

NYCRR History and the Process of Keeping it Up-to-Date: Important Information for Using this Database

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The *Official Compilation of the Codes, Rules and Regulations of the State of New York*, commonly referred to as the “NYCRR,” contains the full text of codes, rules and regulations promulgated by over 100 state agencies and departments. They generally have the “full force and effect of laws,” but are not “laws” or “legislation” per se, because they are not passed by the legislature and signed into law by the governor. Instead, the legislature passes an “enabling statute,” which delegates certain legislative powers to an agency or department. “Enabling statutes” often create the administrative agency, and assign specific legislative and quasi-judicial powers to that agency. For example, Ch. 140 of the Laws of New York 1970 created the Department of Environmental Conservation, and granted it the authority to “adopt, amend or repeal environmental standards, criteria and...rules and regulations to carry out the purposes” of environmental conservation and protection. Since the creation of laws is strictly a legislative function, the legislature must specifically cede this authority to an agency in order to pass constitutional muster.

While some of New York’s agencies trace their history back to the nineteenth century, most were twentieth century creations. By the late 1920s, enough agencies (and their corresponding rules) existed that legal practitioners noted the difficulty in determining what those rules were. This prompted the legislature, in 1928, to establish the monthly *State Bulletin*. The *Bulletin* only included new rules and regulations, and provided very little in the way of subject matter organization. By 1940, state agencies and departments had greatly multiplied in number and scope. The need for an organized, comprehensive source of all the agencies’ rules and regulations became more and more apparent. In 1944, the legislature authorized the Secretary of State to prepare “a compilation of all such codes, rules and regulations in such form as he may determine.” The result was the first edition of the NYCRR, published on April 30, 1945.

Since its inception, the NYCRR has been organized according to the agencies and/or departments responsible for promulgating the rules and regulations under their purview. Currently, the NYCRR contains 23 “titles” with names like “Department of Labor” (Title 12) or “Department of Motor Vehicles” (Title 15).

In order to keep the NYCRR current, it has always been published as a “loose-leaf” set. As new rules and regulations are created, new pages are interfiled within the volume, and pages containing the defunct (superseded) rules are removed and discarded. This allows the NYCRR to be regularly updated, resulting in a set that is perpetually up-to-date. If practitioners and litigants only ever needed the current rules and regulations, there would be no need for this database.

However, the need sometimes arises to know the text of a particular rule or regulation on a given date in the past. Imagine a case that hinges on whether or not a bank was in compliance with regulations when it issued a mortgage loan 30 years ago. The pages that contained those regulations was likely removed from the NYCRR many years ago, and in most instances, discarded.

Luckily, several libraries across the state, including the Charles B. Sears Law Library at SUNY Buffalo, the Buffalo Supreme Court Library and the Appellate Division Law Library, have steadfastly maintained complete collections of those discarded or “replaced” pages. For decades, the only way to effectively determine the text of a superseded regulation was to physically visit a library that kept the replaced pages. Even then, the process was at once both complicated and tedious. The most straightforward method was to locate the current section in the NYCRR, and use the historical note to locate previous versions among the replaced pages. For example, if you need to know the text of a section as it read in April of 1988, you’d first need to locate the section in the current NYCRR to consult the historical note. Let’s say the note indicates the section went into effect in 1965, and was subsequently amended on December 1, 1986 and September 1, 1990. You would need to locate the page that was removed in September 1990, because the version in effect from 1986-1990 would have been removed at that time.

The same process is at play in the database. The results of any successful search in the database will list documents in the following format:

TitleX-TitleName-YYYY-MM.pdf

For example, a result with the name **Title3-Banking-1990-08.pdf** will include all Title 3 pages *removed* from the NYCRR in August of 1990.

Understanding the process that was (and still is) used to update the current NYCRR will be very valuable to researchers attempting to use this database. At the very least, consulting the historical note of current NYCRR sections will be vital. That said, there are several things that are possible in the database that were never possible before—full-text searching being the most obvious and useful example.

We hope that the database will prove to be a valuable asset for researchers for years to come, and welcome any feedback you may wish to share.