

Chapter 2. Researching Administrative Law

Original Author: Susan Kiefer
Revised February 2015 by Neal Axton

2.1 Introduction

Research in administrative law requires a command of many different legal resources. In addition to rules, agency decisions, executive orders, and opinions of the attorney general, the researcher often must find statutes that grant authority to an agency and cases that review agency action. Secondary sources such as treatises, legal periodicals, and continuing education materials provide background, interpretation, and analysis for the primary sources. This chapter will outline the techniques for finding Minnesota administrative law.

2.2 Agencies

Research in administrative law may begin with a search for information about the agency or agencies involved. Minnesota NorthStar is the official government portal for the State and provides up-to-date information about state administrative agencies, boards and commissions.¹ It contains information about executive branch agencies as well as multi-member boards and other commissions whose members are citizens appointed by the governor.

The *Minnesota Legislative Manual*,² formerly known as “the blue book” is now available online. It contains more concise information about all branches and levels of Minnesota government, including state agencies and local political subdivisions. It also contains an explanation of how the legislature functions, as well as a listing of all legislators and their committee assignments.

Many agencies also have self-published material available which describes their organization and duties. State agencies’ websites are hosted on Minnesota Northstar³ and often provide useful information. The [Minnesota Pollution Control Agency’s website](#) for example, provides an organization chart for the agency,⁴ information on its citizen board and its committee

¹ *State Agencies, Boards, Commissions*, MINNESOTA.GOV, <http://mn.gov/portal/government/state/agencies-boards-commissions/> (last visited Sept. 29, 2014).

² *Minnesota Legislative Manual*, MINNESOTA SECRETARY OF STATE, <http://www.sos.state.mn.us/index.aspx?page=1744> (last visited Sept. 29, 2014).

³ MINNESOTA.GOV, <http://mn.gov/portal/> (last visited Sept. 29, 2014).

⁴ *About Us*, MINNESOTA POLLUTION CONTROL AGENCY, <http://www.pca.state.mn.us/index.php/about-mpca/index.html> (last visited Sept. 29, 2014).

meeting schedule,⁵ publications available from the agency,⁶ its rules,⁷ its news releases,⁸ information on the air⁹ and water permit application review process,¹⁰ and links to Environmental Protection Agency regulations.

There are several resources that provide information about agencies and their officers in all fifty states. The Administrative Rules section¹¹ of the *National Association of [State] Secretaries of State*¹² website and Washburn Law's Directory of State Information are excellent starting points.¹³

Research in Minnesota administrative law often leads to federal laws and agencies, since a number of federal and state programs intertwine. Several sources provide information about the United States government. The *United States Government Manual*¹⁴ is the official compilation of information about federal administrative agencies. The federal government's online portal USA.gov¹⁵ is another helpful resource for searching federal and state websites. Additional resources are discussed in Section 2.4 on Federal Regulations.

2.3 Minnesota Rules

The essential resources of state administrative law are the rules adopted by state agencies. Although many citizens are unaware of these rules, they have the force and effect of law and occupy more space on a bookshelf than Minnesota Statutes.

⁵ MPCA Citizen's Board, MINNESOTA POLLUTION CONTROL AGENCY, <http://www.pca.state.mn.us/index.php/about-mpca/mpca-overview/mpca-citizens-board/index.html> (last visited Sept. 29, 2014).

⁶ MPCA Publications, Minnesota Pollution Control Agency, <http://www.pca.state.mn.us/index.php/about-mpca/mpca-publications/index.html> (last visited Sept. 29, 2014).

⁷ Regulations, MINNESOTA POLLUTION CONTROL AGENCY, <http://www.pca.state.mn.us/index.php/regulations/index.html> (last visited Sept. 29, 2014).

⁸ MPCA News Releases, Minnesota Pollution Control Agency, <http://www.pca.state.mn.us/index.php/about-mpca/mpca-news/current-news-releases/list.html> (last visited Sept. 29, 2014).

⁹ Air, Minnesota Pollution Control Agency, <http://www.pca.state.mn.us/index.php/air/index.html> (last visited Oct. 1, 2014).

¹⁰ Water, MINNESOTA POLLUTION CONTROL AGENCY, <http://www.pca.state.mn.us/index.php/water/index.html> (last visited Oct. 1, 2014).

¹¹ Administrative Codes & Registers Section of NASS, ADMINISTRATIVERULES.ORG, <http://www.administrativerules.org/> (last visited Oct. 1, 2014).

¹² NATIONAL ASSOCIATION OF SECRETARIES OF STATE, <http://www.nass.org/> (last visited Oct. 1, 2014).

¹³ WASHLAW, <http://www.washlaw.edu/uslaw/index.html> (last visited Oct. 1, 2014).

¹⁴ OFFICE OF THE FEDERAL REGISTER, UNITED STATES GOVERNMENT MANUAL available at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=GOVMAN>.

¹⁵ USA.GOV, <http://www.usa.gov/> (last visited Oct. 1, 2014).

2.3.1 Adoption and Publication

The text of proposed rules and amendments to rules, notice of comment periods and hearing dates, and final adoption of rules and amendments must be published in the *Minnesota State Register*. The *State Register* began weekly publication in 1976 and ceased publication in print in 2004. It is now available online, although individual copies and certified copies can be purchased from the State bookstore.¹⁶ The *State Register* is the official organ for notifying the public about actions of state government, including rulemaking. It is published by the Minnesota Department of Administration and is available online at the Minnesota Revisor of Statutes website as well.¹⁷

Rules, including rules specifically exempted from the Minnesota Administrative Procedure Act (APA),¹⁸ must be published in the *State Register* to be effective. The *State Register* is divided into sections. The sections related to rule-making address proposed rules, adopted rules, and a list of Minnesota Rules amendments and additions that is compiled in various issues throughout the year.¹⁹

The *State Register* also contains the Governor's Executive Orders, Exempt Rules, Revenue Notices, Commissioner's Notices and notices related to state bids, grants and loans.

Publication in the *State Register* is only part of the rulemaking process in Minnesota. Many rules must be heard before the Office of Administrative Hearings as well as being published in the *State Register*. See section 2.5 of this chapter regarding Decisions and Orders of Administrative Law Judges for more information on the role of the Office of Administrative Hearings (OAH) in the Minnesota rulemaking process.

After final adoption by the agency, agency rules are codified into *Minnesota Rules* (referred to as the *Minnesota Agency Rules* on the Revisor of Statutes website to disambiguate them from the Court Rules) published by the Office of the Revisor of Statutes. Agency rules are compiled by issuing agency and arranged according to a uniform decimal numbering scheme. *Minnesota Agency Rules* is available online²⁰ and as a multi-volume hardbound set, published biennially in odd numbered years and updated by pocket parts in even-numbered years. Volume 1 contains a Users' guide, and the last volume contains an index and several useful tables. Certain documents are incorporated by reference into the Rules, for example, the Uniform Building Code. These incorporated documents must be conveniently available and are, at a minimum, available at the Minnesota State Law Library.²¹ To locate a current rule, consult the comprehensive index in the current edition of *Minnesota Rules*, on the Revisor of Statutes website²² or in hard copy. To ensure that the rule has not been amended or repealed, refer next to the *State Register*. The most recent cumulative list of Minnesota Rules amendments and additions should be checked to see if there is

¹⁶ *State Register*, MINNESOTA'S BOOKSTORE, <http://www.comm.media.state.mn.us/bookstore/mnbookstore.asp?page=register> (last visited Oct. 1, 2014).

¹⁷ *State Register*, OFFICE OF THE REVISOR OF STATUTES, https://www.revisor.mn.gov/state_register/ (last visited Oct. 1, 2014).

¹⁸ See Minn. Stat. §§ 14.001-.69 (2014).

¹⁹ To see an example of the cumulative list of rules amended or repealed, see 39 Minn. Reg. 413, 416-17 (Sept. 29, 2014).

²⁰ *Minnesota Administrative Rules* OFFICE OF THE REVISOR OF STATUTES, <https://www.revisor.mn.gov/rules/> (last visited Oct. 1, 2014).

²¹ MINNESOTA STATE LAW LIBRARY, <http://mn.gov/lawlib/> (last visited Oct. 1, 2014).

²² *Minnesota Administrative Rules*, *supra* note 20.

a listing for the chapter and section in question, and this process should be repeated in subsequent issues as necessary. The issues in which the list is cumulated are listed inside the front cover of each issue.²³

In the autumn of 2014 the revisor's office began "beta testing" and providing public access to a prototype of what it calls "a public administrative rule status system."²⁴ The system permits users to both access historical documents related to completed rulemakings and to follow developments of present-day rulemaking proceedings.

As of late 2014, the rule status system afforded access to historical rule information, documents and notices for rules adopted since 1980. The system also made available full-text word search of every volume of the *State Register*, and review access to more than 1,100 agency SONARs (statements of need and reasonableness) and nearly 1,000 rule-related records from the Office of Administrative Hearings.

The lynchpin of the system is the fact that each of the legislative and executive branch agencies involved in the state rulemaking process is now using the Revisor Number as a unique and common identifier for rulemaking documents. In this way, notwithstanding the fact that many different agencies and stakeholders develop materials as part of a particular rulemaking proceeding, the shared Revisor Number permits those items to be electronically tagged and brought to a single online storage and status system.

2.3.2 Historical Research

Between 1970 and 1983, there were several compilations of Minnesota's rules that can be used with varying degrees of success to trace the history of any given rule. Before 1970, compilations did not exist or were published separately by the individual agency. Because the completeness of the compilations is both questionable and variable, tracing the changes in a rule requires a check of previous editions of rules held by the agency in question, and the files of the secretary of state with whom most (but not all) rules were required to be filed.

From 1970 to 1978, the commissioner of administration issued the *Minnesota State Regulations*, a set of eleven loose-leaf volumes. This set collected rules previously published by individual agencies and contained no general index. In 1978, the title changed to *Manual of State Agency Rules*, but no other changes were made.

From 1978 to 1982, the commissioner of administration published the Minnesota Code of Agency Rules (MCAR). This set of fifteen green loose-leaf binders still provided no general index but did have a table of contents by agency. MCAR attempted the first uniform numbering scheme, but agencies retained control over the printing of their rules, and many rules were never

²³ See 39 Minn. Reg. 413, 416-17 (Sept. 29, 2014).

²⁴ *Minnesota Rules Status – Basic Search*, OFFICE OF THE REVISOR OF STATUTES, https://www.revisor.mn.gov/rules/rule_search.php (last visited Oct. 1, 2014)

("[The] beta version of a public administrative rule status system will allow you to follow many of the actions taken by state departments and agencies when they adopt administrative rules. It also provides access to historical rule information, documents and notices for rules adopted since 1980. This system will give you access to the entire State Register in searchable electronic form, over 1,150 agency SONARs (statement of need and reasonableness), and over 920 documents from the Office of Administrative Hearings...").

renumbered. In addition, agencies controlled the sending of updates of compiled rules to subscribers to MCAR, and chaos resulted, with many inconsistencies between sets in different locations.

The legislature mandated sweeping changes in the publication of rules in chapter 615 of the 1980 Minnesota Laws. The authority of the commissioner of administration to publish MCAR was terminated as of July 1, 1982. Responsibility for publishing the new compilation, *Minnesota Rules*, was transferred to the Revisor of Statutes with the goal of making rules as accessible as statutes. The revisor was empowered to require that rules be submitted for publication in a standardized format prescribed by the revisor. As of January 1985, agencies otherwise exempt from the APA were also required to submit their rules to the revisor for publication in *Minnesota Rules*.

In 1982, the revisor issued the MCAR reprint in seventy paperbound pamphlets arranged by agency to fill the gap until the completion of *Minnesota Rules*. The MCAR reprint contains all rules in effect on September 15, 1982. The revisor's office kept the old numbering scheme but attempted to correct filing errors; hence, the reprint contains rules not previously compiled.

The first edition of *Minnesota Rules* was published in 1983 in seven hardbound volumes. All rules are renumbered according to the new decimal scheme, and tables provide cross-references between old and new numbers. A new comprehensive index provides access to the entire set.

2.3.3 Rulemaking Aids

There are a number of publications that are of assistance to a person interested in participating in the rulemaking process. The Office of the Revisor of Statutes publishes *Rulemaking in Minnesota: A Guide*, written by Paul M. Marinac.²⁵ This publication sets out the steps in the rulemaking process for rules with a hearing, rules without a hearing, and exempt rules. Included are the relevant statutory and rule cites. The revisor also publishes the *Minnesota Rules Drafting Manual with Styles and Forms*.²⁶ The Manual contains guidelines on clear drafting, how to draft amendments, forms of citation and a style guide. It is helpful to a rulemaking participant who wishes to submit a proposed amendment or replacement to the agency. A detailed explanation of how to adopt rules is provided in the *Minnesota Rulemaking Manual*, authored by David Orren and Patricia Winget.²⁷ This helpful publication provides step-by-step instructions for agency rulewriters including help with such topics as rule development, developing the statement of need and reasonableness, and giving notice of the rulemaking. It includes checklists and forms.

²⁵ Paul M. Marinac, *Rulemaking in Minnesota: A Guide* (2014), available at https://www.revisor.mn.gov/revisor/pubs/2014_all_rulemaking_guide.pdf.

²⁶ Office of the Revisor of Statutes, *Minnesota Rules Drafting Manual with Styles and Forms* (1997), available at https://www.revisor.leg.state.mn.us/revisor/pubs/arule_drafting_manual/Cover1.htm.

²⁷ MINNESOTA RULEMAKING MANUAL (Patricia Winget ed., 2014) available at <http://www.health.state.mn.us/rules/manual/2014manual.pdf>

2.4 Federal Regulations

Publication of federal administrative rules is an example of informal or “notice and comment” rulemaking. Unlike in Minnesota, there are typically no administrative hearings for rulemaking in the federal rulemaking process. Proposed and final rules as well as notices are initially published in the *Federal Register*²⁸, a daily publication since 1936.²⁹

Final rules are then compiled into the *Code of Federal Regulations* (CFR), which is divided into fifty titles that correspond roughly with the titles of the United States Code. Each title of CFR is recompiled annually. The eCFR is an official version of the CFR that is frequently updated with Federal Register changes.³⁰ The date of the most recent update is prominently displayed on the eCFR’s homepage. The CFR (in print and the digital equivalent of the CFR³¹) is updated quarterly in stages, which requires updating with the *List of CFR Sections Affected*.³²

Regulations.Gov³³ is a recent website that compiles proposed and final rules as well as public comments, agency notices and supporting materials in a more modern, Web 2.0 format.

2.5 Decisions and Orders of Administrative Agencies

Administrative agency hearings may occur either during the rulemaking process³⁴ or in the context of contested cases. The contested case or trial-type hearings generally result in a decision or a final order being issued by the agency rather than the administrative law judge.

In 1975, the Minnesota Legislature created the Office of Administrative Hearings (OAH) (formerly the office of hearing examiners) to preside over hearings required by the Minnesota APA. The OAH has rulemaking authority, and its rules, which govern the conduct of rulemaking and contested case hearings, appear in Minnesota Rules chapter 1400. After a contested case hearing, the administrative law judge's report containing findings of fact, conclusions, and a recommendation is filed with the agency, which then makes a final decision.

Some administrative law judge (ALJ) decisions are final rather than advisory. These final decisions and recommended decisions are often available at the OAH website.³⁵

²⁸ *Federal Register*, U.S. GOVERNMENT PRINTING OFFICE, <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR> (last visited Oct. 1, 2014).

²⁹ HeinOnline provides a comprehensive list of the *Federal Register* and *Code of Federal Regulations* (CFR) in Portable Document Format (PDF). Not only does Hein have the current issue of the CFR but starting with the first issue, HeinOnline provides every annual issue of the CFR.

³⁰ *Electronic Code of Federal Regulations*, U.S. GOVERNMENT PRINTING OFFICE <http://www.ecfr.gov/cgi-bin/ECFR?page=browse> (last visited Oct. 1, 2014).

³¹ *Code of Federal Regulation (Annual Edition)*, U.S. GOVERNMENT PRINTING OFFICE, <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> (last visited Oct. 1, 2014).

³² *About List of CFR Sections Affected*, U.S. GOVERNMENT PRINTING OFFICE, http://www.gpo.gov/help/about_list_of_cfr_sections_affected.htm (last visited Oct. 1, 2014).

³³ *The eRulemaking Initiative*, REGULATIONS.GOV, <http://www.regulations.gov/#!aboutProgram>, (last visited Oct. 1, 2014).

³⁴ Minn. Stat. §§ 14.14, .25 (2014) both require a hearing if more than twenty-five (25) comments are received on a proposed rule.

³⁵ *Opinions Archive*, OFFICE OF ADMINISTRATIVE HEARINGS. <http://mn.gov/oah/administrative-law/Opinions/> (last visited Oct. 1, 2014).

Older opinions are on file at the office, the legislative reference library (LRL) and the law library of William Mitchell College of Law. Some ALJ decisions are summarized in *Finance and Commerce*. *Lexis Advance* and *WestlawNext* both contain selected Minnesota ALJ decisions. *Bloomberg Law* and *Fastcase* do not yet contain Minnesota ALJ opinions.

Agency decisions are not generally published for distribution but are usually available from the issuing agency, the Minnesota State Documents Center, and sometimes from the Office of Administrative Hearings. Each administrative agency is responsible for maintaining the record of a contested case proceeding, including pleadings, exhibits, briefs, a transcript if one was prepared, and the recommended and final decisions. If no transcript has been prepared, the tapes of the hearing are retained at the Office of Administrative Hearings for five (5) years. Opinions of the State Ethical Practices Board and the Department of Human Rights were published in the *State Register* in 1976 and 1977. Now it contains only summaries of the opinions of the State Ethical Practices Board. Some agencies include selected opinions or summaries of opinions in their annual reports (e.g., the Minnesota State Claims Commission Report and early reports of the Minnesota Railroad and Warehouse Commission). Beginning in 1993, the Commissioner of Administration began issuing opinions interpreting the Minnesota Government Data Practices Act.³⁶ These opinions are available from the Department of Administration.

The Minnesota Department of Administration's Information Policy Analysis Division (IPAD) maintains a topical index of Data Practices Act advisory opinions.³⁷ The Public Law Section of the Minnesota State Bar Association (MSBA) publishes an index of data practices opinions issued as part of their newsletter, the Public Law News.³⁸ Selected opinions are summarized in the Administrative Law News, the newsletter of the Administrative Law Section of the Bar Association.³⁹

Minnesota has two administrative courts that function in the executive, rather than the judicial, branch of government. The Tax Court⁴⁰ (formerly the Board of Tax Appeals) hears appeals by taxpayers from determinations by the commissioner of revenue with regard to taxes, fees, and assessments. Rules of the tax court are found online and in *Minnesota Rules* chapter 8600. Decisions of the tax court are published on the Tax Court's website, on *Bloomberg Law*, *Lexis Advance* and *WestlawNext*. They may also appear in commercially published legal newspapers. Tax court decisions also appear in the Minnesota coverage of the Commerce ClearingHouse (CCH) Intelliconnect product and Thomson Reuter's Checkpoint.⁴¹

The workers' compensation court of appeals is an independent appellate tribunal and hears appeals from decisions of compensation judges in the office of administrative hearings. The

³⁶ Minn. Stat. § 13.072, subd. 1 (2014).

³⁷ *Advisory Opinions by Topic*, INFORMATION POLICY ANALYSIS DIVISION, MINNESOTA DEPARTMENT OF ADMINISTRATION, <http://www.ipad.state.mn.us/opinions/> (last visited Oct. 1, 2014).

³⁸ *Public Law Section*, MINNESOTA STATE BAR ASSOCIATION, <http://msba.mnbar.org/members/committees-sections/msba-sections/public-law-section#.VC4qsRbZ2xU> (last visited Oct. 1, 2014).

³⁹ *Administrative Law Section*, MINNESOTA STATE BAR ASSOCIATION, <http://msba.mnbar.org/members/committees-sections/msba-sections/administrative-law-section#.VC4rkxbZ2xU> (last visited Oct. 1, 2014).

⁴⁰ MINNESOTA TAX COURT, <http://www.taxcourt.state.mn.us/> (last visited Oct. 1, 2014).

⁴¹ These databases are available by subscription or through a local law library.

court's rules appear in Minnesota Rules chapter 9800. Selected opinions are published in *Workers' Compensation Decisions*, which is available the Office of Administrative Hearings website.⁴² William Mitchell College of Law in Saint Paul, Minnesota has the only complete historical collection of *Minnesota Workers' Compensation Decisions*.

A cumulative index for volumes 1 through 22 was prepared by the division of workers' compensation of the department of labor and industry. Indexes for volumes 23 through 34 were prepared by Minnesota Continuing Legal Education (CLE). Minnesota CLE now publishes a *Minnesota Workers' Compensation Deskbook*⁴³ and regularly holds CLE's related to workers' compensation topics.

The federal APA governs hearings in most federal agencies. Notices of hearings on proposed rules are published in the *Federal Register*. Decisions and orders of federal agencies in contested cases are published much more widely than are Minnesota agency decisions. Many federal agencies publish reports of their decisions through the United States Government Printing Office.⁴⁴ These decisions are also frequently included in commercially research databases as well.⁴⁵

2.6 Opinions of the Attorney General

The Minnesota attorney general issues opinions on state law to state agencies, public pension funds and local subdivisions of government. These opinions are advisory, except that in all school matters and some issues relating to the commissioner of revenue, opinions are binding until overturned by the courts. Since 1968, opinions of the Minnesota attorney general have been published monthly in the *Minnesota Legal Register*. Selected opinions or summaries also appear in other legal newspapers, such as *Finance and Commerce*. Attorney general opinions issued since 1977 are available on WestlawNext and Lexis Advance. Opinions issued since 1993 are available on the Attorney General's library.⁴⁶

From 1894 to 1968, selected opinions were included in the attorney general's biennial report. Compilations of selected opinions were published from 1858 to 1865, 1858 to 1885, and 1960 to 1968. These opinions were arranged by topic and numbered consecutively. Since 1934, the attorney general's office has assigned classification numbers reflecting the topic of the opinion. A complete set of opinions from 1858 to date on microfiche is available from the Minnesota Attorney General's Library.⁴⁷ These opinions are arranged both chronologically and by subject classification number.

⁴² *Workers' Compensation*, OFFICE OF ADMINISTRATIVE HEARINGS, , <http://mn.gov/oah/workers/> (last visited Oct. 3, 2014).

⁴³ *MN Workers' Compensation Deskbook*, MINNESOTA CONTINUING LEGAL EDUCATION, , <http://www.minncle.org/PublicationDetail.aspx?ID=60907> (last visited Oct. 3, 2014).

⁴⁴ For example, one can access Federal Trade Commission Reports and Decisions & Orders of the NLRB through a search of the *Catalog of U.S. Government Publications*, U.S. GOVERNMENT PRINTING OFFICE, <http://catalog.gpo.gov/F?RN=502967043> (last visited Dec. 2, 2014).

⁴⁵ E.g., Lab. Rel. Rep. (BNA); Trade Reg. Rep. (CCH).

⁴⁶ *Attorney General Opinions*, THE OFFICE OF THE MINNESOTA ATTORNEY GENERAL, <http://www.ag.state.mn.us/office/Opinions/Default.asp> (last visited June 2, 2015).

⁴⁷ Id.

Due to the complexity of locating Minnesota Attorney General Opinions, it is recommended to consult with a law librarian or the Attorney General's Library staff.⁴⁸

There is no comprehensive index to attorney generals' opinions. The attorney general's office maintains the only complete list of the subject classifications by which opinions are numbered, although these classifications have been somewhat inconsistent. The *Numerical Index to the Selected Opinions of the Minnesota Attorney General 1933-1969*, compiled in 1976 by Barbara Golden, who went on to become State Law Librarian, provides a useful cross-reference from the subject classification numbers to the numbers assigned in the biennial reports, the 1960 to 1968 compilation, and volumes 1 and 2 of the *Minnesota Legal Register*. This allows the researcher with only the subject classification number to locate the opinion if it appears in one of the listed sources. There is a subject index covering 1894 to 1902 prepared by the public examiner, and one from 1910 to 1938 prepared by the Minnesota County Attorneys' Association. There are also individual subject indexes in the biennial reports and annual volumes of the *Minnesota Legal Register*.

Minnesota Statutes Annotated includes references to attorney generals' opinions in its annotations to statutory sections that have been the subject of an opinion. The opinions are cited by the year, number, and page in the biennial report. *Shepard's Minnesota Citations* lists attorney generals' opinions as citing references to cases but lists selected opinions in the biennial reports from 1902 to 1960 as cited references.

Selected *Opinions of the Attorney General of the United States* are published by the Office of Legal Counsel via their electronic reading room.⁴⁹ *Official Opinions of the Attorneys General of the United States* is the official reporter of federal attorney generals' opinions. Bound volumes are published very slowly. *Attorney General Opinions* back to 1791 are available from Westlaw, Lexis and HeinOnline.⁵⁰

2.7 Legislative Research

In many contested cases, as well as in judicial review of rules and contested cases, the parties are required to ascertain the legislative intent in the enactment of a statute. The rules of statutory construction provide that the legislative history is one factor to consider in ascertaining the intention of the legislature.⁵¹ The Minnesota Supreme Court has recognized that where statutory language is not explicit, legislative history, such as committee reports, journal entries, and tape recordings of committee meetings or floor sessions may be probative.⁵² While the court stated that statements made by legislators in committee or on the floor are to be treated with caution, it does accord some weight to statements made by the sponsor of a bill or amendment, as to its purpose or effect.⁵³

⁴⁸ As of October 2014, the Minnesota Attorney General's library may be contacted by emailing library.ag@ag.state.mn.us.

⁴⁹ *Opinions*, THE U.S. DEPARTMENT OF JUSTICE,, <http://www.justice.gov/olc/opinions-main> (last visited Oct. 3, 2014).

⁵⁰ *Attorney General Opinions*, ZIMMERNAN'S RESEARCH GUIDE, , <http://law.lexisnexis.com/infopro/zimmermans/disp.aspx?z=1198> (last visited Oct. 3, 2014).

⁵¹ Minn. Stat. § 645.16 (2014).

⁵² *Handle with Care v. Dep't of Human Servs.*, 406 N.W.2d 518, 522 (Minn. 1987)

⁵³ *Id.*

The research materials available to track legislative action includes the bills themselves, the daily *Journals* of the House and Senate, committee minute books, floor session logs, audiotapes of older committee hearings and video recordings for newer committee hearings as well as recorded floor sessions. The process of tracking down these materials is time-consuming and begins with a check of the history notes of the statute in question, which are printed in the statutes after each section. A researcher can then proceed from the session laws to the bill numbers, to the *Journals*, to the Committee minute books. A step-by-step guide to this process is available at the Legislative Reference Library.⁵⁴

Research into an agency's intent in adopting a rule will usually lead to the Statement of Need and Reasonableness (SONAR) prepared by the agency in its rulemaking proceeding. Minnesota courts look to the SONAR in determining intent.⁵⁵ The SONAR is available at the agency with the rest of the rulemaking record. If a hearing was held the record may also contain a transcript if one was prepared. If no transcript was prepared the tapes of the hearing are maintained at the Office of Administrative Hearings for a period of five years. The rule record will also contain the written public comments on the rule and the report or order of the administrative law judge.

2.8 Secondary Sources in Administrative Law

In addition to primary administrative materials, secondary sources provide analysis and interpretation of administrative law principles. There are several sources that are commonly used references in the area of federal administrative law. Kenneth Culp Davis is one of the foremost administrative law scholars. His *Administrative Law Treatise*⁵⁶ is perhaps the most scholarly current work in the area. The *Treatise* is now in its third edition and is co-authored by Professor Richard J. Pierce, Jr. Although the primary focus of the *Treatise* is federal law, a number of the topics are also relevant to state administrative law, such as, investigations, evidence, estoppel, and res judicata, to name a few. Another well-organized work whose focus is primarily federal law is Professor Charles H. Koch, Jr.'s *Administrative Law and Practice*.⁵⁷ *Schwartz's Administrative Law*⁵⁸ is a single volume treatment of administrative law and procedure. It includes discussion of both federal and state law. In addition, there are myriad law review articles that delve into specific areas of administrative law. Two prominent journals with useful articles are the *Administrative Law Review* published by the section of administrative law & regulatory practice of the American Bar Association through the Washington College of Law at American University and the *Journal of the National Association of Administrative Law Judges* published at the Loyola University Chicago School of Law.

⁵⁴ A detailed guide to Minnesota legislative research can be found at MINNESOTA LEGISLATIVE REFERENCE LIBRARY, <http://www.leg.state.mn.us/leg/leghist/histstep.aspx> (last visited Dec. 2, 2014).

⁵⁵ *Boedingheimer v. Lake Country Transp.*, 485 N.W.2d 917, 920 (Minn. 1992); *Ebenezer Soc'y v. Minn. Dep't of Human Servs.*, 433 N.W.2d 436, 440 (Minn. Ct. App. 1988).

⁵⁶ 1-3 Kenneth C. Davis & Richard J. Pierce, Jr., *Administrative Law Treatise* (5th ed. 2010).

⁵⁷ Charles H. Koch, *Administrative Law and Practice* (3d ed. 2010).

⁵⁸ Bernard Schwartz, *Administrative Law* (8th ed. 2014).

Frank Cooper's two-volume *State Administrative Law*⁵⁹ is a comprehensive treatment of the state perspective. Although it has not been updated since 1965, it remains a useful resource since it is organized by topics common to state administrative law. A summary of Minnesota statutory and case law can be found in *Dunnell Minnesota Digest*.⁶⁰ A concise introduction to the topic of Minnesota administrative procedure can be found in Keppel and Gilbert's *Minnesota Administrative Practice and Procedure*.⁶¹ A more detailed treatment is found in the recently published *Administrative Practice and Procedure*⁶² authored by William J. Keppel and published as a part of Westlaw's Minnesota Practice Series. Particularly helpful to readers of this treatise are Professor Keppel's sections on data practices (§ 4.04), the open meeting law (§ 4.05) and the availability of and timing of judicial review (chapters 12 and 13). A variety of continuing education publications provide additional guidance on the Minnesota law, *Bench and Bar*, *Hennepin Lawyer*, and *The Hamline Journal of Public Law* are periodicals that provide coverage of the trends and changes in Minnesota administrative law. *Bench and Bar's* Notes & Trends feature contains a column on case law and legislative developments in administrative law. An additional Minnesota administrative law publication is *Administrative Law News*, the newsletter of the administrative law section of the Minnesota State Bar Association. It summarizes recent Minnesota administrative case law.

The sole treatise dealing with state agency rulemaking is *State Administrative Rule Making* by Professor Arthur E. Bonfield.⁶³ The treatise is organized along the lines of the 1981 Model State Administrative Procedure Act of which Professor Bonfield was the draftsman. However, the author has collected a wealth of state administrative law dealing with rulemaking, both in the original volume as well as the supplements.

⁵⁹ 1 & 2 Frank E. Cooper, *State Administrative Law* (1965); see also Cheryl Rae. Nyberg, *State Administrative Law Bibliography: Print and Electronic Media Sources* (2000).

⁶⁰ 1 DUNNELL MINN. DIGEST, *Administrative Law* §§ 1.00-2.13 (6th ed. 2014).

⁶¹ William Keppel & Dayton Gilbert, *Minnesota Administrative Practice and Procedure* (Advanced Legal Education 1982).

⁶² William J. Keppel, *Minnesota Practice Series: Administrative Practice and Procedure* (2d ed., 2007).

⁶³ Arthur Bonfield, *State Administrative Rule Making* (1986).