

**8830.5300 RAIL REHABILITATION PROJECT.**

Subpart 1. **Eligibility.** A rail line, or portions of it, is eligible for rehabilitation funding if:

A. it does not comply with FRA Class II Track Safety Standards adopted in part 8830.3200, or it does not have the required structural capacity to support rail cars of 263,000 pounds (119.3 metric tons) gross weight;

B. it is within the physical boundaries of or predominantly serves rail users in Minnesota; and

C. a contract has been negotiated that meets the requirements of parts 8830.5300 to 8830.5700, and Minnesota Statutes, section 222.50, and, when federal funds are used, the local rail freight assistance program.

Subp. 2. **Priority criteria.** The following criteria govern the priority of projects proposed for funding:

A. the availability of state or federal program funds;

B. the probability of the rail line continuing in profitable service after the project is completed;

C. the costs of the project compared to the benefits resulting from the project;

D. the level of commitment of a rail carrier and rail users to participate financially in the project;

E. the significance of the line in relationship to the entire state rail system; and

F. the impact on state, county, and city access roadways if the funding is not provided.

Subp. 3. **Standards.** Rail line rehabilitation must be performed to the extent that it allows the use of rail cars having a gross weight of 263,000 pounds (119.3 metric tons) and that it allows trains to operate safely at a minimum of FRA Class I Track Safety Standards adopted in part 8830.3200. The commissioner shall approve rehabilitation to an alternate standard only if it meets or exceeds the standards cited in this subpart and will provide the required level of service. The rail line must be maintained to the maintenance and safety levels set forth in the rehabilitation contract.

Subp. 4. **Project funding.** Funding for rail rehabilitation projects must be computed under item A or B.

A. For rail rehabilitation on a rail line not owned by a regional railroad authority, the division of costs must comply with the following formula:

(1) The commissioner shall make a grant or loan of federal funds; a loan of state funds; or combination grant or loan of federal funds and loan of state funds, of up to 70 percent of the total cost of a project. A grant must not exceed 50 percent of the project cost.

(2) Rail users shall loan the rail carrier a minimum of ten percent of the cost of a project.

(3) The rail carrier shall provide a minimum of 20 percent of the cost of a project, and shall repay the loans from the rail users and the loans of federal and state funds.

B. If a rehabilitation project is on a rail line owned by a Regional Railroad Authority, the division of costs must comply with the following formula:

(1) The commissioner shall make a grant or loan of federal funds; a loan of state funds; or combination grant or loan of federal funds and loan of state funds, of up to 80 percent of the total cost of a project.

(2) Rail users shall loan the Regional Railroad Authority a minimum of ten percent of the total cost of a project.

(3) The Regional Railroad Authority shall provide a minimum of ten percent of the total cost of the project and shall repay the loans from the rail users and the loans of federal and state funds.

C. Participation in a contract by a party may include in-kind participation if agreed to by all parties to the contract. A detailed description and fair market value of all in-kind participation must be clearly defined in the contract.

Subp. 5. **Repayment requirements.** The rail carrier shall reimburse the rail users for funds loaned to it under a formula based on usage of the line, or a predetermined fixed amount. Repayment must be made on terms negotiated between the rail carrier and the rail user and approved by the commissioner.

The rail carrier shall repay the funds loaned to it by the commissioner in accordance with terms negotiated between the rail carrier and the commissioner. Payments must be made on a set schedule and be sufficient to repay the loan within 15 years from the execution of the contract.

The rehabilitation contract must provide for an extension of time if service is stopped or reduced by events beyond the control of the parties to the contract, unless the cessation or reduction is the result of diminished demand for service.

**Statutory Authority:** *MS s 218.071; 219.073; 219.165; 219.17; 219.384; 222.50; 222.58; 222.63*

**History:** *23 SR 524*

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