audience will also help you to think about the questions that audience will ask about the rules, questions that will help decide the form of your headnotes, and the organization of your material.

Keep the Rule Title Short, But Make it Communicate

The title that is printed on the revisor's certificate is the title that will identify the rules in the State Register. Because it will be printed in large, bold type with headline-style capitalization, it should be kept as short as possible for easy reading. Include only as much as is necessary to let the public know what the rules are about.

Some words are required in your title: the public has to know whether the rules are proposed or adopted, permanent or exempt. The words "relating to" are not required. You can use a shorter form such as *for* or *on*. A colon might be enough.

The challenge is in the words that follow. If the drafter writes a brief title like "Proposed Permanent Rules on Preadmission Screening," will the readers know who is to be screened and to what they will be admitted? A complete explanation, however, would be too long. A reasonable compromise might be "Proposed Permanent Rules on Preadmission Screening for Nursing Homes and Community Services."

Make Your Organization Clear to Readers

It does not matter what order you follow in drafting the provisions of your rules. You can develop an overall outline after you have done your research, or you can draft the key provisions first and fill in the details later. As long as you stay in touch with everyone concerned with the rules and are willing to change your draft as new ideas develop, any

method will work. What matters is the way the rule looks on the page. The key question is: Can readers find what they need to know?

They will be able to find what they need if your headnotes show a pattern of organization. Put definitions first and basic provisions before special cases, but for everything else you're free to use one of several patterns.

Try chronological order first. This works especially well in rules that describe procedures. For example, a section-regulating employers' treatment of migrant workers might tell what employers must do at several stages of the work season:

- when they recruit and hire;
- when they write contracts guaranteeing hours and pay;
- when they meet special situations when a worker is fired, quits, becomes ill, or refuses to work;
- when they pay wages; and
- when they settle at the end of the season.

Using chronological order may mean preferring one audience to another. For example, rules governing prisons affect not only prisoners but prison workers who must comply with the rules and agency workers who have to check compliance. There is no particular order to obeying these rules. It might be best to decide on a convenient order for inspection and to order rules that way. If food service, health equipment, and sanitation will be checked together, rules governing them should be next to one another.

Not all-chronological order is this easily determined. It may take some discussion within a staff to decide what the order of parts should be.

Laws and rules are generally used as reference documents, not read from beginning to end. Quick reference depends not only on the index but on headnotes and on tables of contents. Tables of contents are compiled by the revisor's office, using the part headnotes. Extra headings can be added to identify the subject of a range of parts. When you write part headnotes, ask yourself first how they will look as a table of contents and whether or not they will show the reader your method of organization. Pay special attention to subpart headnotes; they are the reader's only guides within a part. You may decide to change the order of your parts on the basis of the looks of your headnotes.

Avoid Some Common Headnote Problems

The revisor's office will change headnotes that don't accurately describe the contents of your rules. To make sure your headnotes guide readers, avoid some common headnote faults:

1. Remember that headnotes are guidewords only and are not part of the rules. The reader must be able to make sense of the rules without them. For example, don't write:

2015.0010 QUALIFICATIONS.

Subpart 1. **Registering for inactive status.** Completion of an approved physician assistant training program and certification by the National Commission of Physician Assistants.

Write:

2015.0100 QUALIFICATIONS.

Subpart 1. **Registering for inactive status.** To be registered for inactive status as a physician assistant, an applicant must have completed an approved physician assistant training program and be certified by the National Commission of Physician Assistants.

2. Prefer -ing to -ion. If your rules explain a procedure, use a verb in your headnotes. Instead of writing "Tax-forfeited Lands; Acquisition," write "Acquiring Tax-forfeited Lands."

3. Don't depend too much on the context to complete a headnote's meaning. In subpart headnotes you can control context somewhat, but you have no idea what other headnotes will be near your part headnote, so be very specific. Don't write "Who may use," or "Must be displayed." Instead, write, "Who may use county law libraries," or "Displaying licenses."

Try Organizing a Draft for Several Audiences

If the rule affects several audiences, you can write a separate part for each audience. This saves readers from having to read through long paragraphs to find the parts that apply to them.

Keep Parts and Subparts Short

The more material you place in a single block of text, the harder it is for readers to find the provisions they are interested in. Long, solid blocks of text also make it difficult to keep one's place in reading. To make reading easier, try to limit the length of subparts to two-thirds of a page as produced by the revisor's printer. If a part runs to several pages, break it up into several smaller parts.

Take Care with Definitions

Write your definitions after you have written the body of the rule. Check the chapter-wide definitions in the chapter where you want the rules to appear; if the terms in your draft are defined there, you can refer to the definitions and need not define the items again. Also check Minnesota Statutes as you review your draft to see which terms need defining. Make sure you have not varied your terms or created needless jargon, buzzwords, noun strings, or initials. (These problems are discussed elsewhere in this chapter.) If you find these things, revise. A clearly written draft will need few definitions.

Here is a checklist for definition use:

1. Introduce definitions with a standard sentence: "The terms used in parts _____ to _____ have the meanings given them in this part." Use *have*, not *shall have*.
2. Make each term a separate subpart. Start with the subpart number; write the term you're defining as a headnote. Start the sentence with the term you're defining, in quotation marks:

Subp. 4. **Engineer.** "Engineer" means...

The next word will usually be *means*, *includes*, or *refers to*, depending on what follows. These words are singular, even when you're defining a plural term. Make them plural only if you're defining two words at once. Use only one term. Don't say "means and includes."

3. The form of the definition should be the same part of speech as the word being defined. The definition of a verb should be in the same verb form; the definition of an adjective should be an adjective or a participle, etc. For example, don't write: "'Reasonable access' means no more than 12 miles distant from the transportation system." Instead, write: "'Reasonable *access*' (noun) means a *distance* (noun) of not more than 12 miles from the transportation system." Or write: "'*To have reasonable access*' means *to be no more than 12 miles* from the transportation system."

When it isn't possible to use a grammatical equivalent in a definition, use *refers to* instead of *means*. Example: "'Settle' and 'settlement' refer to the consideration, adjustment, determination, and disposition of a claim..."

Sometimes you can use something other than *means*, *includes*, or *refers to*. For example, you can write: "‘Should’ is used in a directory sense."

4. Don't do violence to the ordinary meaning of words. Don't write "‘Hospitals’ includes day care centers." The reader is not likely to look up the word "hospitals" and so may never learn that it includes other things. Use the included terms in the body of the rule.

5. Don't define terms needlessly. English words used in their ordinary senses don't need definitions. "Temporary sign" does not need the explanation that it is a sign intended to be displayed for a short time.

6. Watch your sense of categories as well as your grammar. For example, don't write: "‘Senility’ means *an individual with* a physical disability and mental weakness brought on by old age." Senility is a condition, not a person. Write "‘Senility’ means a physical disability and mental weakness brought on by old age."

7. Try not to define words in terms of other words also being defined. This rule is sometimes impossible to keep; it may call for too much repetition. But remember that most readers will not read your work from beginning to end. They will not want to be forced to look up a second definition in order to understand the first.

8. Don't write substantive requirements into your definitions. Here is an example of a definition that is too substantive: "‘Lockup facility’ means a secure adult detention facility used to confine prisoners waiting to appear in court and sentenced prisoners for not more than 90 days. In addition to the cell, a lockup facility must include space for moderate exercise and activity, such as weight lifting, ping-pong, table games, reading, television, and cards." This definition should end at "90 days."

9. Alphabetize your definitions word by word. Treat strings of initials as single words. Example: Efficiency, EIS, and EPA. Of course, it's better not to use the initials, but if you must use them, make their meanings easy to find: alphabetize under the abbreviation, not the expanded form. A reader who is trying to learn what LPG means should not be forced to look through all the L's to find "Liquefied petroleum gas."

Don't Duplicate Statutory Language

"Duplication of statutory language" means an exact duplication of language from Minnesota Statutes or a restatement of the language in other words. Duplicated statutory language does not meet the definition of a rule in Minnesota Statutes, chapter 14, so rule drafters should avoid duplicating statutory language unless it is necessary for a clear understanding of the rule.

When your rule draft is closely tied to certain statutes, you may be tempted to reproduce the wording of the statute in your rule draft. But duplication can cause problems if the statute is

later amended or repealed. Paraphrasing causes trouble, too, because the two versions could be construed differently. To avoid problems, refer to the statutory language instead of reproducing it. (See page 59 on the use of cross-references.) Use the words of the statute only if they are crucial to the reader's ability to understand the rules.

Don't Vary Your Terms

Throughout your draft, use one term consistently to mean one thing. This rule seems easy to follow, but the following definition shows how thoroughly it can be broken:

...Unless the context clearly indicates a different meaning, "warehouse" may be used interchangeably with "elevator," "storage house," or "facility."

The same problem, alternating *systems* and *supplies*, appears in the following paragraph:

Community water supplies which serve a population of 10,000 or more individuals shall analyze for total trihalomethanes in accordance with this part. Community water systems serving 75,000 or more individuals shall begin sampling and analysis not later than January 1, 1982.

Drafters make variations like these unconsciously. Variations often show up near the beginnings of sentences, which usually don't deliver new information and so get less of drafters' attention. To keep from varying your terms, choose one of the terms available, try to use it consistently, and check your draft or have someone else check it for variations, especially near sentence beginnings.

Don't Use Obsolete or Vague Words and Phrases

Try not to use the words on the list below: they are often unclear and nearly always unnecessary.

Don't Use

above, aforesaid, aforementioned,
beforementioned, hereby, herein,
hereinafter, hereinbefore,
herewith, therefor, therein,
thereinafter, thereinbefore,
thereof
thereupon, whereupon
to wit

Use

name a specific
section or part.

when, at that time
namely

Use the following words sparingly: *all, any, each, every, some*. Substitute *a, an, and the*. Instead of the legalisms *such, said, and same*, use *a, an, the, it, that, them*, or some other noun or pronoun or nothing.

Limit Your Use of "Shall"

The revisor's office recommends using *must*, not *shall*, to impose duties. Most speakers of English stopped using *shall* to mean "is ordered to" in the seventeenth century. Dictionaries show that we generally use *shall* as a formal form of *will*; so to most readers the lawyer's *shall* is an obsolete legalism.

If you prefer the traditional *shall*, minimize its use as follows:

Shall. Use *shall* only when you are imposing a duty on a person or body:

"The licensee shall give the debtor a copy of the signed contract."

or

"An association that issues shares by series shall keep a record of every certificate that it issues."

In conditions, don't use *shall* at all. Use present perfect tense, not future perfect. Don't write, "If it *shall* have been established..."

Write, "If it has been established..." Don't write, "When the officers *shall* have completed their investigation..." Write, "When the officers have completed their investigation..."

Must. Use *must*, not *shall*, to talk about a thing rather than a person:

"A copy of the signed contract must be given to the debtor,"

or

"A record must be kept whenever a certificate is issued."

Use *must* to express requirements, that is, statements about what people or things must be rather than what they must do:

"Public members of the board must be broadly representative of the public interest and must not be members of health professions licensed by the state of Minnesota..."

Need not. Use *need not* or *is not required to*, to say that a thing is not required:

"If fewer than seven people object to the rule, a hearing need not be held," or "no hearing is required."

Should. Do not use *should* in rules. A statement that a person should do something is not a rule.

May. Use *may* to mean "is permitted to" or "is authorized to" or "has power to":

"The commissioner may call a special meeting of the board when necessary."

When you use *may*, be sure that your sentence does not grant impermissibly broad discretion to any agency or official. The amount of discretion permitted depends on the matter being regulated and on the statutory language that grants the rulemaking authority.

Must not. Use *must not* to mean "is forbidden to" or "is prohibited from." Don't use *shall not*. Say "no person may" or "a person must not," not "no person shall."

Means. In definitions, write *means*, not *shall mean*. Write "have the meanings given them," instead of "shall have the meanings given them."

Is. Don't use *shall* to say what the law is, to make a statement that is true by operation of law. For example, say that a person *is* eligible for a grant under certain conditions, not that he or she *shall* be eligible.

Write in the Third Person

Rule drafters need to compromise between the needs of statutory drafting and the requirements of plain English. Most plain English drafting instructions call for the use of the second and first person—addressing the consumer as "you" and calling the company "we." Using "we" and "you" is probably impractical in rules, which usually have to deal with several different sets of people and their duties. Write in terms of "the commissioner," "the department," and so on.

Use Familiar Words

Use "speaking vocabulary," not writing vocabulary, as much as you can without being slangy. The list below mentions some words to avoid and suggests some plainer words to replace them with, but there are many other words that should be avoided.

Use the list, but remember the principle: prefer the most familiar words. It is not the length of the word that matters, but the number of readers who understand it.

Don't Use

accorded
afforded
approximately
as to
attempt
cease

Use

given
given
about
about, concerning
try
stop

commence	begin, start
deem	consider, judge
effect (as a verb)	make
effectuate	carry out, do
employ	use
endeavor (verb)	try
evince	show
expedite	hasten, speed up
expend	spend
expiration	end
formulate	make
forthwith	immediately
furnish	give
impact on	influence
indicate	show (or more specific verb)
inform	tell
initiate	begin (depends on use)
inquire	ask
institute	begin, start, set up
interrogate	question
modify	change
necessitate	require
negotiate (in the sense of "enter into a contract with")	make
obtain	get
occasion	cause
portion	part
possess	have
preserve	keep
procure	get, obtain
prior to	before
promulgate	publish, make, adopt
proceed	go, go ahead
purchase	buy
pursuant to	under
remainder	rest
render ("cause to be")	make
render ("give")	give
request	ask for
require	need
retain	keep
specified ("listed, expressly mentioned")	named
subsequent to	after
suffer ("permit")	permit, allow
summon (verb)	send for, call

terminate
(be) unable to
utilize

end
cannot
use

Replace Wordy Expressions With Shorter Substitutes

Avoid the wordy phrases in the list below. Use the shorter, simpler expressions in the left column.

Don't Use

absolutely null and void and
of no effect
adequate number of
all of the
attains the age of
at the time, at such time as
at that (this) point in time
by means of
corporation organized and existing
under Minnesota laws
does not operate to
due to the fact that
during such time as
during the course of
excessive number of
for the duration of
for the purpose of holding (or
other gerund)
for the reason that
from and after
from July 1
full force and effect
in case
in order to
in the event that
in the interest of
is able to
is applicable
is authorized and empowered to
is binding upon
is entitled (in the sense of "has
the name")
is unable to
means and includes
not later than June 30, 1981
not less than

Use

void

enough
the
becomes...years old
when
then (now)
by
Minnesota corporation

does not
because
while
during
too many
during
to hold
(or other infinitive)
because
after
after June 30
force, effect
if
to
if
for
can
applies
may
binds
is called

cannot
means
before July 1, 1981
at least

not to exceed	not more than
null and void	void
of a technical nature	technical
on and after July 1, 1981	after June 30, 1981
on or before June 30, 1981	before July 1, 1981
or, in the alternative	or
party (person, individual)	person (but keep in mind the statutory definition of person)
per annum, per day, per foot	a year, a day, a foot
per centum	percent
period of time	period, time
pursuant to	under, according to
remainder	rest
sole and exclusive	sole
sufficient number of	enough
the manner in which	how
to the effect that	that
true and correct	true, correct
under the provisions of	under
unless and until	unless, until
until such time as	until
whatsoever	whatever
whenever	when, if
whenever	when, if
wheresoever	wherever
whosoever	whoever
with the object of changing (or other gerund)	to change (or other infinitive)

Avoid Nominal Style

Many verbs have related nouns: you can *decide* or *make a decision*; *complain* or *make a complaint*; *speak* or *make a speech*; *know* or *have knowledge*.

Writing that uses verbs (verbal style) is usually brief and clear. Writing that uses nouns (nominal style) can be too formal and wordy. Most drafters overuse nominal style and need to be trained to prefer verbal style.

Don't Use

to implement pupil behavior management techniques...
 established a contractual relationship with...
 has knowledge or suspicion that...

Use

to manage pupils' behavior
 contracted with
 knows or suspects that...

make application for	apply for
make payment for	pay for
make provision for	provide for
upon X's request to Y	if X asks Y
upon a determination by X that	if X determines that

There are many other possibilities. The suffixes *-ance*, *-ancy*, *-ant*, *-ence*, *-ency*, *-ent*, *-ion*, and *-ment* often mark nouns derived from verbs, so check for nominal style whenever you see these suffixes. Not all nominals, however, show how they are related to specific verbs. For example, "to *have an adverse impact* on the environment" could mean "to *harm* the environment" or "to *disturb* the environment" or any of a number of verbs. Nominals of this kind are harder to spot and correct, so learn to concentrate meaning in your verbs in the very first draft.

Avoid Creating Jargon

Jargon has neutral and negative meanings. It refers to the useful technical vocabulary of a trade or profession, but it is also used for unclear expressions that have a technical ring. Real technical language can save time and space; if your audience understands it and expects it, then use it. Jargon-like terms created to dignify your subject are simply hard to read. Learn to recognize them and weed them out.

If you must create a general term, don't make it more general than necessary. Government writing is said to be full of buzzwords, phrases that sound imposing but mean little. It's not hard to see why we write them. In rules especially, drafters have to create names that cover broad classes. For example, the phrase "health care facility" in a rule might cover hospitals, clinics, and nursing homes.

To avoid creating buzzwords when you write broad terms, don't depend on abstract words like *facility*, *entity*, *organization*, and *structure*. Phrases like "regional channel entity," "entity operational structure," or "parallel policy options" are meaningless unless the reader looks back at the definitions. Be as specific as possible. Don't call something a "programming entity" if you can call it a programming *company*. If certain boards grant licenses, don't call them "credentialling organizations." Call them licensing boards.

This advice is part of a larger rule: use concrete words. Watch out for fuzzy words like *area*, *aspect*, *facet*, *degree*, and *matter*.

What if the jargon already exists in the law? Drafters are conservative by nature; they often repeat any language that works legally in order to avoid lawsuits. For example, the phrase "Flesch scale analysis readability score," which would horrify Dr. Flesch by its unreadability, was copied into Minnesota law from another state's draft. It is certainly not the clearest or briefest way to refer to the Flesch test. Let your guide be communication with your readers, and don't preserve bad wording unless you have a compelling legal reason. Consistency is valuable, but so is clarity.

Avoid Strings of Nouns and Adjectives

Strings of nouns, all modifying one another, are hard to read because they mask relationships between words. For example, does "early childhood program alternative case load" mean an alternative case load for an early childhood program or a case load for an early childhood program alternative? You may need more words in order to make their relationships clear, as these examples show:

Don't Use

electronic financial terminal
authorization application

Flesch scale analysis
readability score

early childhood program
alternative case loads

Use

application for the
right to use an electronic
financial terminal

Flesch test score, or read-
ability score on the
Flesch scale

case loads for early
childhood programs

Avoid Strings of Initials

Initials are hard to read because they force a lay reader to go back to the definitions and to make repeated mental substitutions. If you don't want to write the phrase "home improvement loan application form" over and over, don't call it a HILAF. Instead, define a short substitute like "application form" or just "form."

Be On Guard Against Euphemisms

When you feel the need to make up a new, neutral term, remember a few truths about people, language, and the reputation of government writing. An obvious euphemism will offend just as many people as an emotionally charged word. When it becomes familiar it will be just as offensive as the phrase it replaced. The euphemism you write will add to the abundant evidence that government writing tries to hide the truth; it will lessen public respect for rules. It may not even get through to your readers if it differs from the terms they understand.

Don't Try to Squeeze Everything into One Sentence

Many of Minnesota's statutes are written in an archaic single-sentence form:

In the prosecution of any offense committed upon, or in relation to, or in any way affecting real estate, or any offense committed in stealing, destroying, injuring, or fraudulently receiving or concealing any money, goods, or other personal estate, it shall be sufficient, and shall not be deemed a variance, if it shall be proved on trial that, at the time when such offense was committed, either the actual or constructive possession, of the general or special property, in the whole or any part of such real or personal estate, was in the person or community alleged in the indictment or other accusation to be the owner thereof.

This sentence is hard to read because the most important parts are buried in separate phrases near the end. The recommendations suggest ways to break up long sentences so that you can keep your average sentence length under 25 words.

If your subject forces you to use terms of art or other difficult words, make your sentences proportionately shorter.

Put the Subject Up Front and Make it a Person

The first difficulty readers meet in the example above is in finding the main thought of the sentence. The main clause starts with "it shall be sufficient..." There are 39 words in front of it; they describe circumstances but force us to wait a long time to find out what the circumstances relate to. When we finally find the main clause, we have to wade through even more information.

To avoid losing your audience, *limit your introductory phrases or clauses to 20 words*. See pages 45 and 46 for hints on cutting these clauses or phrases down. If the information will not fit into 20 words, put it in a separate sentence:

This part applies to a prosecution of an offense affecting real estate or committed in stealing, destroying, injuring, or fraudulently receiving or concealing personal property. At a trial for these offenses, to prove ownership of the property, the plaintiff must prove that the person or community named in the indictment or other accusation as owner of the property had actual or constructive possession of the general or special property, in whole or in part, when the offense was committed. Proof of this type is not a variance.

Don't Use "Which + Noun"

The following sentences contain types of relative clauses that sound archaic to modern ears:

The executive secretary shall give as much notice as possible to all board members prior to any special meeting, which notice shall state the time, place, and subject matter of the meeting.

All parties have the right to a hearing before the hearing examiner at which hearing the parties may cross-examine witnesses....

Changing the relative clauses to separate sentences produces more modern English and shorter sentences:

Before any special meeting, the executive secretary shall give all board members as much notice as possible. The notice must state the time, place, and subject matter of the meeting.

All parties have the right to a hearing before the hearing examiner. At this hearing, the parties may cross-examine witnesses...

Keep the Parts of a Verb Close Together

Most sentences in rules and bills have verbs with more than one part: *shall* + (verb), *may* + (verb), *must* + (verb), and so on. Sometimes a word is placed between these parts, as in "The commissioner shall *immediately* order an investigation of a reported epidemic."

One-word adverbs in this position do no harm; sometimes they are necessary. But longer divisions are difficult to read, as this sentence demonstrates:

"Within ten days after service of the notice of appeal, the appealing party shall in writing, with a copy to the executive secretary of the Public Employment Relations Board and all parties or their representatives of record, order from the Bureau of Mediation Services a transcript of any parts of the proceedings it deems necessary..."

The interrupting words make no sense without the verb order, but the reader must struggle through 20 words to reach it. The interrupting words would serve better as a separate sentence:

"...the appealing party shall order from the Bureau of Mediation Services a transcript of any parts of the proceedings it considers necessary. The transcript order must be in writing. The appealing party must give a copy of the transcript order to the executive secretary of the Public Employment Relations Board and all parties or their representatives of record."

Avoid interrupting any group of words that must be understood together. In this sentence, the interrupted phrase is underlined:

"The judge or magistrate must commit the accused to the county jail for such a time, not exceeding 30 days specified in the warrant, as will enable the arrest of the accused to be made."

Again, the interrupting words should be a separate sentence.

Never Use the Passive When You Can Use the Active

This advice is quoted from George Orwell's *Politics and the English Language*, an essay that first appeared in 1945. The advice has been repeated for 52 years, but it never seems to take hold. Maybe it needs to be better explained.

What does voice mean here? A sentence is in the active voice when the subject "does" the verb: "Agencies publish rules in the State Register," is in the active voice. "Rules are published in the State Register by agencies," is in the passive voice because the subject *rules* is not the doer of the verb *are published*. The doer shows up in the words *by agencies*. "Rules are published in the State Register" is still in the passive voice, although the doer of the action does not show up at all.

Another way to recognize passive voice is to look for the verbs *be, is, are, was, were, has been, have been*, and *had been* followed by words that end in *-ed, -t, or -en*. Here are some examples:

is taken
shall be arithmetically averaged
are taught
have been reduced

Clauses or sentences that contain verbs like these are in the passive voice.

What's wrong with passive voice? In laws and rules, passive sentences without phrases containing "by" are dangerous because they do not say what duties are assigned to whom. Wydick's *Plain English for Lawyers* demonstrates the problem with this sentence from a patent license:

All improvements of the patented invention which are made hereafter shall promptly be disclosed, and failure to do so shall be deemed a material breach of this license agreement.

Nothing in the sentence tells us who must disclose improvements to whom. If rules and laws exist to explain people's responsibilities, then drafters must avoid sentences that don't assign responsibilities clearly.

When is it safe to use passive voice? Passive voice lets you begin the sentence with the word the sentence is really "about." It also lets you put old or repeated information at the beginning of the sentence where it demands less attention and new information at the end of the sentence where it stands out.

The indictment, information, or affidavit must charge the person with having committed a crime. The indictment, information, or affidavit must be authenticated by the executive authority making the demand.

Passive voice can also let you put a long series of nouns at the end of a sentence so that your reader will not have to work through the series before coming to the verb:

The application may be made by the prosecuting attorney of the county in which the offense was committed the parole board or the chief executive officer of the facility or sheriff of the county from which the person escaped.

Sometimes passive voice will help you avoid using he or she. See the section on avoiding gender-specific language, pages 57 to 59.

When you use passive voice for any of these reasons, be certain that the duty or permission is assigned clearly, either in the passive sentence or in one of the sentences nearby.

When is the passive voice unnecessary? When the passive voice does not solve these specific problems, it is probably needless. When a sentence contains a phrase beginning with by ("by the commissioner") and that phrase is not at the end of the sentence, you can safely change the sentence to active voice.

Passive: The required monitoring frequency may be reduced by the commissioner to a minimum of one sample analyzed for total trihalomethanes per quarter.

Active: The commissioner may reduce the required monitoring frequency to a minimum of one sample analyzed for total trihalomethanes per quarter.

Passive: When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person charged with crime...

Active: When the executive authority of another state demands that the governor of this state surrender a person charged with crime...

Drafters use the passive voice needlessly when they concentrate on things and requirements rather than on people and duties. For example, the passive sentences above concentrate on "the required monitoring frequency" and "a demand." Remember that it's better to impose a duty or grant a permission in the active voice than to state a requirement in the passive.

Cut Needless Words

There are five ways to cut out words:

1. Avoid starting a sentence or clause with *There is* or *There are* or *There shall be* or *There may be*. Often these words are needless, as in this example:

There shall be excluded in computing the percentage of voting power or value any stock owned directly by the other corporations.

The sentence is shorter if turned around:

Any stock owned directly by the other corporations is excluded in computing the percentage of voting power or value.

If you want to put different information at the end of the sentence, you can write:

In computing the percentage of voting power or value, any stock owned directly by the other corporations is excluded.

If you know who is to do the computing and the excluding, you can put the verb in the active voice and make the sentence shorter still.

2. Cut clauses down to phrases. Clauses that contain *who*, *which*, or *that* plus *have been*, *has been*, or *had been* will sometimes work as well if those words are stricken:

"applicants who have been declared ineligible"

can become

"applicants declared ineligible."

But cut words carefully. Research shows that cuts of this sort can make sentences harder to understand.

3. Remove redundant words. Don't repeat words or elements of meaning. Most drafters don't see their own repetitions, so have another reader check for these errors. Here is an example:

The purpose of vision *screening* is to *screen* each applicant to guarantee that those individuals with substandard vision are *required* to take the *necessary* steps *required* to achieve the best vision possible.

Without repetition, the example reads this way:

The purpose of vision screening is to guarantee that individuals with substandard vision take the necessary steps to achieve the best vision possible.

4. Avoid all wordy expressions, not only the ones peculiar to the law. Here are some examples:

Don't Use	Use
round in shape	round
red in color	red
sweet in taste	sweet
the condition of despair	despair
the fact that the defendant was young	the defendant's youth
despite the fact that	although
because of the fact that	because
in many cases	often
in some cases	sometimes

5. Don't overdraft. Usually this guide tells you to be as specific as possible. This advice does not mean that you should name every single thing you are forbidding or requiring.

This National Park Service rule has been called the classic example of trying to cover all the possibilities:

S 50.10 Trees, shrubs, plants, grass and other vegetation. (a) General injury. No person shall prune, cut, carry away, pull up, dig, fell, bore, chop, saw, chip, pick, move, sever, climb, molest, take, break, deface, destroy, set fire to, burn, scorch, carve, paint, mark, or in any manner interfere with, tamper, mutilate, misuse, disturb or damage any tree, shrub, plant, grass, flower, or part thereof, nor shall any person permit any chemical, whether solid, fluid, or gaseous, to seep, drip, drain or be emptied, sprayed, dusted or injected upon, about or into any tree, shrub, plant, grass, flower, or part thereof, except when specifically authorized by competent authority; nor shall any person build fires, or station, or use any tar kettle, heater, road roller or other engine within an area covered by this part in such a manner that the vapor, fumes, or heat therefrom may injure any tree or other vegetation.

Dr. Janice Redish of the Document Design Center points out that using general terms—like "No one may harm the plants,"—will probably give more legal protection than trying to list specific things.

Put Modifiers Near the Things They Modify

A modifier is a word or group of words that tells more about another word's meaning. In these examples, the modifiers are shown in italics:

- the *escaped* prisoner
- the *executive* officer *of the county*
- an order *that has been signed by the governor*
- an order *signed by the governor*
- a document *stating the accused's name*

Modifiers should appear right next to the words they modify. When they don't, sentences at best look silly and at worst look confusing, as in this rule:

"The public school district or intermediary service area shall inform the nonpublic school of the type, level, and location of health services that are to be made available to the nonpublic school students by August 15."

Are the services to be made available by August 15, or is the district to inform the school by August 15? The drafter probably meant "...shall inform the nonpublic school by August 15..." and should have said it.

Some misplaced modifiers are unintentionally funny:

"Card issuer means a financial institution... providing use of a terminal to a customer to be activated by a card."

"The goals of food service in each facility shall be to provide food and beverages to clients that are nutritionally adequate."

Limit Your Use of Parentheses

Generally, avoid parenthetical phrases in text. Parenthetical phrases lengthen and complicate sentences. Commas or rephrasing will usually do as well to separate a parenthetical expression.

Example of needless parentheses:

Emergency assistance shall be granted only to a family that includes a child (under age 21) who is (or within six months before application has been) living with a relative eligible as a caretaker And that is completely without resources to solve the emergency.

Rephrased without parentheses:

To receive emergency assistance a family must be completely without resources to solve the emergency. It must also include a child under age 21 who lives with a relative eligible as a caretaker or who has lived with an eligible relative within six months before application.

Of course, some special uses of parentheses are permissible:

1. Use parentheses around subitem numbers and unit letters. See Subitem and Unit.
2. Use parentheses where needed in mathematical expressions.

Example: $w = y(a) + z(b)$

3. Use parentheses to set off place of publication, publisher, and date in references.

Write Paragraphs, Not Outlines

Some authorities on drafting maintain that long sentences are clearer if they are set out in outline form. This example is from Richard Wydick's *Plain English For Lawyers*:

One who is liable to another for interference with a contract of prospective advantageous economic relation is liable for damages for:

(a) the pecuniary loss of the benefits of the contract of the prospective relation;

(b) other pecuniary loss for which the interference is a legal cause;
and

(c) emotional distress or actual harm to reputation, if they are reasonably to be expected to result from the interference.

For this example, the advice is true; outline style helps. Outlining can, however, be taken too far. Most long, tabulated sentences do not need to be as long as they are. Here is a case in which outlining has created a monster:

A. "Firefighter" includes an employee whose primary duties, as set forth in the official position description, require the performance of work directly connected with the control and extinguishment of fires, or the maintenance and use of firefighting apparatus and equipment.

B. "Firefighter" also includes an employee who is transferred to a position the primary duties of which are not the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, or from such a position to another such position, if:

(1) Service in the position transferred to follows service in a firefighter position without:

(a) a break in service of more than three days; or

(b) intervening employment that was not as a firefighter;

(2) The duties of the position transferred to are in the firefighting line of work in an organization with firefighting responsibilities; and

(3) The position transferred to is -

(a) Supervisory - one which requires a duty of supervising subordinate employees who are directly engaged in firefighting and/or in the maintenance and use of firefighting apparatus and equipment; or

(b) Administrative - one which includes an executive or managerial position and may include a clerical, technical, semiprofessional, or professional position of a type also found in organizations with not firefighting responsibilities; provided, that experience as a firefighter is a basic qualification for the administrative position.

True, outline style makes it possible to read this otherwise unreadable sentence, but it does not make the sentence easy to read. Every numbered or lettered part is a sentence fragment, meaningless unless the reader works backward in the sentence to see how the part relates to the other parts. By the time readers get to (2), they have to survey the letters and numbers to be sure that (2) is one of the conditions governed by *if*.

The drafter could have made the same points more clearly in sentences like these:

"Firefighter" includes employees whose primary duties, as shown in their official job descriptions, are controlling and putting out fires or maintaining and using firefighting equipment.

"Firefighter" also includes employees transferred from firefighting jobs to other jobs. To be considered firefighters, transferred employees must be supervisors of firefighters or must hold jobs that require previous firefighting experience. They must work for organizations with firefighting responsibilities and their duties must be in the firefighting line of work. Between the firefighting jobs and the supervisory or other jobs, they must not have spent more than three days out of work or worked at any job other than firefighting.

These rewritten sentences use brevity and clarity rather than white space to get their meaning across. They omit needless words and turn subordinate clauses and noun phrases into sentences. There will be times when you must use an outline or even a table, but choose these as last resorts when you can't break up sentences any further.

Be Careful with Lists

Lists are so common in rule drafting that they deserve discussion even of basic matter. Here, then are the basics.

1. Write a series of short items in paragraph form without enumeration (that is, without numbers or letters marking each item). Separate the items with commas. Use a comma between the next-to-last item and the conjunction.

Example:

Butter, fortified margarine, cream, or salad oil may be used in moderate amounts to make food palatable.

Example:

The administrator shall draw up rules that govern work hours, vacations, illness, sick leave, holidays, retirement, employee health services, group insurance evaluation procedures, promotions, personal hygiene practices, attire, conduct, disciplinary actions, and other matters that need to be regulated so that employees can do their jobs properly.

2. If you use an introductory expression, follow it with a colon.

Example:

The administrator shall have the following records kept: registers, daily logs, medical records, dental records, programming records, and good time records.

3. If some of the items in a list contain commas, separate the items with semicolons.

Example:

...the following: soups; sweets such as desserts, sugar, or jellies; or fats such as bacon, cream, and salad dressings.

4. When several of the items in a list are about one typed line long each, when they have complex internal punctuation, or when they are subordinate clauses, the list needs to be tabulated and enumerated for ease of reading.

The next sentence describes and illustrates the punctuation rules for a tabulated list.

Example:

If you list verb phrases, you must:

- A. end the introductory expression with a colon;
- B. begin each item in the list with a lower case letter;
- C. use a conjunction after the next-to-last item in the list;
- D. end each item except the last with a semicolon; and
- E. end the last item with a period.

Example:

The entrance salary may be above the minimum rate only if:

- A. the individual's exceptional qualifications justify an appointment at a higher rate;
- B. others with similar qualifications are offered the same rate; and
- C. the appointment at a higher rate is made at one of the established steps of the salary range.

5. The items in a tabulated list need not always be parts of one sentence; they can be independent sentences. Full sentences should have their first words capitalized and end in periods.

Example:

The designation must use one of the following terms:

- A. "Fee paid" or "employer-paid fee" must be used if the employer has agreed to pay the entire fee directly to the agency.
- B. "Fee reimbursed" must be used if the applicant must pay the fee to the agency and be paid back later by the employer.

Some Special Problems with Lists

Lists of single words and lists of sentences rarely cause problems. Lists of sentence parts cause serious problems. Avoid lists of sentence parts if you can, and if you can't, at least observe these rules:

Don't insert whole sentences into your listed sentence parts. For example, don't write:

"Excluded stock" for a brother-sister controlled group means:

- A. stock in a member corporation held by an employee's trust if the trust is for the benefit of the employees;
- B. stock in a member corporation owned by an employee of the corporation, but only if substantial limits or restrictions are imposed on the employee's right to dispose of the stock. A bona fide reciprocal stock repurchase arrangement will not be considered one that restricts or limits the employee's right to dispose of stock; or
- C. stock in a member corporation that is held by a non-profitable educational or charitable organization.

If only one item has an inserted sentence, you can move that item to the end of the list. That will solve the problem temporarily, but an amendment may add a new item and make the sentence an interrupter again. You can also move the sentence to a paragraph after the list and refer to the item that the sentence applies to: "In item B, a bona fide reciprocal stock repurchase arrangement will not be considered one that restricts or limits the employee's right to dispose of stock." That will add an internal reference, and internal references should be avoided if possible. The best solution is to turn your list of sentence parts into a list of sentences, so that the inserted sentence can be left next to the item it explains:

"Excluded stock" for a brother-sister controlled group has the following meanings:

- A. It means stock in a member corporation held by an employee's trust if the trust is for the benefit of the employees.
- B. It means stock in a member corporation owned by an employee of the corporation but only if substantial limits are or restrictions are imposed on the employee's right to dispose of the stock. A bona fide reciprocal stock repurchase arrangement is not considered one that restricts or limits the employee's right to dispose of the stock.
- C. It means stock in a member corporation that is held by a nonprofit educational or charitable organization.

Don't write lists within lists. There is one exception to this rule: in a list of sentences, the sentences may contain simple series of words without enumeration or tabulation.

Be careful with *and* and *or*. Normally *and* means that the items are to be taken together, and *or* means that one is to be chosen from the list. But these examples adopted from Reed Dickerson's *Fundamentals of Legal Drafting* show how a choice of *and* or *or* can depend on the wording of your items:

The security roll includes:

1. each person who is 70 years of age or older;
2. each person who is permanently, physically disabled; and
3. each person who has been declared mentally incompetent.

The security roll includes each person who:

1. is 70 years of age or older;
2. is permanently physically disabled; or
3. has been declared mentally incompetent.

State Conditions Clearly

The usual way to express a condition or hypothetical situation is to begin the sentence with an *if* or *when* clause: "If the person under arrest refuses to permit chemical testing, none may be given." Use *if* or *when*, not the legalism *where*.

Sometimes more than one condition introduces a sentence. When this happens, keep the main clause as short as possible:

If the basic member and the surviving dependent spouse are killed in a common disaster, and if the total of all survivor's benefits paid under this subpart is less than the accumulated deductions plus interest payable, the surviving children shall receive the difference in a lump-sum payment.

If you can't keep the main clause short, put the conditions after the main clause:

Example:

D. A supplier using the reduced monitoring frequency prescribed under items B and C must go back to using the monitoring requirements of item B if:

- (1) the results from an analysis exceed 0.10 milligrams per liter of total trihalomethanes and are confirmed by at least one check sample taken promptly after the results are received; or
- (2) the supplier significantly changes its source of water or water treatment program.

In either case, the supplier must continue monitoring according to the requirements of item B for at least one year before the frequency may be reduced again.

If the conditions are complex, divide them into separate sentences. A condition that takes more than two lines of type signals that you should be using several sentences, as in this example:

D. Corporations are members of a parent-subsidary controlled group if they satisfy these conditions:

(1) One or more of the corporations must own more than 50 percent of the total combined voting power or more than 50 percent of the total value of shares of all classes of stock of each corporation, except the common parent corporation.

(2) The common parent corporation must own stock with more than 50 percent of the total combined voting power of at least one of the other corporations. Stock owned directly by these other corporations is excluded in computing the percent of voting power or value.

If there are more than two conditions, make a list of subordinate clauses after the main clause.

Example:

A. The city is eligible for a proportional share of the subsidy provided for the counties if:

(1) the city has a population of 40,000 persons or more;

(2) the city has a board of health organized under Minnesota Statutes, section 145.913;

and

(3) the city provides local matching funds to support the community health services as provided in Minnesota Statutes, section 145.921.

If you have a long list of conditions, make it a list of sentences.

Example:

A. The city is eligible for a proportional share of the subsidy provided for the counties if it satisfies these conditions:

(1) It must have a population of 40,000 persons or more.

(2) It must have a board of health organized under Minnesota Statutes, section 145.913.

(3) It must provide local matching funds to support the community health services as provided in Minnesota Statutes, section 145.92

The words "these conditions" and the colon end the first sentence. The phrases "under these conditions," "under the following conditions," or "unless X satisfies these requirements" are good introductory expressions for sentences like these. The sentences that state the conditions all use the verb *must have* or *must be*, not *shall have* or *shall be*, and not *has* or *is*.

Avoid Provisos

Don't use the words *provided that*. You can accomplish the same thing with *if* or with a new sentence or clause.

Example: (an unnecessary provided that)

Failure to enter a program is grounds for revocation of supervised release; provided, however that if no community program is available at the time of supervised release, the board may order that the supervised releasee enter the first available community program.

Example: (a clearer version, without such, nominal style, or provided that)

The board may revoke supervised release if the supervised releasee fails to enter a program. If no community program is available at the time of supervised release, the board may order the supervised releasee to enter the first available community program.

Keep Parallel Ideas in Parallel Form

Drafters often pair or group similar ideas, but they are not always careful to keep similar ideas in similar, or "parallel," form. Bad parallels show up often in lists, as they do here:

No applicant may be hired who has any of the following conditions:

- (1) blood pressure over 160/60;
- (2) any communicable disease as listed in chapter 4605; or
- (3) applicant not of good general health.

The key word is "conditions." "Applicant not of good general health" is not the name of a condition in the way that "blood pressure" and "disease" are. Subitem (3) should be rewritten as "poor general health."

Example:

A person shall not drain, throw, or deposit upon the lands and waters within a state park any substance that would mar the appearance, create a stench, or destroy the cleanliness or safety of the park.

"Appearance," cleanliness," and "safety" all go with "of the par," but "stench" doesn't. The last part of the sentence needs to be rearranged this way:

...anything that would mar the park's appearance, destroy its cleanliness or safety, or create a stench.

When you write a series or list, make sure that every item in it does the same job in the sentence.

Untangle Computations

Computations probably cause more headaches than any other feature of rules. In the standard phrasing for computations, the sentences are often long: they include long multiple conditions; they include references that block sentence flow and delay the arrival of the next sentence elements; they have long subordinate clauses that separate modifiers from the things they modify. On top of all this, computations are usually in the passive voice and they almost always misuse *shall*. Here is a relatively simple example:

If only a portion of the rent constituting property taxes is paid by these programs, the resident shall be a claimant for purposes of this chapter, but the refund calculated pursuant to Minnesota Statutes, section 290A.04, shall be multiplied by a fraction, the numerator of which is income as defined in Minnesota Statutes, section, subdivision 3, reduced by the total amount of income from the above sources other than vendor payments under the medical assistance program or the general assistance medical care program and the denominator of which is income as defined in Minnesota Statutes, section ..., subdivision 3, plus vendor payments under the medical assistance program or the general assistance medical care program, to determine the allowable refund pursuant to this chapter.

We need a more readable way to describe computations. Reed Dickerson recommends the "cookbook" approach, that is, describing the steps, one by one, that produce the right figure.

Applying Dickerson's principle to the original bad example, we get a test like this:

If only a portion...the resident is a claimant for purposes of this chapter but the refund calculated according to Minnesota Statutes, section 290A.04, must be changed according to the following directions:

- (1) Compute income as defined in subdivision 3. This is figure 1.
- (2) Compute the total amount of income from the above sources other than vendor payments under the medical assistance program or the general assistance medical care program. This is figure 2.
- (3) Subtract figure 2 from figure 1. This is figure 3.
- (4) Compute the amount of vendor payments under the medical assistance program or the general medical program. This is figure 4.
- (5) Add figure 1 to figure 4. This sum is figure 5.
- (6) Create a fraction whose numerator is figure 3 and whose denominator is figure 5.
- (7) Multiply this fraction by the refund calculated under Minnesota Statutes, section 290A.04, to determine the refund allowable under this chapter.

The advantages of this method are short sentences, information delivered in small amounts, and active voice.

Avoid Gender-Specific Language Without Sacrificing Clarity

There are many ways to avoid gender-specific nouns like *workman* or *man hours*. A list of substitutes follows:

Don't Use	Use
Brother, sister	Sibling
Businessman	Business person, executive member of the business community, business manager
Crewman	Crew member
Daughter, son	Child, children
Draftsman	Drafter
Enlisted man	Enlisted personnel, enlisted member, enlistee
Father, mother	Parent, parents
Female, male	Person, individual
Fireman	Firefighter
Foreman	Supervisor
Grandfather, grandmother	Grandparents

Husband and wife	Married couple
Mailman	Mail carrier
Man	Person, human, human being
Manhours	Person hours, hours worked, workers hours
Mankind	Humanity, human beings humankind
Manmade	Artificial, of human origin, synthetic manufactured
Manpower	Personnel, workforce, worker, human resources
Midshipman	Cadet
Per man	Per person
Policeman	Police officer
Seaman	Sailor, crew member
Serviceman, servicemen	Service member service members
Six-man commission	Six-member commission
She, her (reference to a ship)	It, its
To man a vessel	To staff a vessel
Trained manpower	Trained workforce, staff, personnel
Widower, widow	Surviving spouse
Wife, wives, husbands, husband's	Spouse, spouses, spouse's
Workmen's compensation	Workers' compensation

Avoiding pronouns like *he* or *she* is much harder, but it can be done; the unnecessary pronouns have been removed from Minnesota Statutes. Try these methods for avoiding pronouns:

1. *Use the plural*: "Applicants are eligible if they meet the following requirements..."
2. *Repeat the noun*: "If the commissioner finds...the commissioner may order..."
3. *Rearrange the sentences*: "To learn whether the sampling frequency may be safely reduced, the commissioner may order a sanitary survey. If it would be safe to reduce the sampling frequency, the commissioner..."
4. *Use a relative clause*: "An applicant who meets the requirements in items A to D is eligible..."
5. *Use a modifier without an expressed subject*: "On finding that the sampling frequency can be safely reduced, the commissioner may..."
6. *Use the passive voice*: "If it is found that the sampling frequency may be safely reduced, the commissioner may order..." but remember the dangers of passive voice; those dangers

make this a less-than-perfect solution to the gender problem.

Don't Draft What You Don't Need

Citations or Short Titles

Popular names and short titles are considered unnecessary; try not to use them. If you must assign a citation, popular name, or short title to rules, capitalize all the important words in the title: nouns, adjectives, the word *rules* or the like. Put the title in quotation marks in the part in which you assign the title; in later references, omit the quotation marks. The title will usually be at the end of the sentence; if it is, put the terminal period inside the quotation marks. Example: Parts 1300.0100 to 1365.9900 may be cited as the "State Building Code."

Cross-References

Cross-references can make a provision difficult to read and understand. Readers miss the information behind the numbers unless they look up each reference or know the subject well. Repeat words and short phrases instead of referring to another section that contains them. When cross-references are vital, try adding a short phrase that gives information about the subject of that statute or rule.

The forms for references in rules appear in chapter 4.

Effective Dates

Properly adopted rules, other than exempt rules, are effective five working days after the notice of adoption is published in the State Register unless a later date is required by law or specified in the rules. Therefore, it is not necessary to draft an effective date provision unless you want the rules to become effective later than five days after publication.

If you draft an effective date provision use this form:

EFFECTIVE DATE. Parts 2015.0870 to 2015.0990 are effective July 1, 1997.

EFFECTIVE DATES. Parts 2015.0870 to 2015.0900 are effective July 1, 1997. Part 2015.0990 is effective January 1, 1998.

An effective date should be the last section in the draft. Exempt rules adopted under Minnesota Statutes, section 14.386 or 14.388, take effect upon publication in the State Register.

Interpretation Clauses

Clauses ordering that rules be liberally interpreted are unnecessary because the statutes provide principles for interpreting rules. Minnesota Statutes, section 645.001 provides that the laws governing statutory interpretation apply to rules. Write your draft so that its intent is clear without an interpretation clause.

Repeals

Never write a general repeal clause ("All rules in conflict with parts ____ to ____ are repealed.") Always repeal specific parts. Write "Minnesota Rules, parts ____; ____; and ____ are repealed." Never write a range of parts to be repealed ("Parts __ to __ are repealed.") List all parts.

Severability Clauses

Minnesota Statutes, section 645.20 makes the provisions of all laws severable, and section 645.001 extends this provision to rules. These laws make severability clauses unnecessary. If you don't want the provisions of your rules to be severable, specify that they are not. Otherwise, you need write nothing at all about severability.

Statements of Policy and Purpose

If a rule is written clearly, its purpose will not need to be explained and a policy statement will only add words.

Still, courts have been known to use policy statements to interpret law. If you feel you must have a policy statement to protect your rules, write one, but don't write it as a single long sentence. Minnesota Statutes, section 32A.02, is an example of the single-long-sentence form that you should avoid. Section 168B.01 is better, though still wordy.

Statutory Authority Statements

Don't write a part explaining the statutory authority for your rules. Minnesota Rules cites the statutory authority for every part in an unofficial editorial note. You will need to discuss statutory authority in other documents required for rulemaking.

For examples and explanations of statutory authority notes, see the User's Guide in volume 1 of Minnesota Rules.

Superseding Phrases

Drafters are often tempted to write that a rule "supersedes all rules in conflict with this part." Instead of this sweeping statement, try to track down the conflicting rules and state specifically what your rules supersede.

Tables of Contents

The revisor compiles tables of contents mechanically from headnotes for parts. Keep the appearance of these tables in mind when you write headnotes.

Composing Amendments

All of the advice on clear writing that applies to new rules applies equally to amendments. A number of problems, though, are peculiar to amendments.

When you add material to a text, be careful where you put it. Don't add a long phrase or clause that interrupts the progress of a sentence. Instead, whenever you can, put the new material in a sentence by itself.

Example:

Don't write: "Sampling must begin before June 24, 1997. If the commissioner determines, on the basis of a sanitary survey that includes a determination of compliance with parts 1001.0010 to 1001.0050, the commissioner must impose a special sampling rate that it is more appropriate for the supplier to sample on a frequency other than quarterly."

Write: "If the commissioner determines that it is more appropriate for the supplier to sample on a frequency other than quarterly, the commissioner must impose a special sampling rate. The commissioner's determination must be based on a sanitary survey that includes a determination of compliance with parts 1001.0010 to 1001.0050."

Don't add a sentence to any item in a list of sentence parts. For an example of this mistake, see page 52. You can add the material in a new paragraph right after the list and refer to the relevant part of the list. Better still, you can amend the whole list to make each item a whole sentence rather than a sentence part. See pages 50 to 53 for examples of these changes.

If you add whole subparts, be careful to preserve the logical order of the subparts already there. (See page 24 for an example showing an added subpart number.)

Housekeeping Changes

How much old rule language should you change when you amend? Deciding this can be difficult; there will be times when you want to keep your housekeeping changes at a minimum in order to show your substantive changes as clearly as possible. Here are the changes you should try to make routinely as long as they do not interfere with your substantive changes:

- get rid of obsolete or vague words and phrases (see page 33)

- get rid of *shall* when it is used incorrectly (see page 34)
- get rid of wordy lawyerisms (see page 37)
- split up long sentences (see pages 40 to 42)

Also see page 17 for a discussion of the question "should you amend or repeal?"

Get A Second Opinion

All of us want to believe that we understand English usage perfectly. The truth is that no one person knows the rules perfectly because the language changes constantly.

How can you be sure that you are not jarring your readers? You can try to avoid controversial constructions, and in order to avoid them you must know what they are. You can use the *American Heritage Dictionary* to get a detailed view of usage questions. Other useful works are *Index to English* and *Line by Line* (see bibliography). You can also have other people read your drafts. Reconsider anything that disturbs more than one reader, even if it is not strictly wrong.

4 FORMS OF REFERENCE

References to Rules in Other Rules

Except in a repealer, a reference in rules to another part of Minnesota Rules (an internal reference or cross-reference) must be in one of the forms shown below. In a repealer, the words "Minnesota Rules" must be included.

Avoid the phrase "this rule" or "these rules." Instead, use a range reference that covers all the part numbers you want to refer to. Refer to a table or illustration by naming the part or subpart that contains it.

Citing Rules in Statutes

To refer to Minnesota Rules in statutes, or other documents that are not themselves part of the rules, use these forms:

- To include future amendments, "Minnesota Rules, part 1001.0001, subpart 4, item A"
- To tie the reference to a specific edition, "Minnesota Rules 1997, part 1001.0001, subpart 4, item A"
- To refer to rules published in a supplement in the even-numbered years, "Minnesota Rules 1998 Supplement 1, part 1001.0001, subpart 4, item A"
- To refer to rules not yet published in a dated edition or supplement, "Minnesota Rules, part 9553.0050, as published in ..."

Short Citation Forms for Case Materials

For documents in which abbreviated citations are customary, use the forms given here.

- To refer to compiled rules, "Minn. R. 1315.4200, subp 4, A"
- To refer to the supplement, "Minn. R. 1998 Supp 1, 1315.4200, subp 4, A"
- To refer to uncompiled rules, "1315.4200, at S.R. 11, No. 20, 1450"

Example: Internal References to Minnesota Rules

- *to an entire chapter:* "chapter 1325"
- *to a part:* "part 1001.0300"
- *to smaller divisions of a part:* "part 1001.0300, subpart 4, item C, subitem (1)"
- *to a chapter when the reference is within that same chapter:* "this chapter"
- *to a part, when the reference is within that same part:* "this part"
- *to a subpart, when the reference is within that same subpart:* "this subpart"
- *to another subpart within the same part as the reference:* "subpart 4"
- *to another item within the same subpart as the reference:* "item A"
- *to an item in another subpart within the same part as the reference:* "subpart 2, item A"

Citing Minnesota Statutes in Rules

Ordinarily, a reference to Minnesota Statutes should be in this form: "as provided by Minnesota Statutes, section 14.41, subdivision 1, paragraph (a), clause (2)." If there is a special reason to tie the reference to a particular edition of Minnesota Statutes, give the date of the edition: "Minnesota Statutes 1996, section 14.41," and so on. You may also refer to larger units of Minnesota Statutes: "Minnesota Statutes, chapter 14."

Citing Laws of Minnesota in Rules

To refer to Laws of Minnesota, the session laws publication, write:

"...as provided by Laws 1981, chapter 406, article 6, section 1..."

To refer to a law from a special session, use the form:

"Laws 1997, First Special Session chapter 1, article 2, section 5."

Citing Federal Laws in Rules

References to federal laws should be in one of the following forms.

Compiled form

"...as provided by United States Code, title 25, chapter 8, subchapter I, part A, section 631, subsection (d), paragraph (4), subparagraph (G)."

Note: This example illustrates the reference names given to the codified divisions of a compiled federal law. Drafters need not include every element in every citation to federal materials. A citation to a section or smaller division of the United States Code renders unnecessary any citation to its chapter, subchapter, and part.

Uncompiled form (used for specific section appearing on a single page)

"...as provided by Statutes at Large, volume 38, page 730, section 251...."

Uncompiled form (used for inclusive reference to entire bill or portion of it)

"...as provided by Statutes at Large, volume 38, pages 220 to 236..."

Slip law

"...as provided by Public Law Number 89-110..."

Internal Revenue Code

"...as provided by the Internal Revenue Code of 1986, section 482, as amended through December 31, 1996."

Citing Federal Regulations in Rules

References to the Code of Federal Regulations should be in this form:

"...as provided by Code of Federal Regulations, title 10, subtitle B, chapter IV, subchapter B, part 24, subpart C, section 24.02, paragraph (d)(1), as amended."

Note that titles 41 and 48 use Arabic numbers to designate their chapter titles.

Note also that this example illustrates the reference names given to the codified divisions of compiled federal regulations. Drafters need not include every element in every citation to federal materials. A citation to a section or smaller division of the Code of Federal Regulations renders unnecessary any citation to its subtitle, chapter, subchapter, part, and subpart.

The form above incorporates future amendments. To exclude future amendments, add

"...as amended through December 31, 1996"

References to the Federal Register should be in this form:

"...as provided by the Federal Register, volume 46, page 23405..."

Citing Safety Standards in Rules

References to safety standards such as those issued by the American National Standards Institute or the American Society for Testing and Materials should include:

- the standard number
- the name of the standard, if any
- the name of the book of standards, if any
- the issuing agency
- the publisher
- the place of publication
- the date of publication

- if the standard is being incorporated by reference, the name of the public library or interlibrary loan system in which it is available, and a statement that the standard is or is not subject to frequent change

First References

"Safety Recommendations for Sensitized Ammonium Nitrate Blasting Agents," issued by the U.S. Department of Interior, Bureau of Mines, as Information Circular 8179 (Washington, D.C.: Government Printing Office, 1963).

The "American National Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks," issued by the American National Standards Institute as ANSI A17.1-1978, with supplement ANSI A17.1a.-1979 (New York, 1978) is incorporated by reference.

Copper tubing in these installations must conform to standard B 88-81, "Specification for Seamless Copper Water Tube," in the "Annual Book of ASTM Standards," issued by the American Society for Testing and Materials (Philadelphia, 1981).

Second and Later References

If your draft names a publication several times, it may be awkward to give full reference information each time. If you want to use a shortened reference form, either define the short form in the definitions part or provide a cross-reference to the part or subpart that contains the full reference. Here is an example of an incorporation in definition form.

Subp. 4. **Safety recommendations.** "Safety recommendations" means "Safety Recommendations for Sensitized Ammonium Nitrate Blasting Agents," issued by the United States Department of the Interior, Bureau of Mines, as Information Circular 8179 (Washington, D.C.: Government Printing Office, 1963). The safety recommendations are incorporated by reference. They are available at the Government Documents Section, Room 409, Wilson Library, University of Minnesota, 309 19th Avenue South, Minneapolis, Minnesota 55454. They are not subject to frequent change.

Deciding Which Format to Cite

Often a government document is published in a separate format and in the Federal Register or the Code of Federal Regulations. A reference to the Register or the Code makes it much easier to find the document and relieves you of determining where the public can find it.

Although many state documents are available through the Internet, they should not be referred to by their URLs. Cite directly to the law, not to the web site through which it was found.

Incorporations by Reference

An incorporation by reference is (1) a statement that declares that the contents of another document are part of the rules, even though the text of that document does not appear in the rules or (2) a statement that orders compliance with a document outside the rules.

Incorporations need not be approved by the revisor's office if they refer to any of the following publications: Minnesota Rules, Minnesota Statutes, Laws of Minnesota, United States Code, United States Statutes at Large, the Code of Federal Regulations, and the Federal Register. See Minnesota Statutes, section 14.07, subdivision 4. To incorporate text from these publications, cite them according to the forms in this chapter.

To incorporate text from other publications, you must:

- Include the words "incorporated by reference." Example: "The inspector shall follow the procedures in ASTM B 88-81, 'Specifications for Seamless Copper Water Tube,' which is incorporated by reference."
- Give the title, author, publisher, and date of publication of the incorporated material.
- State where the material can be borrowed or where it is available for inspection. The statute requires that incorporated material be available for loan or for inspection and copying to a person living anywhere in the state through a statewide interlibrary loan system or a public library. The material must be available without charge except for reasonable copying fees and mailing costs. Material can be described as "available through the Minitex interlibrary loan system" if it is (1) available for loan at a public library anywhere in Minnesota, (2) available at a state agency library and accessible through PALS (Project for Automated Library Systems), or (3) filed with the State Law Library. If material is available at a public library for reference only, give the name and address of the library where it can be found. Noncirculating material at a state agency library is not considered conveniently available to the public unless it is also filed with the State Law Library.
- State whether the material is subject to frequent change.

All this material may be intrusive if it is simply inserted in the middle of a set of rules. If your rules cite the publication several times, you can define a short form of the title in the definition section and put the incorporation there. You may also create a separate part with the headnote "Incorporation by Reference." A separate part for incorporations is especially useful if your rules incorporate several documents.

Incorporating Other Rules

Adopted rules may always be incorporated by reference. Proposed rules, however, are not part of Minnesota Rules and do not fit the statutory definition of a rule. Agencies risk having their rules challenged when those rules incorporate other proposed rules. In those instances where an agency determines that citation to a proposed rule is necessary, citation to the State Register where the proposed rule appears may be advisable.

Example:

"part 3515.5051, subpart 4, item A, as published in the State Register, Monday, April 6, 1987, volume 11, number 26, page 1250"

Incorporations and Specificity

When rules incorporate documents or law by reference, the text must make it clear exactly what documents are being incorporated. Consequently, a drafter should not use phrases like, "The applicant must comply with requirements in the standard manuals, including but not limited to the following publications" or "The applicant must comply with all applicable laws and rules."

Editions, Dates, and Future Amendments

In connection with incorporations by reference, drafters sometimes wonder whether (1) to cite a specific, dated edition of a work, so that future changes are excluded unless the rules are amended, or (2) to incorporate future changes in some way.

To determine whether the agency has the authority to incorporate future changes by reference, drafters should consult pertinent statutory and case law. Whatever the drafter's choice, the form of reference should make it very clear whether future changes are included or not. Simply omitting any mention of a date is not clear enough. It may be necessary to state explicitly whether future changes are or are not incorporated, or under what conditions they are. A possible solution to this problem follows:

Example: Future Changes Incorporated under Certain Conditions

7105.0130 INCORPORATION BY REFERENCE.

Subpart 1. **Scope.** For purposes of this chapter, the documents in subparts 2 to 4 are incorporated by reference. They can be found at the Minnesota Law Library, Judicial Center, 25 Constitution Avenue, Saint Paul, Minnesota 55155. They are subject to frequent change. If any of the documents in subparts 2 to 4 are amended, and if the amendments are incorporated by reference or otherwise made a part of state or federal law applicable to the installation, repair, or closure of storage tank systems, then the amendments to the documents are also incorporated by reference into this chapter.

Subp. 2. **API documents.** The following documents are also available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005:

A. American Petroleum Institute, Removal and Disposal of Used Underground Petroleum Storage Tanks, API/RP 1604 (December 1987);

B. American Petroleum Institute, Installation of Underground Petroleum Storage Systems, API/RP 1615 (November 1987);

C. American Petroleum Institute, Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API/RP 1632 (December 1987); and

D. American Petroleum Institute, Cleaning Petroleum Storage Tanks, API/RP 2015 (September 1985).

Amending Documents Incorporated by Reference

Many rules incorporate particular documents and then make changes in the incorporated documents. This is an awkward situation for readers who must consult two sources at the same time in order to see what the rules say. The forms and instructions given in the following examples are intended to make it easier to coordinate the two sources.

Example: Amending a Document Incorporated by Reference

7500.0100 INCORPORATION BY REFERENCE.

The Uniform Fire Code, issued by the International Conference of Building Officials and the Western Fire Chiefs Association (Whittier, California, 1994), is incorporated by reference subject to the alterations and amendments in this chapter. The Uniform Fire Code is not subject to frequent change and is available at the State Law Library, 25 Constitution Avenue, Saint Paul, Minnesota 55155.

7500.0320 ARTICLE 1 - SEC. 101.1, CODE TITLE.

Sec. 101.1 of the Uniform Fire Code is amended to read:

101.1 Title. This code may be cited as the Minnesota Uniform Fire Code, and will be referred to in this chapter as "this code."

7500.0500 ARTICLE 1 - SEC. 105, PERMITS.

Subpart 1. **Sec. 105.3.** Sec. 105.3 of the Uniform Fire Code is amended to read:

* * *

7500.0600 ARTICLE 11 - GENERAL SAFETY PRECAUTIONS

Subpart 1. **Sec. 1102.** Sections 1102.1, 1102.2, 1102.3, and 1102.5 of the Uniform Fire Code are deleted.

Subp. 2. **Sec. 1103.3.3.1.** Sec. 1103.3.3.1 of the Uniform Fire Code is amended by adding Exception 5 to read:

* * *

Subp. 3. **Sec. 1103.3.3.** Sec. 1103.3.3 of the Uniform Fire Code is amended by adding sections to read:

* * *

Subp 4. **Sec. 1114.** Sec. 1114 of the Uniform Fire Code is deleted and replaced with the following:

SECTION 1114 - GUARDRAILS

* * *

Use as the part headnote the title of the section being amended and the article number, if applicable, and section number being amended.

If the incorporation is in one part and the amendments are in other parts, be sure the incorporation tells where the amendments are.

Keep the style for abbreviation, capitalization, numbers, paragraph structure, punctuation, references and cross-references, symbols (if possible), and types (if possible) exactly as it is in the incorporated document. Do not change the style to conform to the style of Minnesota Rules. You might submit a copy of a few sections of the document so that the revisor's office will have a sample of the document's style.

5 TABLES, ILLUSTRATIONS, AND OTHER SPECIAL MATERIALS

Use of Graphics

This chapter treats material that is difficult or impossible to enter in the revisor's computer database: illustrations, photographs, maps, charts, designs, forms, some tables, and some mathematical equations. There are problems associated with graphics when they are incorporated into rules. Unlike text, images cannot be amended by striking or underscoring and must be replaced, meaning that it is not always clear when a change is made. If the images must be scanned in, visual clarity is sacrificed. Moreover, the graphic may not provide as much information as a verbal description. Some graphics, such as maps, can also become outdated or obsolete over time. Therefore, it is better to use words rather than pictures whenever possible.

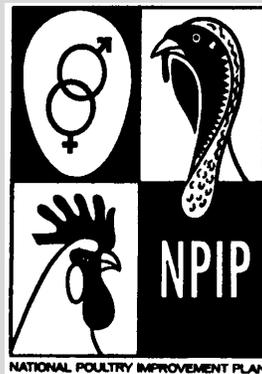
Making Materials Easy to Cite

All special materials must fall within a part and must be identifiable by part and subpart numbers. It is not necessary to use an exhibit number or an expression such as "figure 1" or "table 2" to identify the material. An illustration or table should be given its own part or subpart number—that is, it should constitute a part or subpart by itself, with little or no accompanying text. See the example on page 74. Setting up a table or illustration as a part or subpart can make the material much easier to refer to. Make sure the part or subpart headnote identifies the material properly.

Example: Illustration Shown as a Subpart

1520.5400 PARTICIPATION.

Any person producing or dealing in poultry products may participate in the plan on demonstrating, to the satisfaction of the department and the board that the facilities, personnel, and practices are adequate for carrying out the applicable provisions of the plan; and signing an agreement with the department and the board to comply with the general and the applicable specific provisions of the plan and any rules of the department adopted in accordance with part 1520.5320. Affiliated flock owners may participate without signing an agreement with the department. Each participant shall comply with the plan throughout the operating year of the department, or until released by the commissioner and the executive officer of the board. A participant shall participate with all of the participant's poultry hatching egg supply flocks and hatchery operations within the state. No person shall be compelled by the department to qualify products for the classifications described in part 1520.7200, item A, as a condition of qualification for participation in the plan. Participation in the plan shall entitle the participant to use the plan emblem reproduced below.



Designing Tables

Much material that could be shown in table format, with columns and rows, can also be shown in ordinary paragraph form. Here is an example:

Example: Fee Schedule in Paragraph Form (Preferred Form)

2100.9300 FEES.

The Board of Barber Examiners charges the following fees:

- A. \$48 for a registered barber's examination and certificate;
- B. \$46 for an apprentice's examination and certificate;
- C. \$150 for an instructor's examination;
- D. \$35 for an instructor's certificate;
- E. \$20 for a registered barber's license renewal;
- F. \$35 for an instructor's license renewal;
- G. \$10 for a student permit;
- H. \$50 for an initial shop registration; and
- I. \$1,000 for an initial school registration.

Sometimes, though, table format is clearer. When you create a table, keep in mind the advice of the Document Design Center at the American Institutes for Research:

- Provide enough space to make numbers distinct.
- Use columns for the most important comparisons (it is easier to compare columns than rows).
- Round off numbers if possible (don't use more than two decimal places).
- Use tables for professional audiences; be cautious in using them for general audiences.
- Label tables so that they are self-explanatory to readers.

If a table cannot be typed in the usual direction and type size on an 8-1/2 by 11 inch sheet, it probably cannot be input in the revisor's database. Other features that make it impossible to input a table are horizontal and vertical lines and stacked headings. The revisor's office prefers tables that can be input so that the rules database can be complete. A complete database benefits both the revisor and the agencies by making rules text easier to amend and printouts of rules more complete.

Try to design your table so that it can be broken up into several subparts. Using several short tables instead of one large one will make amendments to the tables easier and less expensive to print in the State Register.

Requested format for a Table: If a table cannot be input, the revisor's office requests a camera-ready copy be provided (see Summary on Acceptable Requested Formats at the end of this chapter). The copy will be scanned in and saved as a graphic in the revisor's rules database. This format allows the table to be reproduced in the State Register and in the Minnesota Rules publication.

Refer to example: Whether a table is input or not, its format should follow the examples below regarding alignment and capitalization of column headings, and capitalization of items in the left-hand column.

Example: Table Shown as a Part

1515.2800 WEIGHT CLASSES FOR SHELL EGG GRADES.

Weight classes for shell egg grades are established in part 1515.9900.

1515.9900 TABLE, WEIGHT CLASSES FOR SHELL EGG GRADES.

Size or Weight Class	Minimum Net Weight per dozen, in Ounces	Minimum Net Weight per 30 dozen, in pounds	Minimum Weight for Individual Eggs at Rate per dozen, in ounces
Jumbo	30	56	29
Extra Large	27	50-1/2	26
Large	24	45	23
Medium	21	39-1/2	20
Small	18	34	17

A lot average tolerance of 3.3 percent for individual eggs in the next lower weight class is permitted as long as no individual case within the lot exceeds five percent.

Equations

An equation that must be displayed (set out apart from the surrounding lines of type) is often an equation that cannot be input in the revisor's database. Equations with symbols that are twice the height of the normal typeface, such as radical signs over complex fractions, cannot be input. The chapter "Mathematics in Type," in *The Chicago Manual of Style*, offers some suggestions on setting up equations so that they need not be displayed.

Requested format for an Equation: If an agency has the capability of creating or reproducing an equation in electronic format, the revisor's office requires graphics in **BOTH** of the following formats (see Summary on Acceptable Requested Formats at the end of this chapter):

- **Tagged Image Format (.tif)**
- **Encapsulated Postscript (.eps)**

If an equation cannot be input, the revisor's office requests a camera-ready copy be provided (see Summary on Acceptable Requested Formats at the end of this chapter). The copy will be scanned in and saved as a graphic in the revisor's rules database. This format allows the equation to be reproduced in the State Register and in the Minnesota Rules publication.

Refer to example: Rules often contain interpretations of equations in the format shown below. If your draft contains these constructions, be sure that they use the indentation, capitalization, punctuation, and spacing around operational signs shown in the example.

Example: Equation Format

1345.0560 AMOUNT OF AIR CIRCULATED.

The amount of air to be provided for each room or space to be heated or conditioned shall be not less than that determined in the following manner:

A. Calculate the heat loss, in Btu per hour, for each room or space to be heated, as set forth in parts 1345.0200 to 1345.0360.

B. Calculate the volume of air to be circulated to each room or space to be heated, using the formula:

$$Q = \frac{H}{68.7}$$

where:

Q = volume of air in cubic feet per minute.

H = calculated heat loss in Btu per hour.

68.7 = a constant based on supply air temperature of 135 degrees Fahrenheit and return air temperature of 65 degrees Fahrenheit.

The above formula is based on actual Btu per hour heat loss plus ten percent safety factor.

Forms

Forms often have complex layouts that are difficult to input in the revisor's database. Rather than having the form input, an agency can describe the contents of the form in the rules. A description is easier to amend than a reproduced form, and it does not need to be amended if the agency changes only the layout of the form.

Requested format for a Form: If a form must be used and cannot be input, the revisor's office requests a camera-ready copy be provided (see Summary on Acceptable Requested Formats at the end of this chapter). The copy will be scanned in and saved as a graphic in the revisor's rules database. This format allows the form to be reproduced in the State Register and in the Minnesota Rules publication. An example appears below.

Example: Rule to Include Camera-Ready Copy of Form

7416.9940 MINNESOTA STATE PERMIT TO ACQUIRE HANDGUNS FROM FEDERAL FIREARMS DEALERS.

MINNESOTA STATE PERMIT TO ACQUIRE HANDGUNS FROM FEDERAL FIREARMS DEALERS		
Name _____	Race/Sex _____	
Address _____	City _____	
D.O.B.	Height	Hair Color
Scars/Marks	Weight	Eye Color
_____ Issuing Authority Signature		_____ Signature of Permittee
_____ Issuing Agency		NOT VALID WITHOUT OTHER QUALIFYING MINNESOTA ID
The permit holder is entitled to acquire handguns from federal firearms dealers pursuant to Minnesota Statutes Sections 624.711 - 624.718 until: EXPIRES: _____		
This Permit must be presented by the permittee with other qualifying Minnesota Identification before the sale of the pistol may be completed.		

Photographs, Illustrations, Charts, Maps, and Designs

If graphics are really vital to a rule draft, an agency should provide them in a format that meets the revisor's office requirements.

Requested format for Photographs, Illustrations, Charts, Maps, and Designs: If an agency has the capability of creating or reproducing photographs, illustrations, charts, maps, and designs in electronic format, the revisor's office requires graphics in **BOTH** of the following formats (see Summary on Acceptable Requested Formats at the end of this chapter):

- **Tagged Image Format (.tif)**
- **Encapsulated Postscript (.eps)**

If photographs, illustrations, charts, maps, and designs cannot be created or reproduced in electronic format, the revisor's office requests a camera-ready copy be provided (see Summary on Acceptable Requested Formats at the end of this chapter). The copy will be scanned in and saved as a graphic in the revisor's rules database. This format allows the photographs, illustrations, charts, maps, and designs to be reproduced in the State Register and in the Minnesota Rules publication.

Summary on Acceptable Requested Formats

Camera-Ready Copy

Minnesota Rules and the State Register can reproduce only black and white copy. Line drawings should be done in black ink on white paper. All lines should be dark. The drawing should be large enough to allow for some reduction since reduction will minimize imperfections. Photographs should be glossy prints, preferably with a wide range of tones from light to deep shadow. Reproduction tends to lighten the dark areas and darken the light ones, so the original photo should be high contrast to maintain some contrast in printed form.

Electronic Formats

The Revisor's Office requests graphics be sent in **BOTH** of the following formats:

- 1) **Tagged Image Format (.tif extension; also known as TIFF)** will be used for **displaying** graphics on the screen. During the drafting process, revisor staff can ensure that graphics are placed, sized, and rotated correctly without repeatedly printing. TIFF is available in most paint, imaging, and desktop publishing programs, and is a native format in Microsoft Windows.
- 2) **Encapsulated Postscript (.eps extension; also known as EPS)** will be used for **printing** graphics. The Revisor's Office has adopted the PostScript standard for

printing.. An EPS document by definition is a PostScript-format document that consists of a single page. Its contents are conceptually enclosed by a bounding box. The dimensions of the bounding box should exactly enclose the graphics contained on the page. Many paint applications, especially those produced by Adobe Systems Incorporated, will allow graphics to be saved EPS format.

6 EXEMPT RULES

Rules that are exempt from rulemaking requirements of Minnesota Statutes, chapter 14, generally must still be approved as to form by the Revisor. See Minnesota Statutes, sections 14.386, 14.388, and 14.389.

The form requirements contained in chapter 2 apply to exempt rules.

Exempt rules adopted under the procedures in Minnesota Statutes, sections 14.386, 14.388, and 14.389, must be published in the State Register. However, these statutory procedures do not require publication of the rules as proposed. When the revisor prepares copies of the exempt rule certified as to form, the heading will refer to adopted exempt rules.

If the exempt rules are to be permanent, see the example below. Pay special attention to the title of the rules. It should indicate that the rules are permanent exempt rules.

Example: A Complete Draft of Exempt Rules

Board of Boxing

Adopted Permanent Exempt Rules Governing Health Insurance for Professional Boxers

2200.2050 HEALTH INSURANCE.

A. Each professional boxer in a match held in Minnesota shall be covered by insurance for medical, surgical, and hospital care for injuries sustained while engaged in a match. The coverage shall be for an amount of not less than \$2,500 for each participant.

B. The promoter for the match shall be responsible for acquiring the insurance coverage described in item A and filing with the board written evidence of insurance no later than 72 hours prior to the date of the match. The evidence of insurance shall specify, the name of the insurance company, the insurance policy number, the effective date of the coverage, and evidence that each professional boxer is covered by the insurance.

C. If the promoter fails to provide verifiable evidence of insurance as required in item B, the board shall not approve the program of matches or, if previously approved, the board shall withdraw approval and the program of matches shall be canceled.

D. Health insurance requirements for professional full contact karate and professional kick boxing participants and related proof of coverage procedures and remedies are exempt from this part and are governed by part 2205.1500.

Approved by Revisor _____

If the rules are not permanent, (for example, rules that have a period of effectiveness of two years under section 14.386 or 14.388), see the example below. The draft should not be titled as permanent exempt rules and the draft should include an effective date provision to inform the reader of its period of effectiveness.

Example: A Complete Draft of Exempt Rules

Board of Boxing

Adopted Exempt Rules Governing Health Insurance for Professional Boxers

2200.2050 HEALTH INSURANCE.

A. Each professional boxer in a match held in Minnesota shall be covered by insurance for medical, surgical, and hospital care for injuries sustained while engaged in a match. The coverage shall be for an amount of not less than \$2,500 for each participant.

B. The promoter for the match shall be responsible for acquiring the insurance coverage described in item A and filing with the board written evidence of insurance no later than 72 hours prior to the date of the match. The evidence of insurance shall specify, at a minimum, the name of the insurance company, the insurance policy number, the effective date of the coverage, and evidence that each professional boxer is covered by the insurance. Any deductible or copayment associated with the insurance policy shall be paid equally by the promoter and the boxer.

C. If the promoter fails to provide verifiable evidence of insurance as required in item B, the board shall not approve the program of matches or, if previously approved, the board shall withdraw approval and the program of matches shall be canceled.

D. Health insurance requirements for professional full contact karate and professional kick boxing participants and related proof of coverage procedures and remedies are exempt from this part and are governed by part 2205.1500.

EFFECTIVE DATE. Part 2200.2050 is effective for a period of two years from its publication in the State Register.

Approved by Revisor _____

7 ADOPTIONS, MODIFICATIONS, AND WITHDRAWALS

This chapter explains the form required for adopted rules, modifications, withdrawals, and the notice of adoption.

Amendments to Proposed Rules Before Adoption

In some cases, an agency will want to amend proposed rules before the adoption stage. This is done when the agency wants to make changes in the rules that would not be allowed as modifications because they are "substantially different" from the proposed rules. (See Minnesota Statutes, sections 14.05, subdivision 2, 14.16, and 14.24.) The amendments must be published in the State Register and the agency must wait until the end of the 30-day comment period before the rule as amended is adopted.

In form, amendments to proposed rules are like modifications. They show the changes from the text of the proposed rules, but tell the reader where to find the full text. They have a heading that labels them as amendments, not proposed rules or adopted rules. See the example on the following page.

Example: Proposed Amendment to Rules as Proposed

Proposed Amendments to Proposed Permanent Rules Governing Staffing Requirements for Principals

3500.0605 STAFFING REQUIREMENTS FOR PRINCIPALS.

Subpart 1. **Licensed principal required.** Every elementary, middle, and secondary school must be under the immediate direction of an appropriately licensed principal.

A. to I. [Unchanged from State Register, volume 9, page 1401, December 24, 1984.]

J. The commissioner of children, families, and learning may grant a school district an assignment exemption from the requirements of items A, B, and D to I. The exemption must be based on demonstrated hardship. "Hardship" means unique school district situations involving problems of geography, sparsity of population, distance, and enrollment. The exemption must be granted for a school year or a portion of a school year. A request for the exemption must be submitted by the superintendent to the commissioner of education with full documentation of the problems involved in full compliance. The exemption becomes effective when the request is reviewed by the State Board of Education.

Subp. 2. [Unchanged from State Register, volume 9, page 1401, December 24, 1984.]

3510.0600 [Unchanged from State Register, volume 9, page 1401, December 24, 1984.]

REPEALER. [Unchanged from State Register, volume 9, page 1401, December 24, 1984.]

EFFECTIVE DATE. [Unchanged from State Register, volume 9, page 1401, December 24, 1984.]

Modifications

Often an agency proposes rules and adopts the text of the proposed rules without change. At times, however, an agency adopts rules that differ from the rules as proposed. The differences can be prompted by public comments or by the hearing or review process. See *Rulemaking in Minnesota: A Guide*.

Modifications is the technical term for changes made after rules have been proposed. Modifications are published in the State Register after the rules are adopted to give the public notice of changes in the rules. The rules as adopted, with or without modifications, must be approved by the revisor's office. A notice of adoption must be printed in the State Register. If modifications are made, the text of the modifications must be printed with the notice of adoption.

An agency may modify a rule so that it is substantially different if the procedures adopted by the Office of Administrative Hearings under Minnesota Statutes, section 14.51, are followed.

After a proposed rule is published in the State Register, the revisor's office prepares a stripped copy of the proposed rule draft, that is, a copy with the struck language and underscoring removed. The revisor's office sends this copy to the agency to be used to show what modifications, if any, should be made to the proposed rules. If modifications are needed, the agency drafter should write the necessary changes on the stripped copy, striking language to be removed and underscoring new language. The markings need only represent the modifications from the rules as proposed, not the total changes from the existing rules. See examples on page 86. The marked copy should be submitted to the revisor's office. The revisor's office will produce revised copies showing the agency's changes.

Preparing Copy of Adopted Rules

If a rule is being adopted without a public hearing, the Office of Administrative Hearings will notify us of the agency submission of the rule for legal review. The form of the adopted rule must be approved by our office. We have five working days after receipt of the rule to approve its form.

If a rule is being adopted after a public hearing, the agency will submit a copy of the rule, with or without modification, at the end of the hearing. The form of the adopted rule must be approved by our office. We have five working days after receipt of the rule to approve its form.

The revisor's form approval certificate is attached to all adopted rules before they are delivered to the Office of Administrative Hearings for rules adopted without a public hearing, and the agency for rules adopted after a public hearing.

Example: Notice of Adoption for Adopted Rules without Modifications

Department of Human Services

Adopted Permanent Rules Relating to Adult Foster Care Services and Licensure of Adult Foster Homes

The rules proposed and published at State Register, Volume 11, Number 14, pages 650-668, December 6, 1986 (11 S.R. 650), are adopted as proposed.

Approved by Revisor _____

Example: Notice of Adoption for Adopted Rules with Modifications

Department of Human Services

Adopted Permanent Rules Relating to Adult Foster Care Services and Licensure of Adult Foster Homes

The rules proposed and published at State Register, Volume 11, Number 14, pages 650-668, December 6, 1986 (11 S.R. 650), are adopted with the following modifications:

9555.5105 DEFINITIONS.

Subp. 5. **Adult foster home.** "Adult foster home" means a residence operated by an operator who, for financial gain or otherwise, provides ~~up to four functionally impaired residents with~~ 24-hour foster care to no more than four functionally impaired residents.

Approved by Revisor _____

Withdrawals of Rules

Modifications can include withdrawals of some of the rules that were proposed if the withdrawals do not substantially change the rules as proposed in the State Register. When withdrawals are included, the form for modifications changes slightly: the full text is shown for all rules that are not withdrawn, even if those parts are not modified. Strikeouts and underscoring are used to show changes, and notes show which parts have been withdrawn. If the rules as proposed contained repealers, they are also shown.

Example: Modifications Including Rules Withdrawn at Adoption Stage

Minnesota Board of Teaching

Proposed Permanent Rules Relating to Teaching Licenses; Continued Education and Miscellaneous Others

8700.0502 PROVISIONAL LICENSES; TEACHING IN UNLICENSED SUBJECTS OR FIELDS. [Withdrawn at 11 S.R. 1783]

8700.0900 CONTINUAL LICENSE. [Withdrawn at 11 S.R. 1783]

8700.1000 CLOCK HOURS. [Withdrawn at 11 S.R. 1783]

8700.1100 LOCAL COMMITTEES FOR CONTINUING EDUCATION AND RELICENSURE. [Withdrawn at 11 S.R. 1783]

8700.1300 TRANSFER OF CLOCK HOURS. [Withdrawn at 11 S.R. 1783]

8700.1400 GRANTOR OF CLOCK HOURS. [Withdrawn at 11 S.R. 1783]

8700.2200 RIGHT OF APPEAL. [Withdrawn at 11 S.R. 1783]

8700.7800 TEACHERS PREPARED IN STATES OTHER THAN MINNESOTA.

Subpart 1. **In general.** Licenses to teach in Minnesota shall grant licenses to teach in Minnesota to persons who otherwise meet applicable statutory requirements and who complete programs leading to teacher licensure in teacher preparation institutions located outside Minnesota. ~~Such~~ Licenses shall be granted only in licensure fields for which the Board of Teaching has established rules governing programs leading to teacher licensure. ~~Such~~ Licenses shall be issued according to either subpart 2 or 3.

[For text of subps 2 to 4, see M.R.]

Approved by Revisor _____

8 QUICK DRAFTING AIDS

This chapter is designed as a reference work on editorial style for the use of drafters, typists, word processing staff, and proofreaders. Its entries are listed in alphabetical order. It provides answers to most questions about the standard practice in Minnesota Rules. In some cases, it refers the reader to another part of the rule manual or to more extensive reference works.

These are the most important references for rule drafting:

The American Heritage Dictionary of the English Language. Edited by William Morris. Boston: Houghton Mifflin Company. Refer to this book to answer usage questions.

The Chicago Manual of Style, 14th ed., rev. Chicago: The University of Chicago Press, 1993. Refer to this book to answer capitalization, punctuation, and hyphenation questions.

U.S. Government Printing Office Style Manual. Washington, D.C.: U. S. Government Printing Office, 1973. This is also called the GPO Style Manual. Refer to this book to answer questions about abbreviations, although these will be rare.

Webster's Third New International Dictionary. Springfield, Massachusetts: G. and C. Merriam Company, 1976. Refer to this book to answer spelling and hyphenation questions.

This chapter covers the following topics:

Abbreviations	fractions	quotation marks
addresses	hyphens	semicolons
apostrophes	illustrations	slashes
brackets	initials	spelling
capitalization	italics	strikeouts
captions	item	subitem
charts	maps	subpart
citations	measurements	subunit
coding	money	symbols
colons	numbers	underscoring
commas	official titles	unit
compound words	parentheses	tables
contractions	part	time of day
dashes	periods	word division
dates	photographs	
forms	punctuation	

Abbreviations

An abbreviation is a shortened form of a word or phrase used primarily to save space. (See also Contractions.) The two general rules about abbreviations in rule drafting are: (1) avoid abbreviations, and (2) when in doubt about whether to abbreviate a word in rules, spell it out.

In particular, avoid using initials as a substitute for an official name. For example, write "Environmental Protection Agency" or "the agency." Do not write "the EPA." Full names are especially important for publications being incorporated by reference. For examples, see chapter 4, Forms of Citation. Initials in the title of a document should be left as they are in the title of the document.

The following are exceptions to the general rules:

1. An abbreviation may be used if it is part of a proper name, as in "Cargill, Inc."
2. The abbreviations a.m. and p.m. may be used to express time, as in "1:00 a.m." or "2:34 p.m." See Numbers.
3. Abbreviations may be used in tables, illustrations, and similar material.
4. The names of the compass points may be abbreviated after a street name.

Example: 821 Fifth Avenue SE

In legal land descriptions, names of the compass points should remain exactly as they are in the legal instrument the drafter is working from. Whether the points of the compass are abbreviated with periods, abbreviated without periods, or written out, they should not be changed.

Example: within the S.W. 1/4 of section 19, township 105N, range 32W

5. State names may be abbreviated in addresses. Use the abbreviations approved by the postal service. See Addresses.

Example: MN

6. In technical material, units of measurement may be abbreviated.
7. The symbols for the chemical elements may be used in text as well as in equations, formulas, and tabular matter.

Examples: H, Au.

8. Initials in the title of a publication should be left as they are in the title of that publication.
9. When you must use an acronym, use an "s" to make it plural and an apostrophe plus "s" to make it possessive.

Examples: two LEPGPs, the LEPGP's manager

If you use abbreviations, use the forms given in the GPO Style Manual. Do not use the abbreviations *e.g.*, *i.e.*, *et al.*, *et seq.*, and *etc.* Do not abbreviate any part of a citation of Minnesota Statutes or Minnesota Rules. See References. See Subpart for directions for using "Subp." in place of "Subpart."

Addresses

Write addresses in paragraph form. Do not put quotation marks around the address. Capitalize as you would on the front of an envelope. (This is an exception to the rule that titles of officers are put in lower case.) Abbreviate only the points of the compass and the state name.

Example: Applications must be mailed to: Director, Office of State Building
Construction Division, Department of Administration, Administration Building, 50 Fifth
Street SE, Saint Paul, MN 55155.

Use the preceding form only if the address is complete. For a partial address, use paragraph form and lowercase the officer's title as usual.

Example: Applications must be mailed to the director of the Office of State Building
Construction.

Apostrophes

Use apostrophes to mark singular and plural possessive forms.

Example:

the court's intention (singular)
children's television
farmers' cooperative associations (plural)

However, some possessives are "frozen" and the apostrophe is omitted. These include:

- names of countries and organized bodies ending in "s," as in "United States laws," "House of Representatives session," "United Nations meeting"; and

- words more descriptive than possessive, that is, words not indicating ownership, as in "teachers college," "the Editorial Experts, Inc., Proofreaders Manual."

If an existing name is usually written without an apostrophe, don't add one.

The following phrases usually raise questions. Here are the forms the revisor's office uses:

- driver's license
- drivers' licenses
- police and firefighters association
- public employees retirement association
- teachers retirement association
- veterans affairs (benefits, home, preference, and so on)
- workers' compensation

Use apostrophes to pluralize single letters or figures used as nouns, such as "x's," or "4's."

Use an apostrophe in phrases like "30 days' notice."

Brackets

Use brackets around editorial notes, "see repealer", "withdrawn", and relettering instructions in the body of the rule. See chapter 1.

Capitalization

To answer a question not addressed here, refer to *The Chicago Manual of Style*.

Capitalized words.

1. Capitalize the important words in rule titles.
2. Type headnotes for parts in full capitals. In subparts, capitalize only the first word.

Examples:

2222.0200 RETURNS AND RECORDS.

Subpart 1. Sales and use tax return.

3. In references to state statutes and rules, capitalize only the words "Minnesota Rules," "Minnesota Statutes," "Laws," and names of other publications.

Examples:

Minnesota Rules, part 6134.0200, subpart 5, item A, subitem (1).

Minnesota Statutes, section 97A.065, subdivision 2, paragraph (b), clause (1).

Laws 1978, chapter 785, section 4, subdivision 8.

In the layout of each part, capitalize "Subpart" and "Subp."

Example:

Subpart 1. **Fees required.**

Subp. 2. **Fee amount.**

4. Capitalize the important words in the titles of books, government documents, periodicals, or serials and in the titles of chapters or sections of these publications. See chapter 1, the section on incorporations by reference and associated examples, for more information.

"Safety Recommendations for Sensitized Ammonium Nitrate Blasting Agents," issued by the U.S. Department of Interior, Bureau of Mines, as Information Circular 8179 (Washington, D.C.: Government Printing Office, 1963).

5. Capitalize proper names. These include the official names of government agencies, political subdivisions, and laws, as well as the names of people, places, and institutions. They do not include titles of individual civic officers (governor, commissioner) except when such titles precede names.

Examples:

Department of Agriculture
Building Construction Division
Hennepin County
Floyd B. Olson Memorial Highway
Governor Albert Quie
University of Minnesota
Houghton Mifflin Company
Administrative Procedure Act

Uncapitalized words.

1. Do not capitalize words referring to a civic office.

Example: the commissioner of agriculture (but: the commissioner of the Department of Agriculture)

2. Do not capitalize words referring to an agency, a political subdivision, or a place if they are not part of a proper name. Do not capitalize such words even when they stand for proper nouns. See Addresses for the one exception to this rule.

Examples:

the department
the county
the highway
the governor
the university
the company

3. If you are not sure whether something is a proper name, do not capitalize it. Names of forms (like "certificate of live birth") or programs (like "home improvement loan program") should not be capitalized. Neither should funds, grants, types of aid, or other state administrative creations. There are some exceptions, such as the federal programs Medicare and Medicaid.

4. Do not capitalize "state" in the phrase "state of Minnesota." Do not capitalize the words "federal," "legislature," and "state" unless they are part of the agency's statutory name, such as "State Board of Chiropractic Examiners."

5. Do not capitalize initial words in items in a vertical list unless each item is a complete sentence. Remember that lists of sentences are easier to read than lists of sentence parts.

Example: a list of phrases

A certification by the director under Minnesota Statutes, section 179.69, subdivision 3 or 5, must contain:

- A. the petition requesting arbitration;
- B. a concise written statement by the director indicating that an impasse has been reached and that further mediation efforts would serve no purpose;
- C. a determination by the director of matters not agreed upon based upon efforts to mediate the dispute;
- D. the final positions submitted by the parties; and
- E. those agreed-upon items to be excluded from arbitration.

Example: a list of sentences

Instructions must be printed on the ballot envelope and must include the directions printed below:

- A. After you have voted, check your ballot to be sure your vote is recorded for the candidate or question of your choice.
- B. Put your ballot in this envelope, leaving the stub exposed.
- C. Return this envelope with the ballot enclosed to the election judge.
- D. If you make a mistake in voting or if you spoil your ballot, return it to the election judge and get another ballot.

Captions

Do not use captions below graphics. Explain what the graphic is in text that is clearly within a numbered part or subpart.

Charts

Submit a chart as clean, camera-ready copy or as both tagged image format (.tif) and encapsulated postscript (.eps).

Citations

See chapter 4, Forms of Reference.

Coding

Rules are given decimal part numbers. Example: Part 1000.0100. Parts are ordered decimally, not numerically, so that extra parts can be inserted between existing rules. The revisor's office will decide the coding of new parts.

Anything that appears in proposed rules must be within a numbered part or must have its own part number.

Colons

Place a colon after an expression that introduces a series of items.

Example:

The petition must contain the following information: the name and address of petitioner, the names and addresses of adverse parties, and a concise statement of the grievance, and references to all the relevant documents.

See also Quotation Marks.

Commas

If you wonder whether or not to use a comma, consult *The Chicago Manual of Style*.

Here are some of the most important rules regarding the use of the comma:

1. Place a comma before a conjunction that joins the clauses of a compound sentence unless the clauses are short and closely related.

Example:

The commissioner shall appoint a deputy commissioner, and the deputy commissioner shall preside over the advisory task force.

2. Use commas to set off a nonrestrictive dependent clause that follows a main clause or falls within the main clause. A nonrestrictive clause is one that can be omitted without altering the meaning of the main clause.

Example:

The application, which may be obtained from the Department of Education, must be submitted by June 30, 1981.

3. Use a comma to set off a dependent clause that precedes a main clause.

Example:

After completing the report, the administrative law judge shall submit the report to the chief administrative law judge.

4. Generally, use a comma after an adverbial phrase at the beginning of the sentence. The comma may be omitted after a short adverbial phrase.

Example:

For the 1981-1982 school year and each later school year, the state must pay summer school aid.

5. Use commas to set off transitional elements that create a break in the continuity of the thought.

Example:

The term of the deputy commissioner, however, is two years.

6. Separate two or more adjectives by commas if each modifies the noun alone.

Example:

The principal must submit a short, comprehensive report on school discipline problems annually to the Department of Children, Families, and Learning.

7. Use commas to separate words, phrases, or clauses in a simple series. When a conjunction joins the last two elements in a series, use a comma before the conjunction.

Example:

The members of the commission are the commissioner of health, the commissioner of administration, and the commissioner of transportation.

8. Use a comma to set off the year following the month and day.

Example:

Before June 30, 1982, ...

Omit the commas around the year when no day is given.

Example:

The exemption expires in March 1982 unless the agency reapplies.

9. Use commas to separate the parts of references. For examples, see chapter 4, Forms of Reference.

10. For rules about combining and quotation marks, see Quotation Marks.

Compound Words

See Hyphens.

Contractions

Contractions are allowed only in tabular matter where space is limited. Given a choice between a contraction and an abbreviation, use the abbreviation. For example, write "govt." and not "gov't" as a short form of *government*.

Dashes

Avoid the use of dashes in text material. Remember that it is nearly impossible to show that a dash has been stricken out in the amendment process.

Dates

See Numbers.

Definitions

A defined term should have its own subpart within a part entitled "Definitions."

Forms

If a form can be input, it should be. If not, it must be submitted as camera-ready copy to be scanned into the revisor's database. If your agency is capable of submitting graphics in electronic format, submit it in two forms: tagged image format (.tif) and encapsulated postscript (.eps).

Fractions

See Numbers.

Hyphens

Do not hyphenate a word at the end of a line. Only hyphenate when a word's proper spelling includes a hyphen.

To answer questions about hyphenation, first consult *Webster's Third New International Dictionary*. If that gives no answer, consult *The Chicago Manual of Style*, especially table 6-1. Most hyphenation questions concern compounds like "part-time" and "60-day." These compounds are hyphenated when they precede nouns, as in "part-time job" or "60-day license."

With three classes of exceptions, words beginning with the following prefixes are spelled as solid words:

ante	anteroom, antediluvian, antenatal
anti	ant clerical, antihero, antihypertensive
bi	bivalent, biconvex, binominal
bio	bioecology, biophysical
co	coauthor, coordinate
counter	counterclockwise, countermeasures, countercurrent, counterblow
extra	extraterrestrial, extrafine
infra	infrasonic, infrastructure
inter	interrelated, intertidal, interregnum
intra	intrazonal, intracranial
macro	macroeconomics, macrosphere, macromolecular
meta	metalanguage, metagalaxy, metaethical, metastable (but metanalysis)
micro	microminiaturized, microimage, micromethod

mid	midocean, midtown, midgut, midcentury (but mid-nineteenth century)
mini	minibus, miniskirt, minibike
multi	multifaceted, multistory, multiconductor
neo	neoclassical, neonatal, neoorthodox, neorealism, Neotropical
non	nonviolent, nonperson, nonplus, nonnegotiable, nonnative (or non-native)
over	overlong, overeager, overanalyzed
post	postdoctoral, postface, postwar, postparturition
pre	preempt, precognition, preconference, premalignant
pro	procathedral, procephalic
proto	protoderm, protogalaxy, protolanguage, prototypical
pseudo	pseudopregnancy, pseudoclassic, pseudoheroic
re	redit, reunify, redigitalize, reexamine
semi	semiopaque, semiconductor
socio	socioeconomic, sociopolitical
sub	subjacent, subbasement, subcrustal
super	supertanker, superhigh (frequency), superpose
supra	supranational, suprarenal, supraliminal
trans	transoceanic, transmembrane, transsocietal
ultra	ultrafiche, ultramontane, ultraorganized
un	unfunded, unchurched, uncoiffed, unneutered
under	underused, undersea, underpowered, underreport

Here are the exceptions to the general rule:

Hyphenate if the second element of the word is capitalized or a number figure.

Examples: anti-Semitic, pre-1914

Hyphenate to distinguish certain homographs.

Examples: re-cover, un-ionized

Hyphenate if the second element has more than one word.

Examples: pre-Civil war
non-English-speaking people

Use hyphens in compound numbers (like "thirty-three" at the beginning of a sentence), in fractions (like "one-half"), in mixed numbers (like "4-3/4"). See Numbers to learn when these should be spelled out.

Use hyphens in dates representing periods extending over more than one year (like "1981-1982").

Some compounds in which the last letter of the prefix is the same as the first letter of the following word are hyphenated to avoid misleading or puzzling forms (for example, anti-intellectual, non-native, semi-independent).

Illustrations

Submit an illustration as clean camera-ready copy or as both tagged image format (.tif) and encapsulated postscript (.eps).

Initials

See Abbreviations.

Italics

Minnesota Rules uses italic type for rule histories, names of court cases, and genus and species names of plants and animals. It does not use italics for titles of publications.

Item

A division of a part or subpart is called an item, as in part 1001.0100, subpart 1, item A.

Maps

Submit a map as clean, camera-ready copy or as both tagged image format (.tif) and encapsulated postscript (.eps).

Measurements

See Numbers.

Money

See Numbers.

Numbers

Numbers used as designators. Use figures for numbers used to refer to specific entities: grades K to 8, school district 24.

Amounts. Write numbers ten and under in words; write numbers 11 and over in figures.

Examples: two sheets and 12 towels
 at least 24 hours

Write a number that begins a sentence in words (but see also Money and Fractions, below).

Example: Thirty days after the commission has received the report, the commissioner must

Order. Write out the ordinal numbers one through ten. Write ordinal numbers greater than ten in numbers and letters.

Examples: first, second, fifth, 11th, 15th, 81st

Do not use an abbreviation or period following an ordinal figure.

Money. Use figures to express dollar amounts. For figures with four digits, use a comma.

Examples: \$5, \$300, \$750, \$4,500

Express a dollar amount that begins a sentence as a figure.

Example: \$100 may be paid....

Express an even dollar money amount with a dollar sign and the dollar amount, omitting the decimal and zeros.

Examples: \$5, \$7,500

In running text, express money amounts with dollar signs, omitting the decimal and zeros for those figures which represent even dollar amounts.

Examples: \$4, \$9.50, \$23.35, \$50

However, in tabulations that include at least one figure with cents, show the decimal point and zeros for even dollar amounts.

Examples: \$ 12.50
 38.00
 50.75

For amounts under a dollar in running text, spell out the word cent or cents. Avoid the cents symbol.

Example: 50 cents

In tables, use dollar signs, decimal points, and zeros. Include the dollar sign only once, with the first figure in the column.

Examples: \$7.50
 .50
 2.25

Fractions and decimals. When the denominator is ten or less, write the fraction in words. When it is over ten, express the fraction with figures. Decimal fractions should always be preceded by a zero.

Examples: three-tenths, one-half
5/16, 3/25, 0.04, 0.007

However, use figures if the fraction is used in a technical measurement or computation.

Examples:

(1) Quantity rate table. A generator may report quantities in pounds or gallons. For the purposes of this part, one gallon of hazardous waste equals ten pounds of hazardous waste.

	POUNDS/GALLON	POUND	GALLONS
STEP 1	\$0.052/\$0.52	0 - 4,000	0 - 400
STEP 2	1/4 of step 1 rate	4,001 - 26,400	401 - 2,640
STEP 3	1/2 of step 2 rate	26,401 - 100,000	2,641 - 10,000
STEP 4	1/10 of step 3 rate	100,001 - 500,000	10,001 - 50,000
STEP 5	\$0.00/\$0.00	> than 500,000	> than 50,000

Express mixed numbers in figures, except at the beginning of a sentence.

Examples: 1-1/2, 9-15/16
"One and one-half" at the beginning of a sentence.

Fractions expressed in figures should not be followed by endings like -sts, -rds, -ths.

Do not use: 23rds
32nds
21sts
64ths
1/2 of one

Measurements. Treat quantities such as distance, length, area, and volume according to the rules for spelling out numbers:

Examples: 45 miles
ten degrees Celsius
three cubic feet
240 volts

Time of day. Times of day are usually spelled out in text matter, but figures are used when the exact moment of time is to be emphasized. Always use figures in designations of time with a.m. or p.m.

Examples: "eight o'clock," but "2:00 p.m."

Temperature readings. Treat temperatures according to the ordinary rules for numbers. Write out "degree" and "Fahrenheit" or "Celsius."

Inclusive numbers. Use the word "to" to show a range of numbers if you can do so without ambiguity.

Example: from 1996 to 1998 (acceptable form but not clear drafting)

In references to time periods that begin in one year and end in the next, use a hyphen rather than "to." Write the ending figure in full; don't abbreviate it.

Example: the 1997-1998 school year

Percentages. In text, spell out the word "percent" and write the number according to the other rules here.

Example: 12 percent, three percent, 2-1/2 percent, 0.04 percent

The % symbol may be used in tables.

Telephone numbers. Type telephone numbers this way:

(612) 378-2453

Dates. Express complete dates in month-day-year sequence. In the text of rules spell out the month of the year. Do not abbreviate the month, and do not use the numerical symbol for it. If only the month and year are used, do not insert a comma after the month or after the year.

Example: Before September 2, 1980, the commissioner
 Before May 1980 the commissioner

Official Titles

When referring to a public officer, agency, or organization, use the official title of the officer, agency, or organization. The official titles for state officers or agencies are usually found in the constitutional or statutory sections that create them. The official titles for most state agencies are in the *Guidebook to State Agency Services*, published by the Communication Media Division of the Department of Administration. For rules on capitalization in official titles, see Capitalization.

Parentheses

Use parentheses around subitem numbers and unit letters. See Subitem and Unit.

Example: Subitem (1)
 Unit (a)

Use parentheses where needed in mathematical expressions.

Example: $W = y(a)+z(b)$

Use parentheses to set off place of publication, publisher, and date in references.

Part

The basic unit of rule material within a chapter is called a part, as in part 1001.0100.

Percentages

See Numbers.

Periods

Use a period after a part or subpart headnote. Do not use a period after the full part number that appears before the headnote.

Example: **9999.0900 RECORDS AND SAMPLES.**

Use periods at the ends of complete declarative sentences. Do not use periods after phrases or clauses in a tabulated list; use semicolons. See Series and Capitalization for examples of this rule.

See also Quotation Marks.

Photographs

Submit a photograph as clean, camera-ready copy or as both tagged image format (.tif) and encapsulated postscript (.eps).

Punctuation

See individual marks. To answer questions about punctuation that are not addressed in this manual, see *The Chicago Manual of Style*.

Quotation Marks

Use quotation marks for definitions, or whenever you are talking about a word or phrase. Keep using the quotation marks in successive uses of the phrase within the definition, and not only the first sentence. Stop using quotation marks when you stop defining the word and start using it.

Example: "Commissioner" means the commissioner of the department of health. The commissioner shall review applications within 30 days.

Popular names or citation sections are strongly discouraged in rules, but if you must use them—or when you amend existing rules—put them in quotation marks when you first assign them to a group of rules. Do not use quotation marks in later references to the short title.

Example:

Parts 1011.5050 to 1011.5060 may be cited as the "Tax Reform Rules."

Use quotation marks for brief quotations. Set off lengthy quotations in an indented block style.

Put periods and commas inside quotation marks, colons and semicolons outside.

Use quotation marks to enclose words and phrases following terms such as "marked," "designated," "named," or "entitled."

Semicolons

Here are the major rules for semicolons:

1. Use a semicolon to separate closely related independent clauses not connected by a conjunction. Be careful not to overuse this construction. Separate sentences are better than needlessly connected ones.

Example:

An applicant must be at least 18 years old; a birth certificate is required as proof of age.

2. Use a semicolon between independent clauses joined by a transitional connective such as also, furthermore, moreover, however, nevertheless, namely, that is, for example, hence, therefore, thus, then, later, finally. Again, don't overuse this construction. Keep sentences short.

Example:

Applications must be submitted before January 1, 1982; however, the board may grant an extension for good cause.

3. Use a semicolon to separate equal elements that contain internal commas.

Example:

For the purpose of this part, "surety" means a note; stock; bond; assumption of any obligation or liability as a guarantor, endorser, or surety; or collateral trust certificate.

4. Use semicolons to separate references when one or more of the references contain internal punctuation. The decimal counts as internal punctuation.

Example: Minnesota Statutes, sections 325.01, subdivision 2; 468.01; and 524.03, subdivision 5.

5. Use semicolons after clauses or phrases in a vertical list, except after the last item in the list. If the listed items are complete sentences, use periods. See Capitalization for examples of this rule.

See Quotation Marks for rules about positioning semicolons.

Slashes

Use the slash between the numerator and denominator of fractions, except in displayed equations. Do not use the slashed forms and/or, she/he, or federal/state. Other slashed forms may be used if they are necessary technical terms.

Examples: $5/6$, a/b

Spelling

Use *Webster's Third New International Dictionary* to decide spelling questions. When you have found the entry that is the right part of speech and has the right meaning, use the main spelling (first spelling) for that entry. Do not use a variant (second or third spelling). For example, if you find *labeling* and the note says "or *labelling*," use the form with the single *l*.

Strikeouts

In proposed amendments and modifications, strike out material to be removed from the text of a rule.

Example: ~~one~~-year.

See also Underscoring.

Subitem

The divisions of items are called subitems, as in Minnesota Rules, part 1001.0100, subpart 1, item A, subitem (1).

Subpart

The first division of a part is called a subpart, as in Minnesota Rules, part 1001.0100, subpart 1. In references, "subpart" is always spelled out, but in the layout of each part, "Subpart" is spelled out only for the first subpart. After that, it is abbreviated "Subp."

Example: 1001.0100
Subpart 1
Subp. 2
Subp. 3

Subunit

The divisions of units are called subunits, as in Minnesota Rules, part 1001.0100, subpart 1, item A, subitem (1), unit (a), subunit i. Subunits are to be used only very rarely. Their use usually makes rules unreadable.

Symbols

Avoid symbols in text material. Use the degree symbol only in tables or other places where space is limited. For example, write % as percent; write ' as feet and " as inches. When specifying dimensions use the word "by" rather than the symbol "x." See also Abbreviations and Contractions.

If a symbol is used in a range of numbers, it should be repeated with each number. A spelled-out word or an abbreviation used in place of the symbol is given only with the last number.

Examples: 0%-15%
8-1/2 by 11 inches

Tables

Submit a table as clean camera-ready copy or as both tagged image format (.tif) and encapsulated postscript (.eps).

Temperature

See Numbers

Time of Day

See Numbers.

Underscoring

Underscore new material to be inserted or substituted for old material in the text of rules.

Example: two years.

See also Strikeouts.

Unit

The divisions of subitems are called units, as in Minnesota Rules, part 1001.0100, subpart 1, item A, subitem (1), unit (a). Units are to be used only very rarely. Their use usually makes rules very difficult to read.

Word Division

See Hyphens.

9 FREQUENTLY ASKED QUESTIONS ABOUT RULEMAKING

Does the Revisor's Office charge for drafting assistance and form approval of rules?

No. All services performed as part of the rule drafting assistance we provide to agencies or in connection with our form approval of various rule documents are provided without charge to agencies.

How long will it take the revisor to approve my rule?

By law, the revisor must approve an adopted rule within five working days after it is submitted to the office.

There is no similar law that establishes a time period within which the revisor must approve proposed rules, modifications, exempt rules, and notices of adoption. The time it takes to review and approve these rule documents depends upon the length and complexity of the document, the wishes of the agency, and other demands on the office. During legislative sessions, the demands on the office sometimes make it difficult for us to review and approve these documents on short notice. If possible, when you are developing a rulemaking timeline, please try to allow more time for our review and approval if you are planning to request these services from us during legislative sessions.

In what form does the revisor want rule language I have already drafted?

We will accept rule language from you in whatever form you have it. If you are amending existing rules, we can give you a printout from our database for you to mark up and return to us. We will also accept disk copy of documents that you have created on your word processing system. For now, please provide us with a copy in either Word 97 or ASCII format. However, please check with us before providing disk copy in either of those formats in case these requirements change. Giving us a disk copy of rule language saves us time in creating the final product only if the language is new rule text. For amendatory rule language, we must rebuild the document in our database to ensure that existing rule text is not inadvertently dropped or altered in your word processing document.

When should I ask the revisor for rule drafting assistance?

We will be happy to assist you at any stage of the process, including the development of initial working drafts. In some cases, we may suggest that you make significant revisions to the rule's organization and content. If you wait to request our assistance until after you have written your SONAR and other supporting documents, you may find that you need to redraft those documents.

When you ask us to provide drafting assistance, we make sure that the rule is in a form that satisfies our requirements. This will save you time when you are ready to request a publication draft from us to begin formal rulemaking.

What type of drafting assistance can I expect from the revisor?

By law we are prohibited from acting as your legal counsel before an administrative law judge and helping you write your SONAR.

You are required to get our form approval of your rule before you publish it in the State Register. At that time we will input the rule into our computer system, carefully check it, and revise it if necessary to meet our form requirements. Those requirements are set out in detail in this manual. We will also point out any substantive and organizational problems we see in the document.

When can I expect to receive a copy of my rule as adopted from the revisor?

Once an adopted rule is published in the State Register, we will provide you with a stripped copy of your adopted rule (a copy with strikeouts, struck text, and underscoring removed). Depending on other demands in the office, this generally is provided to you within one week.

When will my rule appear in Minnesota Rules?

The full 13 volume set of Minnesota Rules is published every two years (in the odd numbered years). Between publications two supplements are published. Supplement Number 1 is available approximately ten months after the full publication and Supplement Number 2 is available approximately seven months after Supplement Number 1. For each publication, a cutoff date is established by the revisor. If a rule is adopted after that cutoff date it will not appear until the next publication.

Can I get Internet access to agency rules?

Yes. Go to our homepage at <http://www.revisor.leg.state.mn.us> and click on the link to Minnesota Rules. We are not presently able to display graphics and other special material there.

How do I arrange for copies of my rules to be printed and sold at the state book store?

A request must be made by you directly to the book store. This can be done by calling 297-3000. Once a request is received by the bookstore, they will contact us and we will provide them with the text. We will bill the bookstore directly and they in turn will bill you. The bookstore will not automatically reprint booklets when new rules are adopted. They will continue selling old booklets until you specifically tell them to remove them from the shelves.

If a rule is no longer effective or is obsolete, can the revisor remove it from Minnesota Rules?

We may remove rules from the official publication that by their own terms are no longer effective or have been repealed by the agency or the legislature, or have been found by a court to be unconstitutional or illegal. Before doing this, we must notify the attorney general and give the attorney general the opportunity to object.

If you have a rule that you consider obsolete that does not fall within one of the categories listed above, you should consider adopting a rule repealer through the normal rulemaking process, using the good cause rulemaking exemption in Minnesota Statutes, section 14.388, or seeking legislative repeal of the rule.

What is an incorporation by reference and when and how do I use it in rules?

An incorporation by reference is a method of including other publications or documents as part of your rule. Incorporating this material by reference makes it an enforceable part of your rule while sparing you the time and expense of having to reproduce it as part of the rule. Incorporating other material into a rule, whether it is other statutory or rule material or other publications or documents, sometimes raises legal questions. (For example, have future amendments to the material been incorporated? Has statutory language been duplicated unnecessarily?) Incorporations can also create readability problems because readers must shift from document to document.

Minnesota Statutes, section 14.07, subdivision 4, governs the form of incorporations by reference. The revisor's office requires agencies to submit two copies of any document or publication being incorporated by reference that is not otherwise conveniently available to the public. These copies will be given to the state law library so that the public has access to them.

10 A GUIDE TO THE LAW ABOUT RULEMAKING

Laws and rules governing the rulemaking process are scattered in several different chapters of Minnesota Statutes and Minnesota Rules. Use the index below to find the text of a particular law or rule governing rulemaking.

The index to the drafting manual itself is found at the very end of the manual.

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