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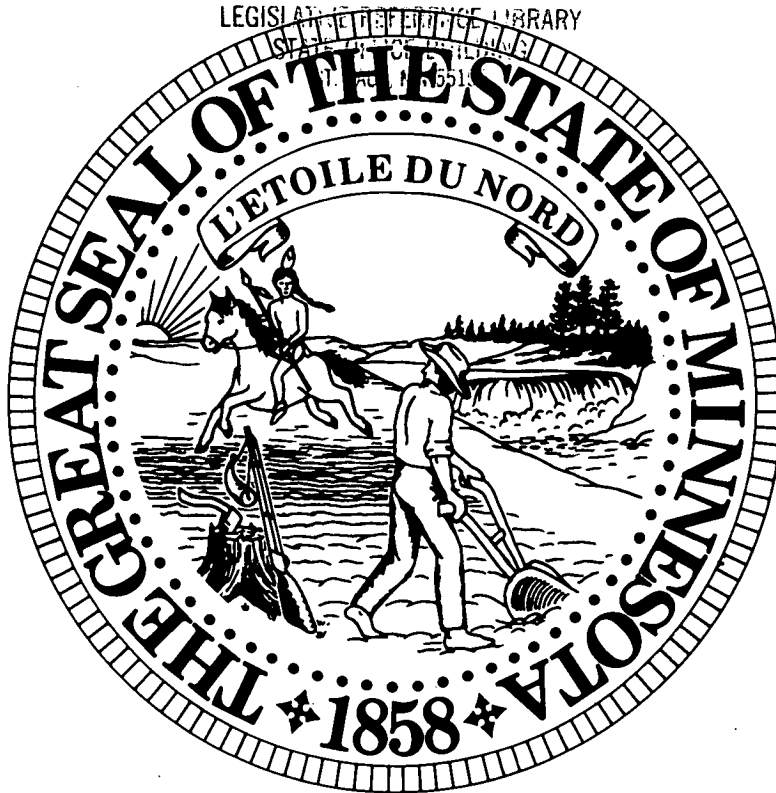
The Minnesota State Register

Department of Administration—Print Communications Division

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Rules edition
Published every Monday
(Tuesday if Monday is a holiday)

Monday 27 January 1992
Volume 16, Number 31
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State Register

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official and revenue notices, state and non-state contracts, contract awards, grants, a monthly calendar of cases to be heard by the state supreme court, and announcements.

A *Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.

Printing Schedule and Submission Deadlines

Vol. 16 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
31	Monday 13 January	Friday 17 January	Monday 27 January
32	Friday 17 January	Monday 27 January	Monday 3 February
33	Monday 27 January	Monday 3 February	Monday 10 February
34	Monday 3 February	Monday 10 February	Tuesday 18 February

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *State Register* is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *State Register Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme court; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *State Register* be self-supporting, the following subscription rates have been established: the Monday edition costs \$140.00 per year and includes an index issue published in August (single issues are available at the address listed above for \$3.50 per copy); the combined Monday and Thursday editions cost \$195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for \$60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

Subscribers who do not receive a copy of an issue should notify the *State Register* circulation manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

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Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

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NOTICE: How to Follow State Agency Rulemaking in the *State Register*

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the *Official Notices* section of the *State Register*. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-9747.

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Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Agriculture

Proposed Permanent Rules Relating to Wholesale Produce Dealers

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Agriculture intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22-14.28. The statutory authority to adopt this rule is *Minnesota Statutes*, section 27.14.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to *Minnesota Statutes*, sections 14.131-14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

The proposed rule may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Proposed Rules

identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Ms. Milligan.

The major impact of the proposed rule is financial protection for producers and wholesale produce dealers, most of which are small businesses. The rule will not add any recordkeeping or reporting requirements, but it will require that wholesale produce dealers not encumber any assets they have not paid for in order to satisfy outstanding obligations to sellers of produce.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule must submit a written request to Ms. Milligan.

Dated: 4 January 1992

Elton Redalen, Commissioner
Department of Agriculture

Rules as Proposed (all new material)

1500.0101 PURPOSE.

The purpose of parts 1500.0101 to 1500.1501 is to provide economic protection for the producers and sellers of perishable agricultural products.

1500.0201 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1500.0101 to 1500.1501.

Subp. 2. **Bond.** "Bond" means an obligation for which one is bound that is executed and filed with the commissioner of agriculture in the name of the state of Minnesota requiring that the wholesale produce dealer must live up to the contracts and obey the laws and rules covering wholesale produce dealers.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or a designee.

Subp. 4. **Pool.** "Pool" means a fund containing contributions by farmers and wholesale produce dealers to reimburse farmers for produce committed for but not harvested.

Subp. 5. **Principal.** "Principal" means a person who empowers another to act on his or her behalf.

Subp. 6. **Purchase.** "Purchase" means the acquisition of produce by a wholesale produce dealer in exchange for payment. It is immaterial whether the purchaser or the seller has title to the produce.

1500.0301 SIGNED INVOICE.

An invoice that is being treated as a contract under *Minnesota Statutes*, section 27.01, subdivision 5, must be signed by the buyer of the produce.

1500.0401 CASH.

Cash, as defined in *Minnesota Statutes*, section 27.01, subdivision 8, paragraph (c), clause (3), does not include personal or business account checks.

1500.0501 PERISHABLE PRODUCTS.

Under *Minnesota Statutes*, section 27.01, subdivision 8, paragraph (c), clause (4), perishable agricultural products protected by the Wholesale Produce Dealers Act include:

A. poultry and poultry products;

B. milk and milk products that have a shelf life of less than 60 days; and

C. perishable fruits and vegetables, including all fruits, vegetables, and mushrooms in fresh form whether or not packed in ice or held in cold storage, but not including perishable fruits and vegetables that have been manufactured into articles of food of a different kind or character. The effects of the following operations must not be considered as changing a commodity into a food of a different kind or character: water or steam blanching, chopping, color adding, curing, cutting, dicing, drying for the removal of surface moisture, fumigating, gassing, heating for insect control, ripening, coloring, removal of seed, pits, stems, calyx, husk, pods, rind, skin or peel, polishing, precooking, refrigerating, shredding, slicing, trimming, washing with or without chemicals, waxing or adding of sugar or other sweetening agents, adding ascorbic acid or other agents used to retard oxidation, mixing of several kinds of sliced, chopped, or diced fruits or vegetables for packaging in any type of containers, pasteurization, homogenization, and grading.

1500.0601 FINANCIAL STATEMENTS.

An application for licensing under the Wholesale Produce Dealers Act must be accompanied by a financial statement as required under *Minnesota Statutes*, section 27.04, subdivision 2, paragraph (a), clause (5). The financial statement must be prepared according to generally accepted accounting principles that meet the requirements in items A to D.

A. The financial statement must include, but is not limited to:

- (1) accountant's report;
- (2) statement of financial position (balance sheet); and
- (3) statement of operations (income statement).

B. The financial statement must be accompanied by a compilation report of the financial statement that is prepared by a person or firm approved by the commissioner or by an independent public accountant, according to standards established by the American Institute of Certified Public Accountants.

C. The financial statement must be accompanied by a certification by the chief executive officer or the chief executive officer's designee of the licensee, under penalty of perjury, that the financial statement accurately reflects the financial condition of the licensee for the period specified in the statement.

D. The commissioner may refuse to issue or renew a license or may suspend a license upon determining, based upon the financial statement filed under this part or other financial information obtained by the commissioner, that the applicant or the licensee is not financially able to properly perform the services and operate the business for which the license is issued.

E. The copies of contracts required by *Minnesota Statutes*, section 27.04, subdivision 2, paragraph (b), do not have to contain price schedules and charges. If the same contract is given to more than one seller, only one copy of that contract is required.

1500.0701 BONDS AND IRREVOCABLE LETTER OF CREDIT.

In lieu of a surety bond, the commissioner may accept an irrevocable letter of credit if the licensee has been licensed for at least three years and there have been no complaints concerning the licensee during the past three years, the licensee's ratio of current assets to current liabilities is at least 1.2 to 1, and the licensee's total assets exceed total liabilities.

The Department of Agriculture "Minnesota Bond of Wholesale Produce Dealer" form must be used for all wholesale produce dealer bonds.

1500.0801 CLAIMS AGAINST A BOND.

Subpart 1. **Filing a claim.** Claims against a bond may be filed by a producer or wholesale produce dealer claiming to be damaged by the breach of an agreement to purchase produce. A claim must be filed with the commissioner within 40 days following the due date. Due date means ten days from the date of delivery of produce by the seller to the licensee or the due date specified in a contract between the buyer and seller. In the case of milk processing plants, the due date means 15 days following the monthly day of accounting.

Subp. 2. **Form of claim.** All claims must be in writing, must state the facts upon which the claim is based, must include all supporting evidence, and must be signed by the claimant. The supporting evidence must consist of, but is not limited to, a contract, purchase agreement, a check indicating insufficient funds, and purchase receipts.

Subp. 3. **Where to file.** All claims must be filed at the following address: Minnesota Department of Agriculture, Plant Industry Division, Fruit and Vegetable Section, 90 West Plato Boulevard, Saint Paul, Minnesota 55107.

Subp. 4. **Notice to licensee.** Upon receipt of a claim, the licensee must be informed that a claim has been made and given ten days in which to pay or challenge the claim.

Subp. 5. **Bond proceeds.** If bond proceeds are inadequate to cover all claims, claims of farmers must take priority. Proceeds must be distributed in pro rata shares.

1500.0901 MEDIATION AND ARBITRATION.

Subpart 1. **Definitions.** The definitions in items A and B apply to this part.

A. "Mediation" is a process by which the parties to a dispute jointly explore and resolve all or a part of their differences with the assistance of a neutral person. The mediator's role is to assist the parties in resolving the dispute themselves. The mediator has no authority to impose a settlement.

B. "Arbitration" is a process by which the parties to a dispute submit their differences to the judgment of an impartial party. The arbitrator's role is to hear the parties' arguments and issue a decision (grant an award) resolving the dispute.

Subp. 2. **Procedure.** If mediation or arbitration services are requested, the commissioner may refer the parties to outside mediation or arbitration services or conduct the services within the Department of Agriculture. Mediation and arbitration activities of the commissioner must be conducted according to *Minnesota Statutes*, chapter 572.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Proposed Rules

Subp. 3. **Required clauses.** Mediation or arbitration clauses are required in all contracts signed by Minnesota producers.

1500.1001 PARENT COMPANY.

Subpart 1. **Voting power.** A corporation, partnership, or association that directly, or indirectly through related entities, owns more than 50 percent of the voting power of the shares entitled to vote for directors of a subsidiary corporation is liable to a seller of agricultural commodities for any unpaid claim or contract performance claim of that subsidiary corporation.

Subp. 2. **Management or control.** A corporation, partnership, or association that directly, or indirectly through related entities, provides more than 50 percent of the management or control of a subsidiary is liable to the seller of an agricultural commodity for any unpaid claim or contract performance claim of the subsidiary.

1500.1101 WHOLESALE PRODUCE DEALERS TRUST.

Subpart 1. **Scope.** The requirements of this part cover all transactions existing as of and entered into on or after the effective date of this part that have been issued under *Minnesota Statutes*, section 27.137.

Subp. 2. **Definitions.** The definitions in this subpart apply to parts 1500.1101 and 1500.1201.

A. "Calendar days" means every day of the week, including Saturdays, Sundays, and holidays except that if the 40th calendar day falls on a Saturday, Sunday, or holiday, the final day with respect to the time for filing a beneficiaries' notice is the next day upon which there is a postal delivery service.

B. "Default" means the failure to pay promptly money owed by the due date.

C. "Dissipation" means an act or failure to act that could result in the diversion of trust assets or that could prejudice or impair the ability of unpaid suppliers, sellers, or agents to recover money owed in connection with produce transactions.

D. "Due date" means ten days from the date of delivery of produce by the seller to the licensee if the due date is not specified in a contract between the parties. Otherwise, the due date is the contract due date.

E. "Received" means the time when the buyer, receiver, or agent gains ownership, control, or possession of produce, except that if produce has not been received as described above and if there is a rejection without reasonable cause, the goods must be considered to have been received when proffered.

F. "Trust assets" means produce received in all transactions, all inventories of food or other products derived from that produce, and all receivables or proceeds from the sale of that produce and derived food or products. Trust assets must be preserved as a nonsegregated floating trust. Commingling of trust assets is contemplated.

Subp. 3. **Beneficiaries' notice.** Wholesale produce dealers acting on the behalf of others have the duty to preserve their principals' rights to trust benefits by filing a timely beneficiaries' notice provided by the commissioner with their principal, the produce buyer, the commissioner, and the Secretary of State, 180 State Office Building, 100 Constitution Avenue, Saint Paul, Minnesota 55155.

Subp. 4. **Trust maintenance.** Wholesale produce dealers are required to maintain trust assets so that the assets are freely available to satisfy outstanding obligations to sellers of produce. An act or omission that is inconsistent with this responsibility, including dissipation of trust assets, is unlawful and constitutes irreparable injury and harm.

Subp. 5. **Valid claim.** A claim is valid if the claim form identifies the product and the amount due and a beneficiaries' notice is filed with the wholesale produce dealer to whom the produce was transferred, the commissioner, and the secretary of state by 40 days after the due date.

1500.1201 NOTICE OF PAYMENT PROTECTION.

Wholesale produce dealers who purchase produce from sellers inside the state of Minnesota must provide the following notice of payment protection, in at least ten point, all capital type, to each seller of produce on or before payment is due:

WE ARE A LICENSED AND BONDED MINNESOTA WHOLESALE PRODUCE DEALER. AS A SUPPLIER OF PRODUCE, YOU ARE PROTECTED BY A BOND AND A WHOLESALE PRODUCE DEALERS TRUST IF YOU FILE A CLAIM WITHIN 40 DAYS AFTER THE DUE DATE WITH THE MINNESOTA DEPARTMENT OF AGRICULTURE. FOR FURTHER INFORMATION, CALL (612) 297-2200 OR WRITE: MINNESOTA DEPARTMENT OF AGRICULTURE, PLANT INDUSTRY DIVISION, 90 WEST PLATO BOULEVARD, SAINT PAUL, MINNESOTA 55107

Wholesale produce dealers need only notify each of their sellers once. A new seller must be notified on or before the time a seller is to receive his or her first payment.

1500.1301 COMMITMENT TO PAY.

Subpart 1. **Terms of commitment.** A processor may use a pooling arrangement to partially or fully meet the statutory obligation to pay the full contract price for produce committed for.

Subp. 2. **Contracts with pool arrangements.** If contracts contain pool arrangements, the processor shall pay a minimum of 50 percent, with the remainder of the pool to be paid for by the growers or others.

For purposes of determining compensation, yield and grade of unharvested acreage must be based on the actual yield and grade of a part of the grower's field that has been harvested for the purpose of determining yield and grade.

If it is impossible or impractical to harvest part of a grower's field, the grower and processor may agree on the method for determining yield and grade.

A grower who disagrees with the processor's determination of compensation may contact the Department of Agriculture for mediation or arbitration services to resolve the dispute.

Subp. 3. **Statement of aggregate disposition of passed acreage funds.** At the end of each season after passed acreage totals have been determined, each processor whose contract provides for a pooling arrangement shall provide contract growers with a statement summarizing the aggregate disposition of passed acreage funds. The statement must be provided to each grower with the grower's final paycheck. At a minimum, the statement must include:

- A. the total amount of acreage left unharvested by the processor;
- B. the amount of unsuitable acreage abandoned by the processor and the aggregate compensation paid for that acreage;
- C. the amount of suitable acreage passed by the processor and the total passed acreage compensation paid for that acreage;
- D. total grower contributions to the passed acreage pool;
- E. total processor contributions for passed acreage compensation; and
- F. total payment to growers, broken down into number of growers being paid, amount of acreage paid for, and total payment to all growers for passed acreage.

1500.1401 UNFAIR TRADE PRACTICES.

It is unlawful in or in connection with any produce transaction:

A. for a wholesale produce dealer to make, for a fraudulent purpose, a false or misleading statement in connection with a transaction involving produce, including statements made to induce a person to sign a contract;

B. for a wholesale produce dealer to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or origin of any produce received, shipped, sold, or offered to be sold;

C. for a wholesale produce dealer, for a fraudulent purpose, to remove, alter, or tamper with a card, stencil, stamp, tag, or notice placed upon a container or railroad car containing produce, if the card, stencil, stamp, tag, or notice contains a certificate or statement under authority of a federal or state inspector or in compliance with a federal or state law or regulation as to the grade or quality of the produce contained in the container or railroad car;

D. for a wholesale produce dealer to use coercion, intimidation, the threat of retaliation, or the threat of contract termination to impose, demand, compel, or dictate the terms, payment or manner of payment, or the signing of a contract by a producer;

E. for a wholesale produce dealer, without the consent of an inspector, to make, cause, or permit to be made any change by way of substitution or otherwise in the contents of a load or lot of produce after it has been officially inspected for grading and certification. This does not prohibit resorting and discarding inferior produce; or

F. for a processor to commit to pay an amount less than the full contract price if the crop produced is satisfactory for processing and is not harvested for reasons within the processor's control. If the processor sets the date for planting, bunching, unusual yields, or a processor's inability or unwillingness to harvest are considered to be within the processor's control. Under this item, growers must be compensated for passed acreage at the same rate they would have received had the crop been harvested minus any contractual provision for green manure or feed value. Both parties are excused from payment or performance for crop conditions that are beyond the control of the parties.

1500.1501 FEDERAL PREEMPTION.

If federal and state regulation are identical, federal jurisdiction and enforcement control unless the federal authority decides not to enforce the regulation.

REPEALER. *Minnesota Rules*, parts 1500.0100; 1500.0200; 1500.0300; 1500.0400; 1500.0500; 1500.0600; 1500.0700; 1500.0800; 1500.0900; 1500.1000; 1500.1100; 1500.1200; 1500.1300; 1500.1400; 1500.1500; 1500.1600; 1500.1700; 1500.2200; 1500.2300; 1500.2400; 1500.2500; 1500.2600; 1500.2700; 1500.2800; 1500.2900; 1500.3000; 1500.3100; and 1500.3200 are repealed.

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Proposed Rules

Department of Public Safety

Office of Pipeline Safety

Proposed Permanent Rules Relating to Pipeline Safety Funding

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is *Minnesota Statutes*, sections 299F.631 and 299J.04.

All persons have 30 days, until 4:30 p.m., February 26, 1992, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing must include his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Rose Keller, Office of Pipeline Safety, 175 Aurora Avenue, St. Paul, Minnesota 55103, (612) 296-0649.

The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rules as noticed.

A free copy of the rules is available upon request from Rose Keller at the address and telephone number listed above.

The rules are in response to a legislative mandate that the Office of Pipeline Safety be supported by fees from the pipeline operators who are regulated by the Office. The rules set out how these fees will be assessed against the pipeline operators.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Rose Keller at the address and telephone number listed above.

In preparing these rules, the Department has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will affect small businesses which are engaged in the sale, distribution, or transmission of natural gas or of liquefied petroleum gas. The department has evaluated the effect of the proposed rules on small businesses and has determined that the legislature, in drafting the applicable statutes, appropriately considered and drafted the legislation to reduce the impact on small businesses. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed further in the Statement of Need and Reasonableness.

These rules will result in additional spending by municipal utilities. Arguably, these municipal utilities could be considered local public bodies under *Minnesota Statutes*, section 14.11, subdivision 1. The Office has identified 19 companies as municipal utilities. Based on the current costs of running the Office, the current charges for inspections, and the time spent this year in inspecting these utilities, the Office estimates that charges to these municipal utilities will total only about \$25,000 per year for the next two years. These charges could be increased substantially, however, if one of these utilities committed serious safety violations or had a pipeline accident that required special inspections or investigations by the Office.

In accordance with *Minnesota Statutes*, section 16A.128, subdivision 1a, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt rules related to the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the Statement of Need and Reasonableness.

In accordance with *Minnesota Statutes*, section 16A.128, subdivision 2a, the Department has sent a copy of this notice and of the proposed rules to the Chairs of the House Appropriations Committee and the Senate Finance Committee prior to submitting this notice to the *State Register*.

Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of

the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Rose Keller at the address and telephone number listed above.

Dated: 9 January 1992

Thomas H. Frost, Commissioner
Department of Public Safety

Rules as Proposed (all new material)

7530.5010 GENERAL.

Parts 7530.5010 to 7530.5060 set the standards and procedures necessary to implement *Minnesota Statutes*, sections 299F.631 and 299J.12. Parts 7530.5010 to 7530.5060 only apply to pipeline operators subject to the jurisdiction of the Minnesota Office of Pipeline Safety under *Minnesota Statutes*, sections 299F.56 to 299F.641 and, for federal pipeline safety inspection purposes only, interstate pipeline operators subject to inspection by the office acting in its capacity as an interstate agent under *Minnesota Statutes*, chapter 299J.

7530.5020 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 7530.5010 to 7530.5060, the following terms have the meanings given them in this part.

Subp. 2. **Director.** "Director" means the Director of the Minnesota Office of Pipeline Safety, acting directly or through an authorized agent.

Subp. 3. **Inspection expenses.** "Inspection expenses" means salary, fringe benefit, and travel expenses of pipeline safety inspectors in conducting an inspection, preparing to conduct an inspection, preparing reports or orders to document an inspection, and reviewing operator responses.

Subp. 4. **Investigation expenses.** "Investigation expenses" means salary, fringe benefit, and travel expenses of pipeline safety inspectors in conducting an investigation, preparing to conduct an investigation, preparing reports or orders to document an investigation, and reviewing operator responses.

Subp. 5. **Office.** "Office" means the Minnesota Office of Pipeline Safety, acting directly or through authorized agents.

Subp. 6. **Per meter assessments.** "Per meter assessments" means the assessments of intrastate gas distribution operators and intrastate liquefied petroleum gas distribution operators made under *Minnesota Statutes*, section 299F.631, subdivision 2, paragraph (b), by the office.

Subp. 7. **Quarter.** "Quarter" means the three-month period ending March 31, June 30, September 30, or December 31.

7530.5030 PER METER ASSESSMENTS.

Subpart 1. **Calculation of total expenses; limitation.** To calculate per meter assessments for a quarter, the office shall first calculate the total inspection expenses incurred during that quarter in conducting routine maintenance and operation inspections of pipeline facilities of intrastate gas distribution operators and intrastate liquefied petroleum gas distribution operators. This total may not include inspection or investigation expenses incurred by the office in conducting inspections or investigations of interstate pipeline facilities or inspections or investigations listed in *Minnesota Statutes*, section 299F.631, subdivision 2, paragraph (a), clauses (2) to (6).

Subp. 2. **Method of assessment.** The office shall assess intrastate gas distribution operators and intrastate liquefied petroleum gas distribution operators a pro rata share of the total inspection expenses calculated under subpart 1. The pro rata share for an operator must be based on the number of meters in service by that operator on the preceding December 31. A liquefied petroleum gas operator is considered to have one meter in service for each unmetered individual service line on the preceding December 31.

7530.5040 DIRECT CHARGES.

This part applies to both intrastate and interstate pipeline operators. The office shall directly charge a pipeline operator for inspection or investigation expenses incurred in performing an inspection or investigation of a pipeline facility of the operator, unless the inspection or investigation expenses are included in the calculations for intrastate operators under part 7530.5030, subpart 1. The office shall assess these charges each quarter.

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7530.5050 SUPPORT COSTS.

Subpart 1. **Definition.** "Support costs" means the expenses, including indirect costs, incurred by the office for operating the office that are not recovered as per meter assessments under part 7530.5030, or as direct charges under part 7530.5040.

Subp. 2. **Reductions.** Support costs must be reduced by the amounts listed in items A and B. This reduction must be done before the distribution under subpart 3 is made.

A. Support costs must be reduced by the amount of federal reimbursements received by the office.

B. Support costs must be reduced by the amount of civil penalties collected under *Minnesota Statutes*, section 216D.08.

Subp. 3. **Support cost split.** Support costs not distributed or reduced by the operation of subparts 1 and 2 must be proportionately distributed among six categories: intrastate gas distribution and intrastate liquefied petroleum gas distribution operators, liquefied natural gas operators, intrastate hazardous liquid operators, intrastate gas transmission operators, interstate hazardous liquid operators, and interstate natural gas operators. The proportion must be based on inspector hours spent that quarter on each category of operator by the office.

Subp. 4. **Method of assessment.** Support costs for a quarter must be assessed against pipeline operators in a category according to items A to G.

A. An intrastate gas distribution operator or an intrastate liquefied petroleum gas distribution operator must be assessed a pro rata share of the support costs for this category based on the number of meters in service by that operator on the preceding December 31. An operator is considered to have one meter in service for each unmetered individual service line on the preceding December 31.

B. The support costs for this category must be divided into equal shares so there is one share for each liquefied natural gas pipeline operator. A liquefied natural gas pipeline operator must be assessed one share.

C. An intrastate hazardous liquid pipeline operator must be assessed a portion of the support costs for this category equal to the percentage of the total miles of intrastate hazardous liquid pipeline operated by the pipeline operator.

D. An intrastate gas transmission operator must be assessed a portion of the support costs for this category equal to the percentage of the total miles of intrastate gas transmission pipeline operated by the pipeline operator.

E. An interstate hazardous liquid pipeline operator must be assessed a portion of the support costs for this category equal to the percentage of the total miles of interstate hazardous liquid pipeline operated by the pipeline operator.

F. An interstate natural gas pipeline operator must be assessed a portion of the support costs for this category equal to the percentage of the total miles of interstate natural gas pipeline operated by the pipeline operator.

G. A pipeline measurement used for calculating an assessment under this subpart must be the measurement on the preceding December 31. The pipeline measurement must include only miles of pipeline in Minnesota and must be rounded up to the next whole mile.

7530.5060 PROCEDURE.

Subpart 1. **Assessment form.** No fewer than 30 days after the end of each quarter, the office shall mail to each pipeline operator an assessment indicating the support costs, per meter assessments, and direct charges assessed against that pipeline operator.

Subp. 2. **Delinquency fee and interest.** If an operator does not pay an assessment within 60 days after the assessment was mailed, the office shall impose a delinquency fee of not more than ten percent of the assessment and interest at the rate of not more than 15 percent per year on the portion of the assessment not paid. In determining the amount of the delinquency fee and interest imposed by the office under this subpart, the director shall consider the following factors:

A. the pipeline operator's ability to pay;

B. good faith on the part of the pipeline operator in attempting to pay; and

C. the effect of the delinquency fee and interest on the pipeline operator's ability to continue in business.

Subp. 3. **Complaint procedure.** A pipeline operator that disagrees with an assessment may file a written complaint with the office within 15 days of the receipt of the assessment. The director shall review each complaint and issue a written determination within a reasonable time affirming, amending, or rescinding the assessment. The pipeline operator may appeal the determination of the director to the commissioner of public safety.

A pipeline operator may withhold the amount of assessed charges in dispute while a complaint or appeal is pending. The office shall not assess a delinquency fee or interest on the amount in dispute unless the director determines that the complaint or appeal is solely for the purpose of delay.

Department of Public Safety

Proposed Permanent Rules Relating to Wheelchair Safety Devices

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is *Minnesota Statutes*, sections 299A.12, subdivision 4, 299A.18, and 299A.01, subdivision 6.

All persons have 30 days, until 4:30 p.m., February 26, 1992, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing must include his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Richard Schultz, State Patrol, 107 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, (612) 296-3652.

The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rules as noticed.

A free copy of the rules is available upon request from Richard Schultz at the address and telephone number listed above.

The proposed rules amend existing rules governing wheelchair securement devices in vehicles by setting standards for the operation, strength, and use of user-friendly securement devices in transit vehicles. Under the existing law and rules, all wheelchair securement devices had to attach to the frame of the wheelchair in such a way that the wheelchair user needed assistance from another person to secure the wheelchair. Statutory amendments in 1991 allowed the use on transit vehicles of securement devices that may be engaged and released by the user. The statutory amendments also directed the Commissioner of Public Safety to adopt rules governing the user-friendly devices. On transit vehicles then, these user-friendly securement devices provide an alternative to frame-attached devices.

A **STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Richard Schultz at the address and telephone number listed above.

In preparing these rules, the Department has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules may affect small businesses which provide transportation services to wheelchair users. The Department believes that the use of user-friendly wheelchair securement devices as an alternative to frame-attached devices will better enable transit providers to maintain their schedules and to do so with greater convenience for wheelchair users and non-wheelchair users alike. Further, since the rule amendments merely provide an alternative to the existing rules, a small business can choose not to use the alternative, thereby avoiding any burden as a result of the amendments. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed further in the **STATEMENT OF NEED AND REASONABLENESS**.

Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules.

Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

Minnesota Statutes, section 16A.128, subdivisions 1a and 2a, do not apply because the rules do not fix fees.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of

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Proposed Rules

the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Richard Schultz at the address and telephone number listed above.

Dated: 9 January 1992

Thomas H. Frost, Commissioner
Department of Public Safety

Rules as Proposed

7450.0100 DEFINITIONS.

Subpart 1. **Scope.** ~~For the purpose of The terms used in parts 7450.0100 to 7450.0900, the following terms shall 7450.0800 have the meanings ascribed to given them in this part.~~

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

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of public safety or ~~his duty an~~ authorized agent.

Subp. 3a. **FMVSS.** "FMVSS" means federal motor vehicle safety standard No. 209 or No. 210, found in Code of Federal Regulations, title 49, section 571.209 or 571.210, respectively, as amended through December 31, 1991.

Subp. 3b. **Gross vehicle weight rating.** "Gross vehicle weight rating" means the value specified by the vehicle manufacturer as the maximum loaded weight of the vehicle.

[For text of subps 4 and 5, see M.R.]

Subp. 6. **Operator.** "Operator" means ~~any person, firm, partnership, corporation, service club, public or private agency, city, town, or county~~ has the meaning given in Minnesota Statutes, section 299A.11, paragraph (b).

Subp. 6a. **Transit vehicle.** "Transit vehicle" means a bus with a gross vehicle weight rating greater than 15,000 pounds. Transit vehicle does not include a school bus as defined in Minnesota Statutes, section 169.01, subdivision 6.

Subp. 7. **Wheelchair.** "Wheelchair" means ~~a chair mounted on wheels to facilitate the mobility of a sick, injured, invalid or handicapped person in a generally seated position. The term includes a device generally recognized as a wheelchair even though equipped with reclining backrest or special apparatus. The term does not include any device not equipped with wheels, nor does it include an ambulance stretcher or cot, whether equipped with wheels or not mobility aid belonging to any class of three- or four-wheeled devices and that are usable indoors and designed for and used by individuals with mobility impairments, whether operated manually or powered.~~

Subp. 8. **Wheelchair securement device; securement device.** "Wheelchair securement device" or "securement device" ~~means an apparatus installed in a motor vehicle for the purpose of securing an occupied wheelchair into a location in the vehicle~~ has the meaning given in Minnesota Statutes, section 299A.11, paragraph (a).

7450.0200 PURPOSE, AUTHORITY, AND SCOPE.

Subpart 1. **Purpose.** The purpose of parts 7450.0100 to ~~7450.0900~~ 7450.0800 is to establish minimum standards for approval of wheelchair securement devices in vehicles and approval of seat belt assemblies and anchorages used to protect persons in wheelchairs while transported in vehicles.

Subp. 2. **Authority.** Parts 7450.0100 to ~~7450.0900~~ 7450.0800 are ~~promulgated~~ adopted pursuant to the authority granted by ~~Laws of Minnesota 1978, chapter 752~~ Minnesota Statutes, sections 299A.01, subdivision 6; 299A.12, subdivision 4; and 299A.18.

Subp. 3. **Scope.** Parts 7450.0100 to ~~7450.0900~~ 7450.0800 apply to the transportation by motor vehicle of ~~any sick, injured, incapacitated, or handicapped~~ a disabled person while occupying a wheelchair, ~~which~~ This transportation is offered or provided by an operator to the public ~~or~~ to its employees, or in connection with any other service offered by the operator including schooling or nursing homes and convalescent or child care services.

Subp. 4. **Exception.** Parts 7450.0100 to ~~7450.0900~~ 7450.0800 do not apply to ~~any~~ a school bus manufactured before January 1, 1988, and subject to regular school bus inspection pursuant to under Minnesota Statutes, section 169.451, nor do they apply to incidental transportation of an occupied wheelchair under circumstances other than as provided in subpart 3.

7450.0250 TYPE OF SECUREMENT REQUIRED.

Subpart 1. **Transit vehicle.** An occupied wheelchair transported in a transit vehicle must be secured with an approved securement device that is either:

A. a frame-attached device that meets the requirements of parts 7450.0300 and 7450.0400; or

B. a user-friendly device that meets the requirements of parts 7450.0430 and 7450.0460.

Subp. 2. Vehicle other than transit vehicle. An occupied wheelchair transported in a vehicle other than a transit vehicle must be secured with an approved frame-attached securement device that meets the requirements of parts 7450.0300 and 7450.0400.

7450.0300 FRAME-ATTACHED WHEELCHAIR SECUREMENT.

Subpart 1. **Sufficient strength.** An occupied wheelchair transported in a vehicle shall be secured with a frame-attached securement device must be of sufficient strength to prevent forward, backward, lateral, or vertical movement of the wheelchair when the device is engaged and the vehicle is in motion, accelerating, or braking.

Subp. 2. **Attached to frame.** Each A frame-attached wheelchair securement device shall must attach to the frame of the wheelchair without damaging the frame. "Damage" includes effects harmful to the strength, integrity, or serviceableness of the wheelchair, but does not include minor dents, scratches, or other cosmetic blemishes not materially affecting serviceableness.

Subp. 3. **Limitation.** A frame-attached wheelchair securement device shall must not be attached to a wheel of a wheelchair.

7450.0400 MINIMUM STANDARDS FOR FRAME-ATTACHED DEVICES.

Each frame-attached wheelchair securement device shall: must meet the requirements of items A to G.

A. It must attach to the wheelchair frame on at least three points. The three points of contact shall must be spaced to provide effective securement. Alternatively, a securement device meeting all other requirements of this chapter may attach to two widely spaced points on the wheelchair frame if the wheel tires or the wheelchair frame abuts an unyielding surface in a manner ~~which~~ that meets the approval requirements of part 7450.0500.

B. It must consist of at least two webbing-type belts described in subitem (1) or at least two all-metal devices described in subitem (2) or one or more of each ~~such~~ type of device.

(1) Webbing-type devices shall must be assemblies that meet or exceed Type 2 pelvic restraint seat belt requirements as specified in section S4.2 (2)(b) of Federal Motor Vehicle Safety standard FMVSS No. 209, Code of Federal Regulations 1977, title 49, ~~part 571.209~~ or be certified by the manufacturer that ~~such the~~ device meets or exceeds assembly strength of 5,000 pounds in loop fashion or 2,500 pounds on each anchorage leg.

(a) Certification may be the specification listed in catalogs or publications by the manufacturer.

(b) ~~All~~ New construction of ~~such these~~ securement devices and repairs to webbing shall must conform with standards established by the manufacturer of the webbing.

(2) All-metal securement devices shall must be of a ~~design and construction that provides~~ designed and constructed to provide wheelchair securement strength that is at least equal to the strength of a webbing-type device comprised of three separate attachments and anchorages.

C. It must be free of sharp edges, corners, and jagged projections to minimize injury to persons in the event of unintentional contact.

D. It must be capable of retraction, and be readily removable or otherwise suitably storable when not in use.

E. It must be anchored to the vehicle at not less than two separate points with bolts, nuts, and lock washers or self-locking nuts.

(1) Bolts used shall must be not less than ~~three eighths~~ 3/8-inch in diameter and of National Fine Thread SAE grade 5 designation or equivalent.

(2) Where anchorage bolts do not pierce the vehicle frame, subframe, bodypost, or equivalent metal structure, a metal reinforcement plate or washer ~~not less than~~ 1/16-inch thick by 2-1/2 inches in diameter and not less than four square inches or 2-1/4 inches in diameter respectively, is required.

(3) ~~In no event shall~~ Interior paneling may not be used to constitute anchorage for a point of securement.

(4) A metal track, rail, or similar device permitting attachment of the securement device at optional points ~~thereon~~ on it may be used to anchor the securement device, provided only if:

(a) the track, rail, or other device is secured to the vehicle in compliance with anchorage requirements of this part; and

(b) the attachment of the securement device to the anchor point is by means of a positive attachment metal fitting.

F. The method or device that provides attachment of the securement device to the wheelchair frame and the method or device

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locking the securement device in the load-holding mode ~~shall~~ must each be of a strength and design that will ~~assure~~ ensure performance of their intended function until the securement device is intentionally released.

G. Buckles, anchorage fittings, and other components essential to the functioning of the securement device ~~shall~~ must be integrated into the securement device in accordance with recognized practices and in a manner that preserves the overall strength of the securement device.

7450.0430 USER-FRIENDLY WHEELCHAIR SECUREMENT.

Subpart 1. Nominal movement. A user-friendly securement device must limit movement of an occupied wheelchair when the vehicle is in normal operation. An occupied wheelchair loaded with a restrained weight of 250 pounds may not move more than two inches in any direction at any point of contact with the floor when the vehicle is being operated under the following conditions:

A. full-throttle acceleration on dry pavement from a standstill to a speed of 25 miles per hour with the vehicle at its curb weight plus one occupied wheelchair;

B. maximum braking from a speed of 22 miles per hour to a standstill on dry pavement with the vehicle at its curb weight plus one occupied wheelchair; and

C. driving both clockwise and counterclockwise with the outer, front wheel around one of the following:

(1) a 50-foot diameter circle at a minimum steady speed of 12 miles per hour;

(2) a 75-foot diameter circle at a minimum steady speed of 14 miles per hour; or

(3) a 100-foot diameter circle at a minimum steady speed of 16 miles per hour.

Subp. 2. Attachment. A user-friendly securement device must attach to the wheelchair without damaging it during normal vehicle operations. "Damage" includes effects harmful to the strength, integrity, or serviceableness of the wheelchair but does not include minor dents, scratches, or other cosmetic blemishes not materially affecting serviceableness. A bent wheel or broken spoke for example is "damage."

Subp. 3. Release. A user-friendly securement device must be designed so as to prevent an unintended mechanical release.

Subp. 4. User-friendly. A user-friendly securement device must be designed so that it can be readily engaged and released by the user, or remotely by the vehicle driver, subject to the following conditions:

A. The manual operating control for the user must be located within the upper 33 inches of a 48-inch cube occupied by the secured wheelchair.

B. The force required by the user to engage and release may not exceed five pounds force and may not require tight grasping, pinching, or twisting of the wrist.

C. When a device is manually engaged, the reach, force, and dexterity required to manually release the device may not exceed that required to manually engage it.

D. The device may be automatically engaged by the wheelchair or remotely by the vehicle driver, but a manual release must be available that meets the specifications of items A and B. A device that may be remotely engaged or released by the driver must have an indicator light to inform the driver that the device has engaged or released the wheelchair.

E. A user-friendly device does not need to be able to secure all types of wheelchairs. A user-friendly device must secure all types of wheelchairs for which it is approved by the commissioner.

7450.0460 MINIMUM STANDARDS FOR USER-FRIENDLY DEVICES.

Subpart 1. Force to be restrained. A user-friendly securement device must be able to restrain force as follows:

A. A user-friendly securement device and its attachments used on a vehicle with a gross vehicle weight rating of 30,000 pounds or more must withstand a force in a forward longitudinal direction of up to 2,000 pounds per securement leg or clamping mechanism and a minimum of 4,000 pounds total for each wheelchair.

B. A user-friendly securement device and its attachments used on a vehicle with a gross vehicle weight rating of over 15,000 pounds but less than 30,000 pounds must withstand a force in a forward longitudinal direction of up to 2,500 pounds per securement leg or clamping mechanism and a minimum of 5,000 pounds total for each wheelchair.

Subp. 2. Attachment to vehicle. A user-friendly securement device must be attached to a part of the vehicle that can, when attached, withstand the forces specified in subpart 1.

Subp. 3. Damage to device. After the test modes in subpart 1 have been removed, a user-friendly securement device must be operable to the extent that it will release a wheelchair, as specified in part 7450.0430, subpart 4.

7450.0500 APPROVAL PROCEDURE.

Subpart 1. Application. Application for approval of a wheelchair securement device ~~shall~~ must be made in writing to the commis-

tioner and ~~shall~~ must be accompanied by the manufacturer's actual or proposed written installation ~~and use~~ instructions and photographs or drawings clearly depicting the construction of the device and its physical characteristics, including all mounting hardware. The application must also include the labeling used for identifying the manufacturer and the model designation. An application for approval of a user-friendly securement device must also include a test report or engineering document certifying that the device and its attachment to the vehicle can withstand the forces specified in part 7450.0460, or the manufacturer's specifications to the same effect listed in catalogs or publications by the manufacturer.

Subp. 2. **Demonstration of frame-attached securement device.** ~~The~~ When requested by the commissioner, an applicant for approval of a frame-attached securement device shall furnish provide a vehicle with the securement device installed ~~therein in it~~, and demonstrate the device by attaching it to a wheelchair ~~furnished provided~~ by the applicant. The commissioner may load the wheelchair to 140 pounds and require that the vehicle be accelerated, driven around corners, and subjected to hard braking at speeds of 30 miles per hour or less. Movement of the wheelchair more than one inch in any direction, including vertically, during ~~such the test shall be~~ is grounds for ~~refusal of refusing~~ approval. Measurement of movement ~~shall must~~ be at the points where wheelchair wheels contact the floor. Damage to the wheelchair or ~~any other property or injury to a person~~ during ~~such the test shall be~~ is the responsibility of the applicant.

Subp. 2a. **Demonstration of user-friendly securement device.** When requested by the commissioner, an applicant for approval of a user-friendly securement device shall provide a vehicle with a wheelchair and with the securement device installed in the vehicle and demonstrate compliance of the device to the requirements of parts 7450.0430 and 7450.0460. Damage to the wheelchair or other property or injury to a person during the test is the responsibility of the applicant.

Subp. 3. **Approval.** ~~Upon~~ On determining that the securement device meets the requirements of this chapter, the commissioner shall issue a certificate of approval authorizing use of the device. If the device does not secure all types of wheelchairs, the certificate must state the types of wheelchairs for which the device is approved.

Subp. 4. **Denial and revocation.** The commissioner ~~may shall deny or revoke any an~~ approval ~~granted hereunder~~ upon a showing that the securement device does not meet a requirement of ~~this chapter parts 7450.0100 to 7450.0800~~. The commissioner shall notify the applicant in writing of a denial or revocation of approval.

Subp. 5. **Label.** Each wheelchair securement device ~~shall must~~ be permanently labeled with the name, initials, or trademark of the manufacturer and the model designation of the device. The label ~~shall must~~ be readily visible and legible from the outside of the device when it is properly mounted to the vehicle and in use.

7450.0600 OCCUPANT RESTRAINT.

Subpart 1. **Seat belt assembly.** Each vehicle equipped with a wheelchair securement device ~~shall must~~ be equipped with a Type 2 seat belt assembly with a detachable upper torso portion at each wheelchair position in the vehicle or, in the alternative, ~~shall must~~ be equipped with a Type 1 pelvic restraint assembly and a length of Type 1 or Type 2 seat belt webbing, with buckle, adequate to encircle the chest of the wheelchair occupant and the backrest of the wheelchair.

Subp. 2. **Standard.** Type 1 and Type 2 seat belt assemblies ~~shall must~~ meet the requirements of ~~sections S1 to S4.4 of Federal Motor Vehicle Safety standard FMVSS No. 209, Code of Federal Regulations 1977, title 49, part 571.209.~~

Subp. 3. **Installation and anchorage.** Type 1 and Type 2 seat belt assemblies and the detachable upper torso restraint, if a detachable upper torso restraint is installed ~~in lieu~~ instead of using a length of seat belt webbing to encircle the chest of the occupant and the backrest of the wheelchair, ~~shall must~~ be installed and anchored in accordance with ~~sections S1 to S4.3.2 of Federal Motor Vehicle Safety standard FMVSS No. 210, Code of Federal Regulations 1977, title 49, part 571.210.~~

7450.0700 USE OF SECUREMENT DEVICE.

~~It shall be the responsibility of~~ The driver of ~~any~~ a vehicle equipped with a wheelchair securement device ~~to~~ has the following duties:

A. **Properly secure** The driver shall ensure that an occupied wheelchair prior to is properly secured before moving the vehicle, unless the wheelchair occupant is capable of securing the device and does so.

B. **Fasten** When requested by the wheelchair user or when seat belt usage is required of all passengers in the vehicle, the driver shall ensure that the seat belt assembly, and upper torso restraint if so equipped, is fastened around the occupant of the wheelchair, unless the occupant is capable of fastening same and does so user, before moving the vehicle. The driver shall not fasten the seat belt assembly or the upper torso restraint must not be fastened, however, if the occupant wheelchair user or other responsible

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person advises the driver that to do so would aggravate a physical condition of the occupant wheelchair user. In the event if the physical condition would be aggravated by the use of but one of the devices, the device that would have no adverse effect on the physical condition shall ~~must~~ be fastened in the required manner.

C. ~~Retract, remove, or otherwise store~~ The driver shall ensure that securement devices and seat belt assemblies are retracted, removed, or otherwise stored when not in use to prevent tripping of persons and damage to devices.

7450.0800 INSPECTION, REMOVAL, AND CORRECTION.

Subpart 1. **Inspection.** Annual inspections of securement devices must be performed in accordance with *Minnesota Statutes*, section 299A.14.

Subp. 2. **Removal, correction.** The commissioner may shall order the removal or correction of any a securement device upon determining that the device, without regard to date of installation:

- A. is not capable of sustaining loads imposed ~~thereon~~ on it in restraining an occupied wheelchair; ~~or~~
- B. the securement device permits excessive movement of an occupied wheelchair; or
- C. does not meet the requirements of parts 7450.0100 to 7450.0800.

REPEALER. *Minnesota Rules*, part 7450.0900, is repealed.

Department of Transportation

Proposed Permanent Rules Relating to Railroad Grade Crossings

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Transportation intends to adopt the above entitled rules without a public hearing following the procedures for adopting rules without a public hearing set forth in *Minnesota Statutes*, Sections 14.22 to 14.28. The specific statutory authority to adopt the rules is *Minnesota Statutes*, Sections 218.041, 219.072, 219.073, 219.17, 219.26, 222.50, and 222.62.

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30 day comment period. If 25 or more persons submit written requests for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed.

If a public hearing is required, the Department will proceed pursuant to *Minnesota Statutes*, Section 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Patricia Schrader
Minnesota Department of Transportation
925 Kelly Annex, Transportation Building
395 John Ireland Boulevard
St. Paul, Minnesota 55155
(612) 296-0358

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on February 28, 1992.

The proposed rules may be modified if the modifications are supported by data and views submitted to the Department and do not result in a substantial change in the proposed rules as noticed.

A copy of the proposed rules is attached to this notice. A free copy of the rules is available upon request from Patricia Schrader at the address noted above.

The proposed rules include standards governing the establishment, vacation, relocation, consolidation, and separation of grades at public grade crossings, in compliance with *Minnesota Statutes*, Section 219.073. These standards are included in parts 8830.2720 to 8830.2760.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the

proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Patricia Schrader upon request.

The adoption of the rules will not require the expenditure of money by local public bodies within the meaning of *Minnesota Statutes*, Section 14.11. The proposed rules will not have an effect on agricultural land. The rules will not impose "costs mandated by the state," or require a local agency or school district to take action that incurs costs mandated by the state within the meaning of *Minnesota Statutes*, Section 3.982. The rules impose no fees.

The department has considered the impact of the proposed rules on small businesses in compliance with *Minnesota Statutes*, Section 14.115, Subdivision 2. The rules may have an indirect impact on the transportation activities of small businesses located along tracks improved under the Rail Service Improvement Program by providing improved rail access.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent that the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit a written request to Patricia Schrader at the address indicated above.

Dated: 7 January 1992

James N. Denn
Commissioner

Rules as Proposed

8830.0100 DEFINITIONS.

Subpart 1. Scope. The terms used in this chapter have the meanings given them in this part.

Subp. 1a. Association of American Railroads, AAR signal manual. "Association of American Railroads, AAR signal manual" means AAR, Communications the Association of American Railroads, Communication and Signal Section Division, "Signal Manual of Recommended Practices," on file and available for inspection in the Railroad Administration Section, Office of Railroads and Waterways, Program Management Division, Minnesota Department of Transportation or available for purchase at 1920 L Street NW, Washington, D.C. 20036 1990 edition, which is incorporated by reference, is not subject to frequent change, and is available through the Minitex interlibrary loan system.

Subp. 1b. AASHTO. "AASHTO" means the American Association of State Highway and Transportation Officials.

Subp. 1c. ADT. "ADT" means average daily traffic.

Subp. 1d. Abandoned. "Abandoned" means that the railroad company has discontinued rail service and all train movements over a rail line or a spur track, and the approved Interstate Commerce Commission or Transportation Regulation Board orders have been issued and implemented.

Subp. 1e. Bicycle path. "Bicycle path" means a public way that is located on roadway right-of-way and is designed for exclusive or preferential use by bicyclists, and developed separately from the roadway or shoulder.

Subp. 1f. Board. "Board" means the Minnesota Transportation Regulation Board.

Subp. 2. [See repealer.]

Subp. 2a. City. "City" includes a town, statutory city, and home rule charter city.

Subp. 2b. Commissioner. "Commissioner" means the commissioner of the Minnesota Department of Transportation.

Subp. 3. [See repealer.]

Subp. 4. FHWA. "FHWA" means the Federal Highway Administration, an agency of the USDOT United States Department of Transportation.

Subp. 5. FRA. "FRA" means the Federal Railroad Administration, an agency of the USDOT United States Department of Transportation.

Subp. 5a. Grade crossing. "Grade crossing" means the at-grade intersection of one or more railroad tracks with a public way.

Subp. 5b. Grade separation. "Grade separation" means the use of a bridge or tunnel to enable one or more railroad tracks and a public way to cross at different elevations.

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Subp. 6. [See repealer.]

Subp. 7. [See repealer.]

Subp. 8. [Renumber as Subp. 19.]

Subp. 9. MMUTCD. "MMUTCD" means the "Minnesota Manual on Uniform Traffic Control Devices for Streets and Highways," including future amendments, adopted by the commissioner of the Minnesota Department of Transportation under Minnesota Statutes, section 169.06, subdivision 1.

Subp. 10. Mn/DOT. "Mn/DOT" means the Minnesota Department of Transportation.

Subp. 11. Public way. "Public way" means a route used to go from one place to another that meets the following criteria:

- A. it has been improved for transportation use;
- B. it is under the jurisdiction of, and maintained by, a governmental agency; and
- C. it is open to the traveling public.

Roadways, and sidewalks, trails, and bicycle paths on roadway rights-of-way are examples of, but do not represent a complete list of, public ways.

Subp. 12. Reflectorized. "Reflectorized" means giving back light to convey the same information by day and night.

Subp. 13. Road authority. "Road authority" has the meaning given it in Minnesota Statutes, section 160.02, subdivision 9, as well as any other governmental agency having jurisdiction over roadways.

Subp. 14. Roadway. "Roadway" means a public way, including shoulders, that is used for vehicular travel.

Subp. 15. Rural area. "Rural area" means an area outside the boundaries of urban areas.

Subp. 16. Trail. "Trail" means a public way that (1) is not intended for automobile use, (2) is located on roadway right-of-way, (3) stands alone or is connected to other routes, and (4) is limited to specific recreational or commuter activities, as determined by the trail administrator.

Subp. 17. Trail administrator. "Trail administrator" means a governmental agency having jurisdiction over trails or bicycle paths.

Subp. 18. Urban area. "Urban area" means an area that meets one or more of the following criteria:

- A. it is a city with a population of 5,000 or more;
- B. it is within an urbanized area as defined by the Bureau of the Census, an agency of the United States Department of the Interior;
- C. it contains a business district as defined by Minnesota Statutes, section 169.01, subdivision 39; or
- D. it contains an urban district as defined by Minnesota Statutes, section 169.01, subdivision 59.

8830.0200 APPLICATION.

~~These rules and specifications Parts 8830.0100 to 8830.3900 are intended to apply to railroad-related engineering functions under the jurisdiction of the Minnesota Department of Public Service Transportation and the Public Utilities Commission Minnesota Transportation Regulation Board and apply only to public grade crossings and grade separations. These rules and specifications set forth in Parts 8830.0100 to 8830.3900 are not retroactive but are intended to apply to future replacements and installations, and to existing installations that are significantly changed, modified, or reconstructed. Installations already lawfully in place are not to be considered as in violation of these rules parts 8830.0100 to 8830.3900.~~

~~The commission reserves the right at any time, after due process, to require changes or improvements at particular locations so as to conform to the requirements of these rules.~~

8830.0220 CHANGES REQUIRED BY COMMISSIONER.

~~Notwithstanding part 8830.0200, the commissioner may require changes or improvements at specific locations so as to conform to the requirements of parts 8830.0100 to 8830.3900 as the commissioner considers necessary to protect public safety.~~

8830.0250 FAILURE TO COMPLY.

~~The failure of a railroad company or road authority to comply with parts 8830.0100 to 8830.3900 must be documented by the commissioner and a petition submitted to the board in compliance with Minnesota Statutes, section 218.071, subdivision 4.~~

~~An appeal from an order of the board may be made under Minnesota Statutes, section 219.41. The penalty for failure to comply with an order of the board is governed by Minnesota Statutes, section 219.42.~~

8830.0300 NATIONAL GRADE CROSSING INVENTORY AND NUMBERING PROJECT NUMBER.

The department is cooperating with the U.S. Department of Transportation and the railroads in a project to identify Each grade crossing must be identified with a unique grade crossing inventory number attached to the sign a crossbuck post or signal support mast at the grade crossing. Public grade crossings, bridges, pedestrian crossings, and private grade crossings will be have been identified, and the characteristics of each crossing will be have been tabulated in the FRA National Grade Crossing Inventory, which is maintained by the Office of Safety, Federal Railroad Administration, 400 Seventh Street S.W., Washington, D.C. 20590. Reference should be made References to crossings must include these inventory numbers whenever when possible. Information regarding this project the grade crossing inventory number can be obtained from: the Railroad Administration Section, Office of Railroads and Waterways, Program Management Division, Minnesota Department of Transportation, Transportation Building, 395 John Ireland Boulevard, Saint Paul, Minnesota 55155.

When a new grade crossing is constructed, the railroad company shall issue a grade crossing inventory number before the grade crossing may be opened to traffic. In cooperation with Mn/DOT, the railroad company shall complete the "U.S. DOT - AAR CROSSING INVENTORY FORM" for each new crossing.

Maintenance and replacement of the grade crossing inventory number are the responsibilities of the railroad company.

A railroad company or road authority making a change at a crossing shall complete the form "U.S. DOT - AAR CROSSING INVENTORY FORM." Copies of this form are available from the Railroad Administration Section, Office of Railroads and Waterways, Program Management Division, Minnesota Department of Transportation, Transportation Building, 395 John Ireland Boulevard, Saint Paul, Minnesota 55155. Completed forms are to be submitted to the same address.

SIGNS, SIGNALS, AND OTHER SAFETY MEASURES**8830.0400 SIGNS.**

All Signs ~~to be used~~ on public roads roadways in Minnesota must comply with the Minnesota manual on Uniform Traffic Control Devices for Streets and Highways approved by the commissioner, Minnesota Department of Transportation MMUTCD. Sign number designations shown in ~~these rules~~ this chapter refer to the manual MMUTCD. Requests for clarification, interpretation, or modification of the Minnesota manual shall MMUTCD must be addressed to ~~the~~ Commissioner of Transportation, and marked for the attention of the Office of Traffic Engineering, State Transportation Building, 395 John Ireland Boulevard, Saint Paul, Minnesota 55155, and marked for the attention of the Office of Traffic Engineering. ~~Any~~ Requests that require action at the national level will be forwarded to the Federal Highway Administration FHWA with an appropriate recommendation by ~~the state~~ Mn/DOT.

Full scale drawings of the standard symbols and alphabets used on signs, and the Minnesota Department of Transportation Standard Signs Manual containing detailed drawings for the standard signs illustrated in the manual MMUTCD, are available from the Office of Traffic Engineering, Minnesota Department of Transportation, State Transportation Building, 395 John Ireland Boulevard, Saint Paul, Minnesota 55155. Full scale drawings of the standard alphabets are available from the Office of Traffic Engineering, Minnesota Department of Transportation, State Transportation Building, Saint Paul, Minnesota 55155.

8830.0500 RAILROAD CROSSBUCK SIGN.

Subpart 1. **Design of sign.** The crossbuck ~~shall sign, numbered R15-1, must be reflectorized~~ white with the words "RAILROAD CROSSING" in black lettering. If there are two or more tracks, including sidings, the number of tracks ~~shall must be indicated shown~~ on an auxiliary sign, numbered R15-2, of inverted "T" shape, mounted below the crossbuck. Use of the crossbuck shall be used at every railroad crossing, alone or in combination with other warning devices and the auxiliary sign, both shown in part 8830.9904, must comply with the MMUTCD and part 8830.9901, subpart 1.

~~The design of the railroad crossbuck (subpart 3) with auxiliary sign showing the number of tracks, has been standardized by the Association of American Railroads and shall comply with part 8830.9900, subpart 1. All or any part of The crossbuck sign may must be constructed of wood or four-foot, 90-degree metal blades, and, at nonsignalized grade crossings, must be mounted on a post of wood or other yielding design that meets the breakaway criteria of the FHWA's "Standard Specification for Structural Supports for Highway Signs, Luminaires and Traffic Signals," incorporated by reference in Code of Federal Regulations, title 23, section 625.4. Reflectorized four-foot 90-degree type blades of suitable material shall be used on post. All letters and numerals shall be in black color on reflectorized white background. Height may be varied as required by local conditions. Auxiliary multiple track sign to be used only where warning device is for more than one track.~~

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Subp. 1a. Reflectorization. By January 1, 1995, existing crossbuck signs will be replaced with crossbucks that are reflectorized with wide-angle, prismatic, retroreflective sheeting or better.

By January 1, 1995, crossbucks at nonsignalized grade crossings will be double-faced, with both sides having a reflectorized white background with black lettering, to display the message "RAILROAD CROSSING" to both approaches to the grade crossing. A reflectorized strip of at least two inches by 48 inches will be placed on aluminum sheeting and mounted on the back of the crossbuck posts, one foot above the top of the track and in the center of the post.

At the discretion of the railroad company, crossbucks at signalized grade crossings must be either:

A. single-faced, with one side having a reflectorized white background with black lettering to display the message "RAILROAD CROSSING" to the approach to the grade crossing, and the other side having a reflectorized strip of at least two inches by 48 inches centered on the back of each blade; or

B. double-faced, with both sides having a reflectorized white background with black lettering, to display the message "RAILROAD CROSSING" to both approaches to the grade crossing.

After a crossbuck reflectorized with wide-angle, prismatic, retroreflective sheeting or better is installed, future replacement of that crossbuck by the railroad company must be to the same level of reflectorization or better.

Subp. 2. Location, installation, and maintenance. The crossbuck sign is must be furnished, installed, and maintained by the railroad company and is usually located on the railroad right-of-way. The distance that should be assumed to separate tracks before an additional crossing crossbuck sign is considered necessary is must be installed when tracks are separated by 100 feet or more, unless Mn/DOT determines that local conditions require otherwise. The sign shall be erected on the right hand side of the roadway on each approach to the crossing. Crossbuck signs shall must be located to the right of the traveled roadway not less than two feet clear of the face of curb or edge of shoulder or not less than ten feet clear of the edge of traveled lane, and not less than 12 feet from center line of the nearest track. (See in compliance with the MMUTCD and part 8830.9900 8830.9901, subpart 1).

Subp. 3. [See repealer.]

8830.0600 RAILROAD ADVANCE-WARNING SIGN SIGNS.

Subpart 1. Where sign is needed signs are used. A Use of the railroad advance-warning sign shall be used in advance of every railroad crossing, except at a minor spur or siding that is infrequently used and that is guarded by train crews; or in the business districts of large cities where the crossings are fully protected; or where the physical conditions are such that even a partially effective display of the sign is impossible. On a divided highway it may be desirable to erect a supplemental sign on the left shoulder of the roadway. In residence or business districts, where low speeds are prevalent, the sign may be placed a minimum distance of 100 feet from the crossing. If there is a street intersection within 100 feet, an additional sign or signs may be placed to warn traffic approaching the crossing from each intersected street signs, numbered W10-1, W10-2, W10-3, and W10-4 and shown in part 8830.9906, must comply with the MMUTCD.

The W10-2, W10-3, and W10-4 signs may be installed on roadways that are parallel to tracks to warn a motorist making a turn that a grade crossing is ahead.

Installing and maintaining railroad advanced advance-warning signs are usually off the railroad right-of-way and are properly the responsibility responsibilities of the public authorities road authority. The application of railroad crossbuck signs on the railroad right-of-way is described in part 8830.0500.

Subp. 2. [See repealer.]

Subp. 3. Reflectorization. By January 1, 1995, all existing railroad advance-warning signs will be replaced with advance-warning signs that are reflectorized with wide-angle, prismatic, retroreflective sheeting or better.

After a railroad advance-warning sign reflectorized with wide-angle, prismatic, retroreflective sheeting or better is installed, future replacement of that railroad advance-warning sign by the road authority must be to the same level of reflectorization or better.

8830.0700 SUPPLEMENTAL RAILROAD ADVANCE-WARNING SIGNS.

Subpart 1. When the Where signs are needed used. The Minnesota department of Transportation Mn/DOT has adopted certain supplemental railroad advance-warning signs as described herein in this part and part 8830.9906. These signs are intended for use in advance of certain nonsignalized railroad grade crossings where neither signals nor stop signs have been installed and where conditions indicate the need for additional advance warning supplementing that provided by the W10-1 circular railroad advance-warning sign. The use of these signs should must be based on investigation by the road authority or the commissioner of pertinent conditions at the grade crossing, such as train and vehicle speeds, sight distractions or obstructions, stopping distances, and similar criteria.

Installing and maintaining supplemental railroad advance-warning signs, except for the "exempt" sign used below the crossbuck, are responsibilities of the road authority. Installing and maintaining the "exempt" sign used below the crossbuck are responsibilities of the railroad company.

Subp. 1a. Reflectorization. By January 1, 1995, all existing supplemental railroad advance-warning signs will be replaced with supplemental advance-warning signs that are reflectorized with wide-angle, prismatic, retroreflective sheeting or better.

After a supplemental railroad advance-warning sign reflectorized with wide-angle, prismatic, retroreflective sheeting or better is installed, future replacement of that supplemental railroad advance-warning sign by the road authority must be to the same level of reflectorization or better.

Subp. 2. Preceded by railroad advance-warning sign. The supplemental railroad advance-warning signs may be used individually or in logical sequence, but shall must always be preceded on the approach by the W10-1 sign, which is the initial and primary warning sign to be installed at grade crossings.

Subp. 3. Track-angle sign. The "track-angle" (W10-X1) sign is intended to convey to the motorist, numbered W10-X1 and shown in part 8830.9906, shows that the railroad crosses the roadway on at a skew, and to thereby alert him alerts the motorist that extra care may be needed to ascertain whether trains are approaching. It shall utilize must display a track symbol at 45 degrees left or right, as appropriate.

Subp. 4. Blind-crossing sign. The "blind xing" (W10-X2) sign is intended for use to warn, numbered W10-X2 and shown in part 8830.9906, warns of sight obstructions at the grade crossing area calling for added vigilance on the part of the motorist.

Subp. 5. "Look for trains" sign. The "look for trains" (W10-X3) sign is intended for supplemental use to warn the motorist of his, numbered W10-X3 and shown in part 8830.9906, may follow the "blind xing" sign or other advance-warning sign for additional emphasis by providing a reminder that it is the motorist's obligation to ascertain whether or not it is safe for him to proceed over the grade crossing. It could logically follow the "blind xing" sign for additional emphasis.

Subp. 5a. Exempt-crossing signs. At locations that comply with Minnesota Statutes, section 169.28, subdivision 2, a supplemental sign, numbered R15-3 and shown in part 8830.9906, bearing the word "exempt" may be used below the crossbuck and track signs at the grade crossing, and a supplemental sign, numbered W10-1a and shown in part 8830.9906, may be used below the railroad advance-warning sign. These supplemental signs are to inform drivers of vehicles carrying passengers for hire, school buses carrying children, or vehicles carrying flammable or hazardous materials that a stop is not required at certain designated grade crossings, except when a train, locomotive, or other railroad equipment is approaching or occupying the crossing or the driver's view of the sign is blocked.

Any individual, public agency, or private entity, including a railroad company, may submit a proposal to the commissioner for installing exempt-crossing signs. The use of exempt-crossing signs must be authorized by the commissioner at grade crossings that comply with the standards contained in Minnesota Statutes, section 169.28, subdivision 2. Upon authorization, the commissioner shall issue an order to the railroad company directing that an exempt-crossing sign be installed below the crossbuck and track signs. A copy of the order must be sent to the road authority. The road authority shall install an exempt-crossing sign below the railroad advance-warning sign.

Subp. 5b. "Do not stop on tracks" sign. Use of the "do not stop on tracks" sign, numbered R8-8 and shown in part 8830.9908, must comply with the MMUTCD.

Subp. 6. Advisory speed plates. Appropriate advisory speed plates (, numbered W13-1), may be mounted beneath any a railroad advance-warning sign to indicate the safe vehicle-approach speed to the grade crossing.

Subp. 7. [See repealer.]

8830.0800 STOP SIGNS.

Subpart 1. Location. The installation of stop signs, numbered R1-1, at railroad crossings a grade crossing must be approved authorized by the ~~commission~~ commissioner and the grade crossing must be designated in the Mn/DOT records of the ~~commission~~ as a stop crossing. Upon application of the road authority, or on the commissioner's own motion, the commissioner may authorize stop signs are for use on roadways where traffic is required to stop before at a specific grade crossing railroad tracks to ascertain whether it is safe to proceed across the track area under Minnesota Statutes, section 219.20. The use of stop signs at a grade crossing must comply with the MMUTCD.

Before the installation of stop signs is authorized, the commissioner shall evaluate the grade crossing to determine if it is an appropriate location for vacation under part 8830.2710 or for consolidation under part 8830.2720.

The stop sign (R1-1) shall be reflectorized or illuminated to show the same shape and color both by day and night. The stop sign shall be an octagon with white message and border on a red background.

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Subp. 2. Size. The standard size shall be ~~30~~ of the stop sign used at grade crossings is ~~36~~ inches by ~~30~~ ~~36~~ inches. Where greater emphasis or visibility is required, a larger size is recommended and may be used.

Subp. 3. Installation and maintenance. A stop sign shall sign must be designated by the commission to be either mounted on the crossbuck mounted or separately mounted, substantially in accordance with part 8830.9900 ~~8830.9901~~, subpart 2. Crossbuck mounted Installing and maintaining the stop signs shall be the responsibility sign are responsibilities of the railroad company. Separately mounted stop signs shall be the responsibility of the road authority and located approximately three feet in advance of the crossbuck sign and in accordance with the manual.

Subp. 4. Commissioner's order, compliance. On authorizing a stop sign at a grade crossing, the commissioner shall issue an order to the railroad company directing that a stop sign be installed within 30 days. A copy of the order must be sent to the road authority.

Subp. 5. "Stop ahead" sign. The road authority shall install a "stop ahead" sign, numbered W3-1, in advance of the stop sign. Maintaining the "stop ahead" sign is the responsibility of the road authority.

Subp. 6. Reflectorization. By January 1, 1995, existing authorized stop signs at grade crossings will be replaced with stop signs that are reflectorized with wide-angle, prismatic, retroreflective sheeting or better.

After a stop sign reflectorized with wide-angle, prismatic, retroreflective sheeting or better is installed, future replacement of that stop sign by the railroad company must be to the same level of reflectorization or better.

8830.0900 PAVEMENT MARKINGS.

Pavement markings in advance of a railroad crossing shall consist of an X; the letters RR; a no passing marking; and certain transverse lines. They should be placed on all paved approaches to railroad crossings. These markings, if physically feasible, shall be placed at all grade crossings where railroad highway grade crossing signals or automatic gates are operating, and at all other crossings where the prevailing speed of highway traffic is 40 mph or greater.

The markings shall also be placed at crossings where engineering studies indicate there is a significant potential conflict between vehicles and trains. At minor crossings or in urban areas, these markings may be omitted if engineering study indicates that other devices installed provide suitable protection. Such markings shall be white except for the "no passing" markings.

The design and placement of railroad grade crossing pavement markings shall be essentially as illustrated in part 8830.9900, subpart 3 must comply with the MMUTCD. The symbols and letters are elongated to allow for the low angle at which they are viewed. The centerline may be extended across the track area. At crossings where there are signals or gates, the stop line should be placed perpendicular to the roadway approximately five feet in advance of the signal or gate. Pavement markings are the responsibility of the road authority.

8830.1000 SIGNALS AND GATES.

Subpart 1. When signs signals are needed; standards for changes. At railroad crossings a grade crossing where studies indicate the need of the commissioner concludes that active warning beyond that provided by signs devices are needed, signals should be installed that indicate the approach or presence of trains the commissioner shall determine which devices are appropriate for the grade crossing. The signals may be supplemented by gates that extend across the lane or lanes of the approaching traffic while trains are approaching and occupying the crossing. Such signals shall These active warning devices must comply with part 8830.9900 8830.9901, subparts 3, 4, and 5, and 6 and be approved under part 8830.2300.

Before the installation of signals is authorized, the commissioner shall evaluate the grade crossing to determine if it is an appropriate location for vacation under part 8830.2710 or for grade separation under part 8830.2725.

Except where when modified and supplemented by the following rules parts 8830.1100 to 8830.3900, and except as modified by the commission from time to time when, in their opinion, public interest and safety would thereby be best served, future modifications, replacements, and installations, and maintenance of signals, gates, and other active warning devices of railroad at grade crossings shall must be made in compliance with:

A. the applicable parts of both the Association of American Railroads (AAR) signal manual of Recommended Practice;

B. Association of American Railroads Bulletin Number 7 entitled "Railroad Highway Grade Crossing Protection, Recommended Practices," published by the Communication and Signal Section or most recent revision to this bulletin;

C. applicable parts of the Minnesota manual on Uniform Traffic Control Devices for Streets and Highways approved by the commissioner, Minnesota Department of Transportation and the MMUTCD.

Subp. 1a. Modifications by commissioner. Upon finding of good cause, the commissioner may modify the requirements of subpart 1 to meet the needs of a particular situation.

Subp. 2. Alteration of control and warning devices. Wherever No control circuits or warning devices are may be materially altered, such without prior approval of the commissioner under part 8830.2300. In no case shall material alterations shall not continue the use of obsolete control circuits or warning devices that create when to do so creates an unsafe or hazardous condition.

Subp. 3. [See repealer.]

Subp. 4. Removing signals. If a railroad company or road authority decides that an in-place signal system at an active grade crossing is no longer needed, it may submit a request to the commissioner for approval to remove the signal system. The commissioner shall investigate and determine if removal is appropriate. On determining that a signal system may be removed, the commissioner shall issue an order to the railroad company for the removal and disposition of the signal system.

The treatment of signals and gates at abandoned grade crossings is governed by part 8830.2730.

8830.1100 USE OF SIGNALS AND GATES.

A flashing-light signal is used to ~~indicate~~ show the approach or presence of trains by means of two ~~horizontal~~ horizontally mounted red lights flashing alternately at predetermined intervals.

Use of cantilevered flashing-light signals that are mounted on the arm projecting over the roadway must comply with the MMUTCD.

A railroad-highway grade crossing gate appearing to the driver as an arm being lowered or in a horizontal position is an effective adjunct to the flashing light signal in indicating the approach or presence of trains. When used, the gate should grade crossing gates must extend over the traveled roadway a sufficient distance to ~~cover~~ block the lanes used by traffic approaching the grade crossing.

Signals and signs or signals, signs, and gates of the type described ~~herein~~ in this chapter may only be installed at railroad grade crossings as a warning of the approach of trains. ~~These exact assemblies of devices shall, and may only be used for no other purpose upon authorization of the commissioner.~~

8830.1200 OPERATION OF SIGNALS AND GATES.

~~On tracks where trains operate at a speed of 20 miles per hour or higher. At signalized grade crossings, the signals shall must operate for not less than at least 20 seconds before the train's arrival of any train. For trains operating less than 20 miles per hour, the signals shall operate in advance of train movements over the crossing a sufficient time to give adequate warning to highway traffic when considering such conditions as highway speed and volume of highway traffic.~~

~~Where the distance from the most remote signal to the clearance on the highway roadway for the farthest track on which trains operate at a speed of 30 miles per hour or higher, as measured parallel to the center line of the highway roadway, is more than 35 feet, the 20 seconds 20-second time should requirement must be increased. The rate of increase must be one second for each additional ten feet of travel as consideration for to allow slow-moving highway roadway vehicles which use the crossing to clear the farthest track. Signals shall operate whenever any part of a train occupies the crossing. Signals and devices are to be designed so that they will operate only when it is intended to indicate impending danger at the crossing, such as an approaching train, and they will operate for such a period of time before arrival of any train operated over the crossing as is required above.~~

8830.1300 SIGNAL CONTROLS.

Subpart 1. Design compliance. Controls, including electric, electronic, and mechanical methods, ~~shall be in accordance must comply with the AAR signal manual Part 34, insofar as it applies, and as far as practicable shall must be so designed that in the event of failure of any if a part fails, the operation required of the signals and devices device will be provide the warning signals normally provided when a train approaches the grade crossing.~~

Subp. 2. Suspension of Suspending operation during switching or regular operating stops of warning devices. ~~Where~~ If means are provided to suspend operation of the warning devices during intervals when trains make regular operating stops or perform switching operations on approach circuits, ~~the controls shall must be so designed as to provide operation of so that train movements on other tracks included in the warning system actuate the warning devices before a train reaches the grade crossing. Automatic control of warning devices, actuated by approaching trains on tracks other than the track on which the train that has stopped or is performing switching operations, shall must take precedence over any feature provided to suspend operation.~~

Subp. 3. Manual control of warning devices. ~~Where~~ If a manual supervisory control of warning devices is provided in addition to automatic controls:

A. the automatic control, actuated by approaching trains on tracks other than that for which manual control has been made effective shall, must take precedence over the manual control;

B. means ~~shall~~ must be provided to restore the controls to automatic operation; and

C. means ~~shall~~ must be provided to prevent manual operation by unauthorized persons.

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Subp. 4. **Track circuits.** All Tracks over the grade crossing shall must be provided with track circuits, unless otherwise approved the commissioner specifically exempts the crossing in question.

Where train speeds on a given track vary considerably by more than 20 miles per hour under normal operation and volume of railroad and highway roadway traffic warrants, special devices or circuits should must be installed to provide reasonably consistent warning time for all train movements. Under similar traffic volume conditions Special control features should must be used to eliminate the effects of station stops and switching operations within approach-control circuits. Wrap-around or equivalent circuits may be required with motion-sensitive control equipment.

Subp. 5. [See repealer.]

Subp. 6. **Indication of power interruption.** A "power off" indicator, which shows that a transfer from the primary power source to a secondary power source has taken place, must be installed for each signal system and must be visible from the outside of the control box.

8830.1400 ELECTRIC LIGHT UNITS.

Subpart 1. **Standard.** Design criteria for electric light units shall be in accordance must comply with the AAR signal manual Part 466, and shall be arranged to provide indication for approaching traffic as required.

Subp. 2. **Installation.** They shall Electric light units must be mounted horizontally at on two feet and six-inch centers, and preferably not less than vertically at least seven feet and six inches nor but not more than nine feet and six inches above the surface of the highway roadway, measured from the crown of the roadway to the bottom of the unit's background.

Subp. 3. **Size and design.** Lamp units shall must be 12 inches in diameter, must be hooded to shade them from the sun but not shielded at the sides to impair close-in indication, and shall must have dull black backgrounds 20 to 24 inches in diameter. Light units shall must flash alternately. The number of flashes per minute for each an incandescent-type lamp shall be 35 minimum, 55 maximum must comply with the MMUTCD. Lamps shall must be illuminated approximately the same length of time. Total time of illumination of each pair of lamps shall be practically the entire operating time. Each electric light unit, when equipped with a roundel designed for 30 degree horizontal spread, shall provide an indication having a beam candlepower of uniform intensity at any angle up to ten degrees on either side of the axis and the range at any point within the 20 degree angle under bright sunlight conditions, with the sun at or near the zenith, shall be not less than 4,500 feet. Electric light units shall display a satisfactory indication at close range.

Subp. 4. **Alignment.** Alignment of highway grade-crossing signal reflector-type light units shall must be accomplished by the railroad company in accordance with the recommended practice set forth by in the AAR signal manual Part 268 of most recent revision or by railroad company procedures approved by the commissioner.

8830.1500 BELLS.

Subpart 1. **Use required; exception.** A grade-crossing bell is an audible warning device used to supplement other active control devices. Bells must be used at all signalized grade crossings, unless otherwise determined by the commissioner. Requests for exceptions to this requirement must be submitted to the commissioner by the road authority. The commissioner shall grant exceptions only at grade crossings that are not regularly used by bicyclists or pedestrians.

Subp. 2. **Function requirements.** The bell, when used, should must sound a warning during the time the signal lights are operating, except it unless otherwise determined by the commissioner. When gates are used, the bell may be silenced when head end of train reaches the crossing or when the gate has descended to within ten degrees of horizontal.

Subp. 3. **Standard.** A bell, when used, shall be in accordance When installing bells, the railroad company shall comply with the AAR signal manual Part 24 and mounted with the face of the gong parallel to the highway.

8830.1600 PLACEMENT OF SIGNALS.

Subpart 1. **Location of signals.** In the placement of placing signals, primary consideration shall must be given to ensuring the proper visibility of signal faces. However, in the interest of safety, signals and controller cabinets should be placed as far as practicable from the edge of the traveled way without adversely affecting signal visibility. Signals shall must be located to the right of the highway not less than two feet clear from the face of vertical curb or, where there is no curb, not less than two feet clear from the edge of the shoulder, and not less than 42 feet from the center line of the nearest track in compliance with the MMUTCD and in substantial accordance with part 8830.9900 8830.9901, subparts 6 and 7 and 8.

Subp. 2. **Use and location of additional signals.** Additional light units or an additional signal may be used if it is determined the commissioner determines the use of a single signal to be impractical to warn all highway roadway traffic approaching the grade crossing from one direction with a single signal. On divided roadways, Use and location of additional signals may be located to the left of the roadway not less than two feet clear of curb or edge of shoulder and not less than 42 feet from the center line of the nearest track must comply with the MMUTCD.

Subp. 3. **Gate arms.** Where local conditions require, gate arms may be placed at other than right angles to the highway roadway.

Subp. 4. **Controller cabinets.** At locations where the roadway speed is 40 miles per hour or greater, controller cabinets ~~shall~~ must be located 30 feet clear of the edge of the nearest traffic lane unless otherwise approved by the ~~department~~ commissioner. At locations where the roadway speed is less than 40 miles per hour, controller cabinets must be located in compliance with the MMUTCD.

Subp. 5. **Signal support foundation.** No part of a ~~base for a signal support should~~ foundation may extend more than four inches above the ground level at any point.

Subp. 6. **Signals on medians.** On medians, ~~the above minimum clearances for signal supports should be obtained where practicable support masts must be located in compliance with the MMUTCD. Any supports~~ Support masts that cannot be located with the required clearances ~~should be of the breakaway type or should~~ must be guarded if at all ~~practicable,~~ unless otherwise determined by the commissioner.

8830.1700 GUARD RAILS RAIL.

Subpart 1. **Lateral escape route.** Where local conditions ~~will~~ permit, a lateral escape route to the right of the highway roadway in advance of the grade crossing-protection signal ~~should~~ must be kept free of guard rail or other aboveground obstructions. ~~Placement of the~~

Subp. 2. **Responsibility for installation and maintenance.** Installing and maintaining guard rails is rail along the roadway are the responsibility responsibilities of the highway authorities road authority. Where guard rail is not ~~deemed considered~~ necessary ~~nor~~ or appropriate by ~~highway authorities the road authority,~~ rigid non-yielding-type barriers are not to be used for protecting signal supports.

In industrial and other areas involving only low-speed highway roadway traffic and where signals are susceptible to being struck by turning truck traffic, such as in terminal areas, alleys, and warehouse areas, ~~etc.,~~ a ring-type guard rail may be installed, subject to approval by the commissioner, to provide protection for the signal assembly. Installing and maintaining ring-type guard rail are the responsibilities of the railroad company.

8830.1800 USE OF AUTOMATIC GATE.

An automatic gate, when installed, ~~shall serve~~ serves as an adjunct a supplement to a highway grade-crossing signal of the flashing-light type and, when indicating the approach of a train, ~~shall~~ must present toward approaching highway roadway traffic the aspect of ~~an~~ a fully reflectorized red- and white-striped arm equipped with red lights either being lowered or at rest in the horizontal position across the ~~lane or~~ lanes used by traffic approaching the grade crossing. (See part ~~8830.9900~~ 8830.9901, subpart 6 5.)

8830.1900 GATE ARM.

~~Each~~ A gate arm ~~shall~~ must be equipped with ~~not less than at least~~ at least three red lamps arranged to shine in both directions along the highway roadway. The gate arm, when in the raised position, ~~shall~~ must not obstruct or interfere with highway roadway traffic. The gate ~~arms~~ arm ~~shall~~ must be striped on both sides with 16-inch alternate diagonal reflectorized stripes of red and white. When in the horizontal position, the bottom of the gate ~~arms when in the horizontal position~~ arm ~~shall~~ must not be less than three feet and six inches ~~nor~~ or more than four feet and six inches above the crown of the roadway.

8830.2000 GATE OPERATION AND CONTROL.

Subpart 1. **Functional requirements.** The gate arms ~~shall operate~~ must uniformly, and smoothly, ~~and~~ complete ~~all~~ movements ~~without rebound or slap,~~ and be securely held when in the raised position. Gate-arm lights ~~shall~~ must operate in conjunction with the railroad grade-crossing signal at all times when the gate is in position to obstruct highway traffic. The light nearest the tip of the arm ~~shall~~ must burn steadily and two lights ~~shall~~ must flash alternately in unison with the lights on the signal. The gate mechanism ~~shall~~ must be so designed that if the arms ~~while being lowered~~ strike or foul an object while being lowered, they will readily stop, and on removal of the obstruction ~~shall~~ will assume the position corresponding with the control apparatus. The gate arm shall ~~must~~ start its downward motion not less than three seconds after the signal lights start to operate. The gate arm shall ~~must~~ reach the horizontal position before arrival of ~~any~~ a train and ~~shall~~ remain in that position as long as ~~any~~ part of the train occupies the grade crossing.

The ~~design of the~~ gate-operating mechanism ~~shall~~ must be designed, so far as practicable, ~~be such as~~ to ensure proper operation during unfavorable weather conditions.

Subp. 2. **Operational failure.** If out of order, the gate arm ~~shall~~ must assume the horizontal position across the roadway. Circuits ~~shall~~ must be so arranged that a failure of the gate mechanism to operate as intended will not prevent the lights on the gate arm and signal from operating ~~on the approach of~~ when a train approaches.

Subp. 3. **Operating gate arm during malfunction.** At crossings where traffic volumes are moderate to high or where alternate

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routes and railroad crossings are not readily available, manual controls may ~~Where gates are installed, means must be required provided to enable personnel designated by the railroad company to raise the crossing gates in the event of when a malfunction in the control system malfunction such that causes the gates are caused to obstruct traffic under conditions other than the approach and movement of a train over the grade crossing.~~

8830.2100 TRAFFIC SIGNALS NEAR RAILROAD GRADE CROSSINGS.

Subpart 1. **Preemption by railroad controls.** When a railroad signalized grade crossing, ~~protected by signals,~~ is within or near an intersection controlled by a traffic-control signal, the control of the traffic signal ~~should~~ must be preempted from the signal controller upon the approach of trains to avoid conflicting aspects of the traffic signal and the train-approach signal, ~~unless otherwise determined by the commissioner.~~ This preemption feature ~~requires a closed electrical circuit between the control relay of the train approach signals and the preemptor in order to~~ must establish and maintain the preempted condition ~~during the time that while~~ the train-approach signals are ~~in operation~~ operating. Except under unusual circumstances, the interconnection ~~should~~ must be limited to the traffic signals within 200 feet of the crossing.

At railroad grade crossings where train movements are regulated or limited to the extent that train-approach signals are not required, preemption of the adjacent signalized intersections may be desirable to permit nonconflicting highway roadway traffic to proceed during the time the grade crossing is blocked by a train. Except under unusual circumstances, the interconnection ~~should~~ must be limited to the traffic signals within 200 feet of the crossing. The responsible road authority shall determine which traffic signals will be preempted.

Subp. 2. **Preemption sequence.** ~~When the preemption sequence initiated when the train first enters the approach circuit shall begin, it must~~ at once bring into effect a signal display that will permit all vehicles to clear the tracks before the train reaches the intersection ~~or any approach thereto.~~

When the green indication is preempted by train operation, a yellow change interval must be inserted in the signal sequence ~~in the interest of~~ for safety and consistency. To avoid misinterpretation during the time that the clearout signals are green, ~~consideration should be given to the use of the road authority shall consider using~~ 12-inch red lenses in the traffic signals that govern movement over the tracks. After the track-clearance phase, the traffic-control signal may be operated to permit vehicle movements that do not cross the tracks, but ~~in all cases shall~~ must prohibit movements over the tracks. ~~(For interpretation, see part 8830.9950).~~

When the train clears the grade crossing it is ~~necessary to return,~~ the signal must return to a designated phase, which is normally the traffic movement crossing the tracks.

Subp. 2a. **Turn restrictions.** At a signalized intersection where the traffic-control signals are preempted by the approach of a train, the "no right turn" sign, numbered R3-1, and the "no left turn" sign, numbered R3-2, may be used to prohibit turning movements toward the grade crossing. Use of these signs must comply with the MMUTCD.

Subp. 3. **Phasing and timing of traffic-control signals.** Where feasible, the location and the ~~normal (no trains involved)~~ phasing and timing of traffic-control signals near railroad grade crossings ~~should~~ must be designed so that vehicles are not required to stop on the tracks, even ~~though in some cases if this will increase~~ increases the waiting time. The exact nature of the display and the location of the signals to accomplish this will depend on the physical relationship of the tracks to the intersection area.

Subp. 4. **Traffic controls not substituted for railroad grade-crossing warning devices.** Traffic-control signals ~~shall~~ must not be used on mainline railroad grade-crossings ~~in lieu place of railroad grade-crossing warning devices.~~ However, at industrial track crossings and other places where train movements are ~~very~~ slow, as in switching operations, traffic-control signals may be used ~~in lieu~~ instead of conventional train-approach signals to warn motorists of the approach or presence of a train. ~~The provisions of this part relating to traffic signal design, installation, and operation are applicable as appropriate where traffic control signals are so used.~~

8830.2200 MAINTENANCE AND OPERATION OF RAILROAD CROSSING SIGNALS AT GRADE CROSSINGS.

Maintenance and operation of railroad crossing signals and gates at grade crossings are the ~~responsibility~~ responsibilities of the operating railroad company or owner of the ~~trackage~~ tracks, and are to be performed in accordance with the railroad company's written maintenance policy. Signals and gates shall be regularly and periodically inspected for proper operation, kept well painted, and in a serviceable condition at all times. ~~The surfaces of lenses, reflectors, bulbs, and gate arm lights shall be kept free from such deposits as dust or other materials that will seriously affect their efficiency.~~ The maintenance policy should include the qualifications for signal maintenance personnel, a maintenance checklist, a schedule of maintenance, a procedure for responding to complaints, an emergency response plan for signal malfunctions, and a procedure for the disposal of hazardous materials used in the operation of signal systems.

8830.2300 PLAN APPROVAL; INFORMATION REQUIRED.

All Modifications, replacements, and installations of signals, gates, and other active warning devices at railroad grade crossings must be made in accordance with plans approved by the ~~department~~ commissioner.

The following information ~~shall~~ must be furnished provided:

- A. the grade crossing inventory number and the exact location of railroad the grade crossing in terms of railroad company stationing or distance from the nearest milepost and federal crossing number, when available;
- B. proper name of the ~~road~~ roadway crossing ~~and~~ the railroad, including county, state, or federal highway designations;
- C. city where the grade crossing is located or ~~is~~ city nearest to the grade crossing;
- D. listing of ~~all~~ plans, special instructions, data forms, informational reports, and documents ~~transmitted~~ sent with the application;
- E. reasons for making ~~any~~ changes in existing control systems for warning devices;
- F. ~~three~~ two complete sets of plans;
- G. ~~typical~~ wiring diagram of motor-operated warning signals or crossing gates ~~shall be provided or referred to,~~ or if on file, may be referred to;
- H. ~~all~~ changes of existing facilities and control systems ~~shall be,~~ clearly identified on plans by color code or other suitable means ~~(where, except that if plans reflect only new work, they need not be colored or otherwise coded);~~
- I. upon request, ~~any~~ information necessary to completely analyze the control system;
- J. ~~plans submitted for approval must be~~ complete plans with respect to the control system for ~~each railroad the grade~~ crossing involved; ~~where and, when~~ block-signal systems are involved, ~~any the~~ block-signal controls incorporated in the ~~railroad grade~~ crossing-control system ~~must be,~~ shown to the extent applicable;
- K. ~~all~~ electronic equipment ~~must be~~ adequately defined by numerical or other designation supplied by the manufacturer ~~and the name of the manufacturer,~~ so that complete functional and performance characteristics of the control system can be accurately determined and evaluated; ~~name of manufacturer must be stated;~~
- L. frequency of audio frequency track circuits and other audio frequency equipment ~~must be,~~ shown on the plans;
- M. ~~where when~~ electronic control equipment consisting of a self-contained unit arranged for incorporation within the control system for ~~railroad crossing~~ warning devices at a grade crossing is employed and identified only by a box symbol with identifiable terminals within the control circuit diagram, the name of the manufacturer and adequate information ~~shall be provided~~ to enable accurate determination of ~~all the~~ circuits within the self-contained unit ~~(, including:~~
 - (1) if ~~such these~~ complex circuits are published by the manufacturer of ~~such the~~ equipment as a coherent control system, reference to type, model, or other identifying means ~~will be sufficient; or~~
 - (2) if ~~such~~ it is not published by the manufacturer as a complete and coherent system, ~~the railroad should provide~~ copies of ~~all the~~ circuits to be employed and a block diagram or other means of determining how they will be related); ~~name of the manufacturer must be stated;~~
- N. special symbols or nomenclature, defined on the plans, used only by the railroad ~~(company and~~ not found in published standards of the Association of American Railroads, manufacturers of signal equipment, or other generally recognized sources of information in the railway railroad signal industry) ~~shall be defined on the plans;~~
- O. the length of approach track sections ~~shall be,~~ shown on the plan plans;
- P. the length of island track circuit ~~shall be,~~ shown on plan the plans;
- Q. the method of calculation employed by the railroad company in determining the anticipated warning time for a train approaching the grade crossing at average maximum authorized speed ~~shall be stated;~~ the system reaction time, the over-speed tolerance, if any, and any other factors considered shall be stated;
- R. ampere hour capacity of battery ~~shall be,~~ stated on plan the plans;
- S. supplementary supporting information ~~should be provided where when~~ necessary to clarify and support special design features of the control system or warning devices ~~and, which may consist (of, but is not be limited to) the following:~~
 - (1) daily traffic volume and peak traffic density of motor vehicles over the grade crossing, if this information is available from the road authority;
 - (2) daily traffic volume and peak traffic density of train movements over the grade crossing;

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(3) special operating instructions that apply to the warning devices at the grade crossing or indirectly affect them; and
(4) general operating rules effective in the design of the control system for ~~the railroad crossing~~ warning devices at a grade crossing; and

T. ~~where~~ when the control system for highway roadway intersection traffic-control signals is to be interconnected with the control system for ~~railroad crossing~~ warning signals, at a grade crossing:

- (1) a plan showing how the electrical interconnection will be made with the railroad control system;
- (2) a sequence chart approved by the railroad company, state, and local authorities concerned, showing ~~all~~ the operating sequences possible for the traffic-control signals; and
- (3) a dimensioned or scale plan drawing showing the location of the traffic-control signals at the street roadway intersection and the ~~railroad crossing~~ signals at the railroad grade crossing shall be provided.

The road authority shall ~~furnish~~ provide the traffic signal plans and the railroad company shall ~~furnish~~ provide the railroad signal plans. Plan submittals ~~should~~ must be coordinated.

8830.2400 OPERATING LICENSE.

Upon installation or modification of a signal system and inspection and approval by the ~~department commissioner~~, an operating license will be issued by the ~~department commissioner~~ to the operating railroad company in substantial accordance with part 8830.9910 8830.9911.

8830.2500 WATCHMAN FLAGGER.

At ~~crossings~~ a grade crossing where a railroad company identifies a dangerous situation and temporarily stations an employee of a the railroad is stationed for the purpose of warning highway company to warn roadway traffic of impending danger ~~the following rules shall~~, or where a railroad company employee is temporarily stationed as provided for in the operating license, shown in part 8830.9911, or at a grade crossing designated by the commissioner as a flagged crossing where all train movements over the grade crossing are to be preceded by a member of the train crew, items A, B, and C apply.

A. In compliance with the Minnesota Department of Labor and Industry, under part 5205.0030, the watchman flagger shall wear a standard orange warning vest, front and back, and orange hat or other high-visibility garment. For nighttime conditions, similar outside Garments shall used at night must be made of or marked with reflectorized material.

B. During daylight hours, the watchman flagger shall use a standard red and white reflectorized "stop" sign, size 24 flag, at least 18 inches square, whenever practical to direct traffic. The watchman may use At night, a red light shown toward highway traffic during the hours of darkness or when weather conditions require, flare, or reflectorized flag must be used. Watchmen

C. A flagger shall direct highway roadway traffic only when they intend to indicate impending there is potential danger at the grade crossing, such as an when a signal is malfunctioning, a train is approaching train the grade crossing, or the occupation of a grade crossing is occupied by a train, cars, or engines railroad equipment.

A red light may be used, only, to indicate impending danger at the crossing, or train approaching and when a stop for all classes of highway traffic is required. The "stop" sign may only be used where and when a stop for all classes of highway traffic is actually intended at the crossing.

No railroad shall discontinue or substantially change the time of duty of any regularly employed watchman without applying to the department, showing adequate public safety, and receiving approval of the commission.

8830.2650 MAINTAINING GRADE-CROSSING SURFACES.

The responsibility for maintaining grade-crossing surfaces is governed by Minnesota Statutes, section 219.071.

A railroad company shall not close a roadway to perform maintenance at a grade crossing without notifying the road authority, giving adequate advance notice so that the public can be notified of the closure and, where possible, alternate routes can be identified.

ROADWAY GRADE CROSSINGS

8830.2700 COMMISSION APPROVAL OF NEW RAILROAD ESTABLISHING, RELOCATING, AND CHANGING GRADE CROSSINGS FOR ROADWAYS.

Subpart 1. When commissioner's approval required. All New railroad grade crossings for roadways and relocations of existing grade crossings for roadways must be approved by the commission after first making application to the department commissioner. Changes to existing grade crossings, as described in subpart 5, do not require approval by the commissioner.

Subp. 2. When agreement reached, application required. The road authority and the railroad company shall file an application with the commissioner after they agree on the need for the grade crossing, the location of the grade crossing, and the type of warning devices required.

Applications for new public roadways and relocations of existing roadways across existing ~~railroads~~ railroad tracks must be made by the road authority that will have jurisdiction ~~of~~ over the roadway. Applications for new railroad tracks and relocations of existing railroad tracks across existing public roadways ~~shall~~ must be made by the owner of the track or the operating railroad company, or in the case of a spur tracks track owned by a customer, ~~either~~ jointly by the operating railroad or company and the customer owner.

The commissioner may accept, reject, or modify the provisions of the application.

Subp. 3. Application content requirements. Applications ~~should~~ must be accompanied by relevant documents, data, and material necessary to which show public interest and the need for the grade crossing, how safety such as concerns are addressed, and how the grade crossing affects the public interest. The filing shall contain, at a minimum, the following information:

A. name of the railroad company; or owner of the track;

B. name of the road authority; general and specific location;

C. maps; showing:

(1) general and specific location of the proposed grade crossing;

(2) existing and projected patterns of traffic for:

(a) emergency vehicles;

(b) school buses;

(c) vehicles carrying hazardous materials; and

(d) trucks;

(3) distances to nearest roadway-roadway intersection in both directions, and type of warning devices at each intersection;

and

(4) distances to nearest railroad-roadway intersection in both directions, and type of warning devices at each intersection;

D. plans, showing:

(1) grade of roadway;

(2) grade of tracks;

(3) alignment of roadway;

(4) alignment of tracks;

(5) present property limits and proposed property limits of the road authority and the railroad company; and

(6) locations of objects that could obstruct a driver's view of the grade crossing or an oncoming train;

E. proposed schedule of construction;

F. details of construction;

G. proposed use by applicant; ~~expected or current~~;

H. existing and projected traffic volumes and speeds, and train frequency, types of trains, whether passenger, freight, or switching, and speeds, available sight distance;

I. suggested warning, devices; and alternates

J. analysis of alternatives to the proposed grade crossing.

Subp. 4. When agreement not reached, petition required. When the road authority and the railroad company cannot agree on the need for the grade crossing, the location of the grade crossing, or the type of warning devices required, either party may file a petition with the commissioner, submitting the matter to the commissioner for determination under Minnesota Statutes, section 219.072. The petition must be accompanied by an application for the new or relocated grade crossing, containing the information required in subpart 3.

Subp. 5. Changes to existing grade crossings. Modifications Repair and minor relocations maintenance of existing grade crossings and modifications of existing grade crossings that (1) are agreed to by the road authority and the railroad company, (2) do not change

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the profile or alignment of the roadway or the railroad tracks, and (3) do not require ~~commission~~ the construction of additional roadway lanes, do not require approval by the commissioner.

A pavement overlay or track raise, if agreed to by the road authority and the railroad company, is not considered a profile change and does not require approval by the commissioner.

Subp. 6. Changes to active warning devices. Notwithstanding subpart 5, modifications of active warning devices must be approved under part 8830.2300.

8830.2705 NEW GRADE CROSSINGS FOR ROADWAYS.

Subpart 1. Purpose. The purpose of this part is to enhance public safety by providing standards for establishing new grade crossings for roadways.

Subp. 2. Criteria. A proposed grade crossing for a roadway must meet at least one of the criteria in items A to E to be considered for establishment.

A. It will provide access to two or more private properties or to public lands, that have no practical alternate access route.

B. It will provide access where an alternate grade crossing or grade separation is not available within one-quarter mile in an urban area or one mile in a rural area and, when the grade crossing is opened to traffic, it will have an ADT of:

(1) 750 vehicles or more, if located in an urban area; or

(2) 150 vehicles or more, in a rural area.

C. It will consolidate two or more existing grade crossings.

D. It is required by the construction of a new rail line.

E. It will significantly increase public safety.

Subp. 3. Alternatives analysis. A road authority that proposes a new grade crossing for a roadway must perform an analysis of alternatives to the proposed grade crossing. When planning a new development, a city or county must consider the effect of this development on safety at existing grade crossings and minimize the need for new grade crossings.

Subp. 4. Considerations. When a road authority proposes a new grade crossing for a roadway, the commissioner shall consider the following factors in determining whether the grade crossing may be established:

A. use of the grade crossing by emergency vehicles;

B. use of the grade crossing by vehicles carrying hazardous materials, vehicles carrying passengers for hire, and school buses;

C. conformity of sight distances with the 1990 edition of AASHTO's "A Policy on Geometric Design of Highways and Streets," which is incorporated by reference, is not subject to frequent change, and is available through the Minitex interlibrary loan system;

D. alignments of the roadway and the railroad track, and the angle of intersection of those alignments;

E. profile of the intersection of the roadway and the railroad track, and of the approaches to the intersection;

F. distance and travel time to an alternate crossing;

G. distance from the grade crossing to adjacent intersections or driveways;

H. volume of vehicular traffic and operating speed;

I. volume of train traffic and operating speed;

J. use of the grade crossing by pedestrians, bicyclists, and recreational users;

K. type of warning devices proposed;

L. other factors relevant to the particular grade crossing under consideration that might affect the safety of roadway users, pedestrians, bicyclists, and recreational users;

M. costs and benefits of constructing the grade crossing, and the cost participation that would be required of each of the parties involved, as well as the availability of funds; and

N. public opinion regarding establishment of the grade crossing.

Subp. 5. Responsibilities for costs. The cost of constructing a new grade crossing for a roadway is the responsibility of the road authority, unless the construction is the result of an action by the railroad company. If the new grade crossing consolidates two or more existing grade crossings, the cost of constructing the grade crossing must be divided between the road authority and the railroad company in the same proportion as the accrued benefits and savings, as determined by the commissioner. The responsibility for maintenance of the new grade crossing is governed by *Minnesota Statutes*, section 219.071.

Subp. 6. Authorization. New grade crossings for roadways must be authorized as provided for in part 8830.2700.

When a new grade crossing has been authorized, the railroad company shall issue a grade crossing inventory number as provided for in part 8830.0300, and, in cooperation with Mn/DOT, shall complete and file the "U.S. DOT - AAR CROSSING INVENTORY FORM." Copies of the form are available as set forth in part 8830.0300.

8830.2710 VACATING GRADE CROSSINGS FOR ROADWAYS.

Subpart 1. Purpose. The purpose of this part is to enhance public safety by reducing the number of grade crossings for roadways.

Subp. 2. Initiating vacation process. An individual, public agency, or private entity, including a railroad company, may submit a proposal for vacating a grade crossing to the commissioner or the board. The commissioner may also initiate proposals for vacation.

Subp. 3. Candidates for vacation. A grade crossing at which there has been either an accident involving a fatality or two property damage or personal injury accidents within the last five years is a candidate for vacation.

A grade crossing is also a candidate for vacation if:

A. an alternate grade crossing or grade separation that provides access to the affected private properties or public lands is available within one-quarter mile in an urban area or one mile in a rural area; and

B. the grade crossing:

(1) is located in an urban area and has a current ADT of 750 vehicles or less;

(2) is located in a rural area and has a current ADT of 150 vehicles or less; or

(3) has sight distance obstructions or an alignment that creates unsafe conditions at that grade crossing.

Subp. 4. Considerations. On identifying one or more grade crossings within a segment of a rail line as candidates for vacation under subpart 3, the commissioner shall consider the following factors in determining grade crossings to be vacated:

A. previous use of the grade crossing by emergency vehicles;

B. accident history for the last five years;

C. use of the grade crossing by vehicles carrying hazardous materials, vehicles carrying passengers for hire, and school buses;

D. sight distances that do not conform with AASHTO's "A Policy on Geometric Design of Highways and Streets," incorporated by reference in part 8830.2705, subpart 4;

E. alignments of the roadway and the railroad track, and the angle of intersection of those alignments;

F. profile of the intersection of the roadway and the railroad track, and of the approaches to the intersection;

G. distance and travel time to an alternate crossing;

H. distance from the grade crossing to adjacent intersections or driveways;

I. volume of vehicular traffic and operating speed;

J. volume of train traffic and operating speed;

K. use of the grade crossing by pedestrians, bicyclists, and recreational users;

L. other factors relevant to the particular grade crossing proposed for vacation that might affect the safety of roadway users, pedestrians, bicyclists, and recreational users; and

M. costs and benefits of vacating the grade crossing.

Subp. 5. Prioritizing grade crossings for evaluation. The commissioner shall evaluate a segment of a rail line as one unit to determine the appropriate grade crossings for vacation or consolidation. In identifying grade crossings proposed to be vacated as part of a crossing vacation program under Minnesota Statutes, section 219.074, subdivision 2, the volume and speed of train traffic on a rail line will determine the priority for evaluation, with rail lines carrying the highest number of trains and having the highest train speeds to be evaluated first.

Before the commissioner makes a final determination of which grade crossings within a segment of a rail line will be recommended for vacation, an opportunity for public comment must be provided.

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Subp. 6. Grade crossings proposed for vacation. The commissioner shall submit the locations of any grade crossings the commissioner proposes for vacation to the board for action.

The commissioner may remove grade crossings identified for vacation due solely to alignment, sight distance, or other deficiencies from the list proposed to the board if the road authority, at its own expense, corrects the identified deficiencies or installs the appropriate warning devices, subject to approval by the commissioner.

8830.2715 RELOCATING GRADE CROSSINGS FOR ROADWAYS.

Subpart 1. Purpose. The purpose of this part is to enhance public safety by providing standards for relocating grade crossings for roadways.

Subp. 2. Relocation requirement and authorization. Relocated grade crossings must meet the design standards of AASHTO's "A Policy on Geometric Design of Highways and Streets," comply with the MMUTCD, and be authorized as provided for in part 8830.2700.

The commissioner shall evaluate a grade crossing to determine if it is an appropriate location for vacation under part 8830.2710, or for grade separation under part 8830.2725, before the relocation of the grade crossing is authorized.

8830.2720 CONSOLIDATING GRADE CROSSINGS FOR ROADWAYS.

Subpart 1. Purpose. The purpose of this part is to enhance public safety by providing standards for consolidating grade crossings for roadways.

Subp. 2. Consolidation standards and authorization. Consolidation of grade crossings occurs when one or more grade crossings are vacated, with the traffic directed to nearby crossings. Standards for vacation are contained in part 8830.2710.

Grade crossings are also consolidated by changing roadway alignments so that two roadway alignments are combined into one before the grade crossing. If the change in alignments results in a new grade crossing, it must meet the criteria contained in part 8830.2705 and be authorized as provided for in part 8830.2700.

8830.2725 GRADE SEPARATION AT ROADWAY CROSSINGS.

Subpart 1. Purpose. The purpose of this part is to enhance public safety and minimize community disruption by providing standards for the construction of grade separations at railroad-roadway crossings.

Subp. 2. Candidates for grade separation. A grade crossing must meet at least one of the criteria in items A to C to be a candidate for grade separation.

A. The train speeds are 40 miles per hour or greater; the roadway carries four or more lanes of traffic; and either:

(1) the roadway has a posted speed of 30 miles per hour or greater and a current ADT of 5,000 vehicles or more; or

(2) the roadway has a posted speed of 55 miles per hour or greater and a current ADT of 3,000 vehicles or more.

B. There are active traffic-control devices, and there has been an accident at the grade crossing involving a fatality or two property damage or personal injury accidents within the last five years.

C. A significant increase in public safety would result from construction of the grade separation.

Subp. 3. Factors considered in location. On identifying one or more crossings within a segment of a rail line as candidates for grade separation under subpart 2, the commissioner shall evaluate the crossings in that segment as one unit to determine whether a grade separation will be constructed, and, if so, the appropriate location for the grade separation. The commissioner shall consider the following factors in making this determination:

A. previous use of the crossing by emergency vehicles;

B. accident history for the last five years;

C. use of the crossing by vehicles carrying hazardous materials, vehicles carrying passengers for hire, and school buses;

D. volume of vehicular traffic and operating speed;

E. volume of train traffic and operating speed;

F. number of tracks;

G. vertical and horizontal alignments, and the need for and availability of additional right-of-way;

H. other factors relevant to the construction of the grade separation under consideration that might affect the safety of roadway users, pedestrians, bicyclists, and recreational users;

I. costs and benefits of constructing a grade separation and the cost participation that would be required of each of the parties involved, as well as the availability of funds; and

J. public opinion regarding construction of the grade separation.

Subp. 4. Vacation of crossings. On making a determination to construct a grade separation, the commissioner shall evaluate other grade crossings within that segment of rail line to determine whether they may be vacated under part 8830.2710.

Subp. 5. Approval of bridge plans. Plans for bridges that provide grade separations of roadways and railroad tracks must be approved by the board under part 8830.2800.

8830.2730 ABANDONED CROSSINGS.

Subpart 1. Removing signs and markings. Where railroad tracks have been abandoned, the related signs and pavement markings must be removed. Removal of the crossbuck sign and signs attached to it is the responsibility of the railroad company. Removal of advance-warning signs and pavement markings is the responsibility of the road authority.

Subp. 2. Signals and gates. When tracks are not in service, in-place gate arms must be removed. In-place signal heads must be hooded, turned, or removed to clearly show that they are not in operation. This is the responsibility of the railroad company.

Subp. 3. Use of "tracks out of service" sign. When a railroad track has been abandoned, a "tracks out of service" sign, numbered R8-9 and shown in part 8830.9908, must be installed in compliance with the MMUTCD. Use of the "tracks out of service" sign must be authorized by the commissioner. Upon authorization, the commissioner shall issue an order to the road authority, directing that a "tracks out of service" sign be installed. Installing and maintaining this sign are the responsibilities of the road authority.

Subp. 4. Removing tracks. When requested to do so by the road authority, the owner of a track that has been abandoned for 120 days or more, shall remove the track structure and related materials at the abandoned grade crossing. The owner of the track shall then restore the roadway to conform with the roadway sections approaching the abandoned grade crossing, unless otherwise mutually agreed to by the owner of the track and the road authority.

TRAIL AND BICYCLE PATH GRADE CROSSINGS

8830.2750 APPLICATION.

Parts 8830.2750 to 8830.2790 apply to trail and bicycle path grade crossings located on property owned by a road authority and located adjacent to a roadway.

8830.2755 DESIGN.

When the trail administrator determines that a trail or bicycle path must cross railroad tracks, the grade crossing must be designed to enhance the safety of the trail or bicycle path user. When possible, the grade crossing must not be located on trail or bicycle path or track curves, and the trail or bicycle path must cross the tracks at a right angle. When it is not possible for the trail or bicycle path to cross the tracks at a right angle, the trail or bicycle path must be widened to allow the trail or bicycle path user to cross the tracks at as close to a right angle as possible.

8830.2760 SIGNALS, SIGNS, AND PAVEMENT MARKINGS.

Signals and signs used at grade crossings on trails and bicycle paths must comply with the MMUTCD standards for bicycle facilities. Stop signs must be installed at grade crossings on trails and bicycle paths. Pavement markings complying with the MMUTCD standards for bicycle facilities must be used in advance of grade crossings on bicycle paths and, to the extent practicable, on trails.

Installation and maintenance of signs and pavement markings are the responsibility of the trail administrator.

8830.2765 ESTABLISHING, RELOCATING, AND CHANGING GRADE CROSSINGS FOR TRAILS.

Subpart 1. When commissioner's approval required. New grade crossings for trails or bicycle paths and relocations of existing grade crossings for trails or bicycle paths must be approved by the commissioner. Changes to existing grade crossings, as described in subpart 5, do not require approval by the commissioner.

Subp. 2. When agreement reached, application required. When the trail administrator and the railroad company agree upon the need for the trail or bicycle path grade crossing, the location of the grade crossing, and the type of warning devices required, an application must be filed with the commissioner. Applications for new trail or bicycle path grade crossings or to relocate existing trail or bicycle path grade crossings must be made by the trail administrator having jurisdiction over the trail or bicycle path. Applications for new railroad tracks and relocations of existing railroad tracks across existing trails or bicycle paths must be made by the owner of the track or the operating railroad company, or in the case of a spur track owned by a customer, jointly by the operating railroad company and the owner.

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The commissioner may accept, reject, or modify the provisions of the application.

Subp. 3. Application content requirements. Applications must be accompanied by relevant documents, data, and material showing the need for the trail or bicycle path grade crossing, how safety concerns are addressed, and how the grade crossing affects the public interest. The filing must contain, at a minimum, the following information:

A. name of the railroad company;

B. name of the trail administrator;

C. name of the party responsible for construction and maintenance;

D. maps showing:

(1) general and specific location of the proposed trail or bicycle path grade crossing;

(2) existing trails and bicycle paths that connect to the proposed trail or bicycle path; and

(3) distance to the nearest alternate grade crossing or grade separation;

E. plans showing:

(1) grade of trail or bicycle path;

(2) grade of track;

(3) alignment of trail or bicycle path;

(4) alignment of track;

(5) present property limits and proposed property limits of the road authority and the railroad company; and

(6) locations of objects that could obstruct a trail or bicycle path user's view of the grade crossing or an oncoming train;

F. the proposed schedule of construction;

G. the present or proposed use of the trail or bicycle path, including:

(1) characteristics of current or anticipated users of the trail or bicycle path; and

(2) projected user volumes;

H. the frequency of train traffic; the types of trains, whether passenger, freight, or switching; and train speeds; and

I. an analysis of alternatives to the proposed grade crossing.

Subp. 4. When agreement not reached, petition required. When the trail administrator and the railroad company do not agree on the need for the trail or bicycle path grade crossing, the location of the grade crossing, or the type of warning devices required, either party may file a petition with the commissioner, submitting the matter for determination under Minnesota Statutes, section 219.072. The petition must be accompanied by an application for the new or relocated grade crossing, containing the information required in subpart 3.

Subp. 5. Changes to existing grade crossings. Repair and maintenance of existing trail and bicycle path grade crossings and modifications of existing grade crossings that (1) are agreed to by the trail administrator and the railroad company, (2) do not change the profile or alignment of the trail or bicycle path or the railroad tracks, and (3) do not require the widening of the trail or bicycle path, do not require approval by the commissioner.

A pavement overlay or track raise, if agreed to by the trail administrator and the railroad company, is not considered a profile change and does not require approval by the commissioner.

Subp. 6. Changes to active warning devices. Notwithstanding subpart 5, modifications of active warning devices must be approved under part 8830.2300.

8830.2770 NEW GRADE CROSSINGS FOR TRAILS.

Subpart 1. Considerations. When a trail administrator proposes a new grade crossing for a trail or bicycle path, the commissioner shall consider the following factors in determining whether the grade crossing may be established:

A. availability of alternate grade crossing;

B. volume of train traffic and operating speed;

C. proposed use of the trail or bicycle path, including:

(1) characteristics of anticipated users of the trail or bicycle path; and

(2) projected user volumes;

D. relationship to trail continuity;

E. profile of the intersection of the trail or bicycle path and the railroad track, and of the approaches to the intersection;

F. alignments of the trail or bicycle path and the railroad track, and the angle of intersection of those alignments;

G. available sight distances;

H. other factors relevant to the particular trail or bicycle path grade crossing that might affect the safety of the users of the trail or bicycle path;

I. costs and benefits of constructing the trail or bicycle path grade crossing, and the cost participation that would be required of each of the parties involved, as well as the availability of funds; and

J. public opinion regarding establishment of the trail or bicycle path grade crossing.

Subp. 2. Responsibilities for costs. The cost of constructing a new grade crossing for a trail or bicycle path is the responsibility of the trail administrator, unless the construction is the result of an action by the railroad company. If the new grade crossing consolidates two or more existing grade crossings, the cost of constructing the grade crossing must be divided between the trail administrator and the railroad company in the same proportion as the accrued benefits and savings, as determined by the commissioner. The responsibility for maintaining the new grade crossing is governed by Minnesota Statutes, section 219.071.

Subp. 3. Authorization. New grade crossings for trails or bicycle paths must be authorized as provided for in part 8830.2765.

When a new grade crossing for a trail or bicycle path has been authorized, the railroad company shall issue a grade crossing inventory number as provided for in part 8830.0300 and, in cooperation with the trail administrator, complete and file the "U.S. DOT - AAR CROSSING INVENTORY FORM." Copies of this form are available as set forth in part 8830.0300.

8830.2775 VACATING GRADE CROSSINGS FOR TRAILS.

Subpart 1. Initiating vacation process. An individual, public agency, or private entity, including a railroad company, may submit a proposal to vacate a grade crossing for a trail or bicycle path to the commissioner or the board. The commissioner may also initiate proposals for vacation.

Subp. 2. Considerations. When one or more grade crossings for trails or bicycle paths within a segment of a rail line are candidates for vacation, the commissioner shall consider the following factors in determining the grade crossing to be vacated:

A. reason vacation has been proposed;

B. availability of alternate grade crossing;

C. volume of train traffic and operating speed;

D. characteristics of trail or bicycle path users and user volumes;

E. profile of the intersection of the trail or bicycle path and the railroad track, and of the approaches to the intersection;

F. alignments of the trail or bicycle path and the railroad track, and the angle of intersection of those alignments;

G. available sight distances;

H. effect on trail or bicycle path continuity;

I. accident history;

J. other factors relevant to the particular trail or bicycle path grade crossing proposed for vacation that might affect the safety of the users of the trail or bicycle path; and

K. the costs and benefits of vacating the trail or bicycle path grade crossing.

Before a final determination is made by the commissioner regarding which grade crossings within a segment of a rail line will be recommended for vacation, an opportunity for public comment must be provided.

Subp. 3. Grade crossings proposed for vacation. The commissioner shall submit the locations of trail or bicycle path grade crossings the commissioner proposes for vacation to the board for action.

Grade crossings identified for vacation due solely to alignment, sight distance, or other deficiencies may be removed from the list proposed to the board if the trail administrator, at its own expense, corrects the identified deficiencies or installs the appropriate warning devices, to the satisfaction of the commissioner.

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8830.2780 RELOCATING GRADE CROSSINGS FOR TRAILS.

Grade crossings for trails or bicycle paths must be relocated when the alignment of a trail, bicycle path, or rail line is changed. Relocated grade crossings must be authorized as provided for in part 8830.2765. A request for authorization of a relocated grade crossing must include an explanation of why the grade crossing is proposed for relocation.

The commissioner shall evaluate a grade crossing to determine if it is an appropriate location for vacation under part 8830.2775, or for grade separation under part 8830.2790, before the relocation of the grade crossing is authorized.

8830.2785 CONSOLIDATING GRADE CROSSINGS FOR TRAILS.

Consolidation of grade crossings for trails or bicycle paths occurs when one or more of these grade crossings are vacated under part 8830.2775, and the traffic is directed to nearby crossings.

Grade crossings are also consolidated by changing trail or bicycle path alignments so that two trails or bicycle paths are combined into one before the grade crossing. If the change in alignments results in a new grade crossing, it must meet the criteria contained in part 8830.2770 and be authorized as provided for in part 8830.2765.

8830.2790 GRADE SEPARATION AT TRAIL CROSSINGS.

Subpart 1. Considerations. On identifying one or more trail or bicycle path grade crossings within a segment of a rail line as a candidate for grade separation, the commissioner shall evaluate all crossings in that segment as one unit to determine whether a grade separation may be constructed, and, if so, the appropriate location for the grade separation. The commissioner shall consider the following factors in making this determination:

A. volume of train traffic and operating speed;

B. characteristics of trail or bicycle path users and user volumes;

C. preservation of trail or bicycle path continuity;

D. vertical and horizontal alignments, and the need for and availability of additional right-of-way;

E. other factors relevant to the construction of the grade separation under consideration that might affect the safety of trail or bicycle path users;

F. costs and benefits of constructing a grade separation, and the cost participation that would be required of each of the parties involved, as well as the availability of funds; and

G. public opinion regarding construction of the grade separation.

Subp. 2. Vacation of crossings. On making a determination to construct a grade separation, the commissioner shall evaluate other trail and bicycle path grade crossings within one mile to determine whether they may be vacated under the standards contained in part 8830.2775.

Subp. 3. Approval of bridge plans. Plans for bridges that provide grade separations of trails or bicycle paths and railroad tracks must be approved by the board under part 8830.2800.

RAILROAD BRIDGES

8830.2800 APPROVAL OF BRIDGES BY THE DEPARTMENT BOARD.

All Plans for new or reconstructed bridges carrying that provide grade separations of public ways over or under railroads and railroad tracks must be approved by the department board as to minimum legal clearances in accordance with *Minnesota Statutes*, section 219.46, as shown in part 8830.9920 8830.9921. The board may approve variances from legal clearances must be approved by the commission only after first making an application is made to the department and hearing thereon board and the requirements of *Minnesota Statutes*, section 219.47, have been met.

The commissioner may grant temporary variances to the minimum legal clearances under *Minnesota Statutes*, section 219.47, subdivision 2, for encroachments during construction. An application for a temporary variance may be submitted to the commissioner by either the railroad company or the road authority. If an application for a temporary variance is submitted by a road authority, the commissioner shall notify the affected railroad company of the application. An opportunity must be provided for the railroad company to submit comments regarding the requested temporary variance before a decision is made by the commissioner.

8830.2850 MODIFYING EXISTING RAILROAD BRIDGES.

The widening of existing bridges that provide grade separations of public ways and active rail lines, and other modifications that could affect minimum legal clearances, must be approved by the board. The board shall consider proposed modifications upon petition by the owner of the bridge.

8830.2950 ABANDONED BRIDGES.

Subpart 1. Disposition plan. When a railroad company applies to the Interstate Commerce Commission or the board to abandon

a portion of track, it shall submit to the commissioner a plan for disposing of all bridges, trestles, and culverts in the railroad corridor. The plan must state the ownership of all structures and the responsibility for maintaining those structures to be left in place.

Subp. 2. Removal of abandoned bridge. On determining that an abandoned bridge constitutes a safety hazard, the commissioner shall order the owner of the bridge to remove it.

On determining that repairs are necessary to prevent an abandoned bridge from becoming a safety hazard, the commissioner shall order the party identified in the disposition plan as responsible for maintaining the bridge to correct the identified deficiencies, subject to approval by the commissioner. If this party fails to correct the identified deficiencies, the commissioner shall order the owner of the bridge to remove it.

The cost of the removal of an abandoned bridge is the responsibility of the owner.

Subp. 3. Board determination. When the road authority and the railroad company cannot agree upon the disposition or ownership of a bridge, either party may file a petition with the board, submitting the matter for determination by the board under *Minnesota Statutes*, section 219.27.

TRACK CLEARANCES

8830.3000 CLEARANCES AND VARIANCES.

Legal clearances adjacent to, over, and between railroad tracks are defined in *Minnesota Statutes*, sections 219.45 to 219.53 and by general order of the ~~commission~~ board, under *Minnesota Statutes*, section 219.46, subdivision 7, and are depicted in part ~~8830.9920~~ 8830.9921. Variances from legal clearances ~~must~~ may be approved by the ~~commission~~ board only after first ~~making an~~ application is made to the ~~department board~~ and ~~showing at hearing thereon it is shown that such the~~ showing at hearing thereon it is shown that such the variance would not create a ~~condition unduly hazardous condition~~. When considering a variance, the ~~department board~~ may require the installation of the signs shown in part ~~8830.9930~~ 8830.9931, restrict ~~trainmen~~ train crew members operation by train crew members through the use of the signs shown in part ~~8830.9940~~ 8830.9941, and ~~such~~ make other requirements as, in their opinion, would be in the interests of safety.

SAFETY REPORTS AND STANDARDS

8830.3100 RAILROAD ACCIDENT REPORTS.

Subpart 1. Reports. ~~Every~~ A railroad company shall ~~furnish provide~~, as directed by the ~~department commissioner~~, a report of accidents, ~~wrecks derailments~~, and casualties in the ~~manner and form prescribed~~. All "Accidents" has the meaning given in Code of Federal Regulations, title 49, section 225.5. Reports ~~shall and their contents must~~ be open to public inspection, but ~~shall are~~ not be admissible in evidence in ~~any a~~ suit or action for damages, growing out of ~~such an~~ accident, ~~wreck derailment~~, or casualty. Upon reasonable notice, reports ~~are~~ must be available for inspection at the Railroad Administration Section, Office of Railroads and Waterways, Program Management Division, Minnesota Department of Transportation, Transportation Building, 395 John Ireland Boulevard, Saint Paul, Minnesota 55155.

Definitions and terms shall refer to U.S. Department of Transportation, Federal Railroad Administration (FRA) latest regulations relating to Railroad Accidents, Reports and Classification, which regulations shall apply except where modified herein.

Subp. 2. Report sent to the department Mn/DOT. Except for ~~railroad grade~~ crossing accidents, ~~railroads railroad companies~~ shall furnish to the ~~department~~ provide Mn/DOT with copies of all ~~reportable accidents~~ accident reports in the form, style, and schedule as may be required by the Federal Railroad Administration FRA.

Subp. 3. Report of railroad grade crossing accidents sent to the department MN/DOT. All ~~Train and or~~ train service accidents, regardless of extent of damage, ~~due to that occur at a railroad grade crossing shall~~ must be reported as directed by the ~~department commissioner~~ within ten days of ~~such the~~ accident, ~~on forms furnished by the department~~. Grade crossing accidents that involve a fatality must be reported to Mn/DOT within 24 hours of the accident.

Subp. 4. Grade crossing system failures, reports. Railroad companies shall provide Mn/DOT with copies of reports listing instances of grade crossing system failures as required by the FRA in Code of Federal Regulations, title 49, part 234.

8830.3200 TRACK SAFETY STANDARDS.

U.S. Department of Transportation, Federal Railroad Administration, FRA Office of Safety "Track Safety ~~Standard Standards~~," of latest revision shall Code of Federal Regulations, title 49, part 213, apply to all railroad trackage and be ~~are the standard standards~~ for determination of unsafe trackage.

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RAILROAD ACCOUNTING

8830.3300 UNIFORM PROJECT ACCOUNTING AND BILLING.

"Uniform Project Accounting and Billing," USDOT, FHWA, Policy and Procedure Memorandum No. 30-3 of most recent revision shall be Federal Highway Program Manual 1-4-3, including future amendments that may be made by the FHWA, is incorporated by reference and is the basis for ~~railroads~~ railroad companies billing their allocated or agreed upon share of their work against any a public authority in connection with any a project under the jurisdiction of the department Mn/DOT or ~~commission~~ the board, unless otherwise specifically noted in an order of the ~~commission~~ board.

8830.3400 RAILROAD ACCOUNTING RULES REGULATIONS; REPORTS.

Subpart 1. **Classification.** For the purpose of accounting, the ~~commission~~ has adopted ~~commissioner~~ adopts the Interstate Commerce Commission classifications, including any future amendments thereto that may be made by the Interstate Commerce Commission.

Subp. 2. **Uniform system of accounts.** Each railroad company shall maintain its accounts in accordance with the uniform system of accounts prescribed by the Interstate Commerce Commission, "Uniform Accounting System," United States Code, title 49, section 11142, or as otherwise approved by the Interstate Commerce Commission.

Subp. 3. **Reports.** Each A railroad company shall submit the following reports to this ~~commission~~ the commissioner:

A. by March 31 of the following year, a copy of the annual report form submitted to the Interstate Commerce Commission (, which is ICC form A for class I railroads, ICC form C for class II railroads, or other form as prescribed by the Interstate Commerce Commission); this report shall be submitted by March 31 of the following year;

B. a copy of the annual report to stockholders, as soon as it becomes available;

C. for railroad companies operating in more than one state, the Minnesota information, as outlined in part 8830.3500 8830.3510, to be submitted with the ICC Interstate Commerce Commission report (to be furnished by all railroad companies operating in more than one state); and

D. such other information as the ~~commission~~ may request requested by the commissioner.

8830.3510 INFORMATION REQUIRED.

When needed to evaluate railroad operations in Minnesota, the commissioner shall require that a railroad company provide annually the following information: annual carloadings, annual revenues, annual costs, and necessary additional operations information. The commissioner shall provide written notification to any railroad company required to provide this information. The notice must state the information required, the format for reporting the information, and the time period for which the information is to be provided. The commissioner shall provide a reasonable period before the information is due.

For purposes of this chapter, information is considered confidential when the information collected contains shipping, commercial, or financial data that is required to be kept confidential by United States Code, title 49, section 11910.

ABANDONMENT

8830.3600 ABANDONMENT OF AGENCY OR CUSTODIAN SERVICE.

Rail carriers ~~Railroad~~ companies requesting permission to abandon agency or custodian service pursuant to under Minnesota Statutes 4957, section 219.85, shall furnish provide exhibits including to the board that include the information detailed in part 8830.3700.

The term "Gross revenues," as applied to freight traffic, means the total of all transportation charges accruing to petitioner and connecting line carriers on local-to-line and interline traffic destined to and forwarded from the station under consideration. "L.C.L." means less than carload.

All The information required shall must be furnished provided for the two calendar years prior to before the date of petition, and for as many months of the current year as are available.

8830.3700 INFORMATION REQUIRED FOR ABANDONMENT OF AGENCY OR CUSTODIAN SERVICE.

Subpart 1. **Freight service revenues.** Information relating to freight service operations shall must be segregated so as to show separately the following:

A. for local-to-line freight traffic, show gross freight revenue on all shipments of freight forwarded, and freight received; and

B. for interline freight traffic, show gross through revenue on all shipments of freight forwarded, and freight received.

Subp. 2. **Station expenses.** Direct expenses incurred in the operations of depot facilities shall must be itemized as shown below in subpart 3.

Subp. 3. **Exhibits.** Exhibits shall must include the following detail:

A. Freight service revenues.

		Forwarded	Received	Total
Local to line traffic	Carload	\$ _____	\$ _____	\$ _____
	L.C.L.	_____	_____	_____
Interline traffic	Carload	_____	_____	_____
	L.C.L.	_____	_____	_____
Total	Carload	_____	_____	_____
	L.C.L.	_____	_____	_____
All other freight service revenues		_____	_____	_____
Total freight service revenues		\$ _____	\$ _____	\$ _____

B. Station expenses.

Item	Amount
1. Agent's salary	\$ _____
2. Helper's or custodian's salary	_____
3. Light, heat, water, and telephone	_____
4. Building maintenance	_____
5. Stationery and printing and office supplies	_____
6. Payroll taxes	_____
7. Health and welfare benefits	_____
8. Minnesota gross earnings tax	_____
9. Other expenses (explain below)	_____
10. Total direct station expenses	\$ _____

RAILROAD TARIFFS

8830.3800 RAILROADS.

All Tariffs and classifications, and their supplements thereto, and reissues thereof ~~shall~~ must be prepared, posted, and filed in accordance with the Rules of Tariff Circular No. 20; ~~supplements thereto or reissues thereof~~, issued by the Interstate Commerce Commission; and the naming rules governing the construction, filing, and posting of freight-rate publications, except to the extent that such the rules may contravene Minnesota Public Utilities Commission board orders or specific provisions of the Minnesota statutes.

8830.3900 ALTERNATION OF RATES.

All Tariffs ~~shall~~ must provide for complete alternation of all rates and for application of the published rate that results in the lowest aggregate charge.

RAIL SERVICE IMPROVEMENT

8830.5100 DEFINITIONS.

Subpart 1. **Scope.** The following terms as they appear in these rules ~~shall~~ used in parts 8830.5100 to 8830.5700 have the following meanings given them in this part and part 8830.0100.

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

Subp. 3. [See repealer.]

[For text of subp 4, see M.R.]

Subp. 5. **Collateral.** "Collateral" means the security pledged for the loan, which ~~shall~~ may include land, buildings, machinery, equipment, furniture, fixtures, accounts receivable, marketable securities, cash surrender value of life insurance, assignment of leases or leasehold interests, and similar kinds of property and property interests.

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[or text of subp 6, see M.R.]

Subp. 7. **Demonstration project.** "Demonstration project" means an experimental project to improve rail service that has general application within the state ~~but is not traditionally associated with rail transportation.~~

Subp. 8. [See repealer.]

Subp. 9. [See repealer.]

Subp. 9a. **Going concern value.** "Going concern value" means the value of the rail line as an operating business entity.

Subp. 9b. **Grant.** "Grant" means funds not requiring repayment unless the property purchased or improved with these funds ceases to be used for rail transportation.

Subp. 10. **Loan.** "Loan" means ~~interest-free money funds~~ requiring repayment under terms and conditions negotiated among the rail carrier, rail users, and Mn/DOT.

Subp. 10a. **Local rail freight assistance program.** "Local rail freight assistance program" means a federal program created under the federal Railroad Revitalization and Regulatory Reform Act of 1976, Public Law Number 94-210, as amended and as implemented by federal regulations.

Subp. 10b. **Net liquidation value.** "Net liquidation value" has the meaning given it in Code of Federal Regulations, title 49, section 1152.34, paragraph (c)(iii).

Subp. 10c. **Net salvage value.** "Net salvage value" means the current salvage value of the track structure less the costs of removal of the components.

[For text of subs 11 and 12, see M.R.]

Subp. 12a. **Rail carrier.** "Rail carrier" has the meaning given in the Interstate Commerce Act, United States Code, title 49, section 10102, clauses (4), (20), and (21).

Subp. 13. **Rail user.** "Rail user" means ~~any~~ a financially responsible shipper, whether a consignor, or consignee, or other entity; a political subdivision, and their its legal entities; or any other entity, that depend upon:

A. has an interest in the movement of goods by rail service; and offer

B. offers financial assistance in improving and maintaining that rail service.

Subp. 14. [See repealer.]

Subp. 15. **Rail rehabilitation.** "Rail rehabilitation" means the rebuilding of all or part of a rail line or portions thereof and/or or the implementation of other allied projects that will improve rail service.

Subp. 15a. **Regional Railroad Authority.** "Regional Railroad Authority" means a subdivision of state government established under Minnesota Statutes, chapter 398A.

Subp. 16. [See repealer.]

Subp. 17. **State rail service improvement account.** "State rail service improvement account" means the special revenue account created in the state treasury by ~~the act~~ Minnesota Statutes, section 222.49.

Subp. 18. [See repealer.]

8830.5200 AUTHORITY, AND PURPOSE, AND INTERPRETATION.

Subpart 1. **Authority.** ~~The commissioner of the Minnesota Department of Transportation is authorized to~~ may adopt rules necessary to carry out the provisions of the ~~Minnesota Rail Service Improvement act pursuant to~~ under Minnesota Statutes 1979 Supplement, section 222.50, subdivision 3, paragraph (d).

Subp. 2. **Purpose.** The purpose of the Minnesota rail service improvement program and ~~these rules parts 8830.5100 to 8830.5700~~ is to improve rail service by providing state funds in a revolving account ~~to that may be used alone or in conjunction with funds from the federal rail service continuation local rail freight assistance program for the establishment of in establishing~~ contracts between the state, rail users, and railroads rail carriers for rail line rehabilitation and other rail service improvement projects.

8830.5300 RAIL REHABILITATION PROGRAM CRITERIA.

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

a train cannot operate safely at 25 miles per hour A. it does not comply with FRA Class II Track Safety Standards adopted in part 8830.3200, or that it does not have the required structural capacity to support rail cars of 263,000 pounds gross weight; and that;

B. it is within the physical boundaries of or predominantly serves rail users in Minnesota; is eligible. Rail lines belonging to a bankrupt railroad requiring rehabilitation to allow continued service of statewide significance shall also be eligible for funding.

A rehabilitation project is eligible for funding if: and

C. an agreement has been negotiated ~~which that~~ meets the requirements of the act, ~~these rules parts 8830.5100 to 8830.5700,~~ and, when federal funds are used, applicable federal laws and regulations.

Subp. 2. **Priority criteria.** The following criteria ~~shall be used to establish~~ govern the priority of projects proposed for funding:

- A. the availability of state ~~and 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 ~~railroad~~ rail carrier and rail users to participate financially in the project; ~~and~~
- E. ~~the need for~~ significance of the line as ~~part of the overall~~ 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 and phasing.** Rail line rehabilitation ~~shall~~ must be performed to the extent that it allows the use of railroad cars having a gross weight of 263,000 pounds gross weight railroad cars and that it allows trains to operate safely at 25 miles an hour or more FRA Class II Track Safety Standards. The commissioner shall approve rehabilitation to a ~~higher~~ an alternate standard only if it is necessary for the commissioner considers the alternative appropriate and economical in providing a required level of service. Rehabilitation may be accomplished in separate stages if the final result meets these standards. The line must be maintained to the maintenance and safety level set forth in the rehabilitation agreement.

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

A. For rail line rehabilitation and related projects ~~on lines not included in item B,~~ the division of costs ~~shall be by~~ must comply with the following formula:

(1) ~~The commissioner shall make a grant or interest-free loan of federal funds; a loan of state funds; or combination thereof of grant of federal funds and loan of state and federal funds shall be made by the commissioner,~~ of up to ~~90~~ 70 percent of the total cost of a project. ~~In no event shall the A grant must not exceed 60~~ 50 percent of the project cost.

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

(3) The ~~railroad rail carrier~~ shall ~~furnish provide~~ a minimum of 20 percent of the cost of a project, and shall repay ~~all 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 ~~bankrupt railroad, previously owned by a bankrupt railroad, or a rail line has been abandoned under Interstate Commerce Commission regulations, Code of Federal Regulations, title 49, section 1121-Regional Railroad Authority,~~ the division of costs ~~shall be by~~ must comply with the following formula:

~~A grant or interest-free~~ (1) ~~The commissioner shall make a grant or loan or combination thereof of state and federal funds shall be made by the commissioner;~~ a loan of state funds; or combination grant of federal funds and loan of state funds, of up to ~~90~~ 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 ~~furnish provide~~ a ~~portion~~ minimum of the ten percent of the total cost of the project ~~if its financial circumstances permit~~ and shall repay ~~all the~~ loans from the rail users and the loans of federal and state funds.

C. ~~In kind participation:~~ Participation in a contract by ~~any~~ a party may include nonmonetary contributions such as materials, labor, land, or other kinds of contributions if agreed to by all parties to the contract. ~~The amount~~ A detailed description and fair market value of all in-kind participation ~~shall~~ must be clearly defined in the contract.

Subp. 5. **Repayment requirements.** The ~~railroad rail carrier~~ shall reimburse the rail users for funds loaned to it ~~in accordance with~~ under a formula based on usage of the line, or a predetermined fixed amount. ~~Repayments shall~~ Repayment must be made on a quarterly basis terms negotiated between the rail carrier and the shippers and approved by the state. ~~The terms of repayment shall be sufficient so as to assure repayment in ten years or less.~~

The ~~railroad rail carrier~~ shall repay the commissioner for funds loaned to it at a ~~predetermined fixed amount on a quarterly basis.~~ The repayment shall commence upon completion of the requirement to repay the rail users, and extend over a period not to exceed

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ten years by Mn/DOT in accordance with a negotiated agreement. Payments must be made on a set schedule and be sufficient to repay the loan within 15 years from the execution of the agreement.

The rehabilitation contract ~~shall~~ must provide for an extension of time ~~in the event of any cessation or reduction of~~ if service is stopped or reduced by events beyond the control of the parties to the agreement, unless ~~such~~ the cessation or reduction is the result of ~~no~~ diminished demand for service.

8830.5450 REGIONAL RAILROAD AUTHORITY PURCHASE ASSISTANCE CRITERIA.

Subpart 1. Eligibility. A Regional Railroad Authority organized under Minnesota Statutes, chapter 398A is eligible for assistance in purchasing a rail line if it meets all of the conditions listed in items A to E.

A. The authority can show that ownership by the authority best serves the interests of the rail users and the state.

B. Financial analysis shows that the line can operate at a profit.

C. The costs of purchase and necessary rehabilitation will not exceed benefits.

D. The authority has the capability of operating the railroad or contracts with a qualified operator acceptable to the state.

E. So long as the state purchase assistance loan remains unpaid, the authority:

(1) agrees to and does keep title to property purchased by the authority; and

(2) does not sell, trade, convey, transfer, or assign any portion of its interest in the property in any manner without previous approval by the state.

Subp. 2. Project funding. Purchase assistance is available under the following conditions.

A. If the line has not been abandoned and is to be used for continued rail service, the state may provide funding for up to 50 percent of the going concern value or the net liquidation value of the line, whichever is less.

B. If the line has been abandoned and is to be used for continued rail service, the state may provide funding for up to 50 percent of the net liquidation value of the line.

C. If the line is abandoned and is to be used for purposes other than rail service, the state may provide funding for up to 50 percent of the value of the underlying property.

D. The percentages shown in items A to C indicate maximum participation by the state. The actual amount of funding assistance will be determined by the availability of funds, the viability of the proposed use, the participation of the authority, and similar factors as determined by the commissioner.

Subp. 3. Repayment requirements. The authority is not required to repay the state while the line remains in operation as a railroad and is not sold. If the line ceases operation for one year or if the authority sells, trades, conveys, transfers, or assigns any portion of its interest, the authority shall repay the state under terms set forth in the loan agreement.

If the commissioner permits conveyance of an interest under subpart 1, item E, the commissioner may waive this provision or supersede the original contract with a new repayment provision agreed to by all parties.

8830.5500 CAPITAL IMPROVEMENT PROJECT ELIGIBILITY LOAN.

Subpart 1. Interest-free loans. The commissioner shall provide interest-free loans to rail users from the Minnesota state rail service improvement account for up to 100 percent of the cost of a rail ~~transportation related~~ transportation-related capital improvement project under the following conditions:

A. state funds are available;

B. the capital improvement is directly related to an overall rail ~~line~~ rehabilitation or acquisition, or operational subsidy project and the loan recipient has made a financial contribution toward rehabilitating or acquiring the line;

C. the capital improvement project will strengthen the financial condition of the associated rail line;

D. the state's interests are protected by sufficient collateral or personal guarantees acceptable to the commissioner; and

E. the commissioner ~~shall be~~ is repaid for funds loaned at a predetermined, fixed amount payable quarterly over a period of ~~not to exceed more than~~ ten years; and

F. the capital improvement loan is limited to ten percent of the cost of the related rail line improvement or acquisition project or \$200,000, whichever is greater, and the total funding for the capital improvements does not exceed the estimated total cost of the related rehabilitation project or acquisition.

Subp. 2. Grants Demonstration project loans. The commissioner shall provide a grant ~~an~~ interest-free loan from the Minnesota state rail service improvement account of up to ~~50~~ 100 percent of the total cost of a capital improvement project if ~~said~~ the capital improvement is a demonstration project ~~as defined in these rules,~~ and if the following conditions are met:

- A. state funds are available;
- B. the project demonstrates unique methods of using improving rail service or alleviating the impact of abandonments that is are not in common usage throughout the rail industry or that has have not been previously funded under this program;
- C. ~~the general likelihood it is likely~~ that a similar project can be instituted in other locations without the need for public financing; and
- D. ~~the project includes two or more participant rail users; and~~
- E. the benefits resulting from the project exceed the costs of implementing the project.

8830.5600 MINNESOTA RAIL SERVICE IMPROVEMENT PROGRAM.

Subpart 1. **Provision of Providing information.** During the term of the agreement, or as long as the state has an interest in the property of the rail carrier, the railroad rail carrier and rail users shall provide the commissioner any pertinent information necessary to achieve proper evaluation and adequate administration of any for the commissioner to properly evaluate and adequately administer a project under this the Minnesota rail service improvement program. Said This information shall must include financial data, commodity data, cost data of the project, operations information, information on annual maintenance activities and expenditures, and similar types of data and information.

Subp. 2. **Contracts.** Executed contracts ~~shall must~~ be the documents used to commit funds and implement projects. Contracts ~~shall must~~ include the following items:

- A. the description of and the location of the project;
- B. the appropriate plans, standards, specifications, estimated costs, work schedule, and completion date;
- C. the level of service the railroad rail carrier will provide on the rail line during the ~~effective rehabilitation or operations~~ subsidy contract period, pursuant to applicable Interstate Commerce Commission regulations;
- D. ~~assurances by the railroad that the level of rail line maintenance that will be performed during the period of operational~~ subsidy or rehabilitation the contract;
- E. provisions for auditing by the commissioner;
- F. the requirement to comply with ~~an~~ applicable federal regulations when federal funding is involved in the project;
- G. the duration of the contract;
- H. provisions for maintenance and availability of records and audits;
- I. payment and repayment schedules when appropriate;
- J. the amount of funds and any in-kind participation by each party;
- K. the method of administering the contract; ~~and~~
- L. a provision for appropriate recapture of state and federal funds;
- M. the appropriate remedial action to be taken or penalties to be imposed, or both, for failure to comply with the terms of the agreement; and
- N. additional items and conditions the commissioner considers necessary.

Subp. 2a. **Bidding process.** The bidding process for contracts for rail rehabilitation projects must comply with "Procurements," Code of Federal Regulations, title 49, subtitle A, part 18, subpart C, section 18.36. The commissioner may waive this requirement if other methods can be proven to be more cost effective and equally or more efficient.

Subp. 3. **Exceptions.** ~~In the event of unusual circumstances,~~ Exceptions to ~~these rules shall~~ parts 8830.5100 to 8830.5700 may be made for any particular contract if agreed to by all parties. ~~No An~~ exception shall be made if such exception would must not preclude the equal treatment of competing projects.

8830.5700 DISCLOSURE OF RAILROAD RAIL CARRIER DATA.

Subpart 1. **Confidential information, defined.** Information is ~~deemed to be~~ considered confidential for the purpose of ~~these rules~~ this chapter when the information collected contains shipping data or, commercial, or financial information which data that is required to be kept confidential by the provisions of United States Code, title 49, section 11910; ~~which reads as follows:~~

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49 U.S.C. 11910. Unlawful disclosure of information.

(a) (1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, or an officer, agent, or employee of that carrier, or another person authorized to receive information from that carrier, that knowingly discloses to another person, except the shipper or consignee, or a person who solicits or knowingly receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under this subtitle without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, shall be fined not more than \$1,000.

(2) A motor carrier or broker providing transportation subject to the jurisdiction of the commission under subchapter II of chapter 105 of this title or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this subtitle without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(3) A common carrier providing transportation subject to the jurisdiction of the commission under subchapter III of chapter 105 of this title, or an officer, receiver, trustee, lessee, agent, or employee of that carrier, or another person authorized by that carrier or person to receive information from that carrier, that knowingly and willfully discloses to another person, except the shipper or consignee, or a person that solicits or knowingly and willfully receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor, the business transactions of the shipper or consignee, shall be fined not more than \$2,000. Trial in a criminal action under this paragraph is in the judicial district in which any part of the violation is committed.

(4) A freight forwarder providing service subject to the jurisdiction of the commission under subchapter IV of chapter 105 of this title, or an officer, agent, or employee of that freight forwarder, or another person authorized by that freight forwarder, or person to receive information, who knowingly and willfully discloses to another person, except the shipper or consignee, or a person that solicits or knowingly and willfully receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that forwarder for service provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, shall be fined not more than \$100 for the first violation and not more than \$500 for a subsequent violation. A separate violation occurs each day the violation continues.

(b) This subtitle does not prevent a carrier or broker providing transportation subject to the jurisdiction of the commission under chapter 105 of this title from giving information —

(1) in response to legal process issued under authority of a court in the United States or a state;

(2) to an officer, employee, or agent of the United States government, a state, or a territory or possession of the United States; or

(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the commission delegated to make an inspection or examination under section 11144 of this title who knowingly discloses information acquired during that inspection or examination, except as directed by the commission, a court, or a judge of that court, shall be fined not more than \$500, imprisoned for not more than 6 months, or both.

Subp. 2. **Provision of Providing information.** The commissioner shall direct all requests for information under the authority of the act to the corporate office of the railroad company rail carrier. Such Requests shall must specify the kind of information, the level of detail, the format to be used, and the required date of submittal.

Within 20 days from the receipt of the request, the railroad company may rail carrier, if necessary, may apply for a revision of the time schedule for preparing the information. The commissioner shall approve or disapprove such revision requests within 20 days of the receipt of such the requests.

If the requested information is not received within the time schedule, the commissioner may make a final demand. The final demand shall must be in writing and sent by certified mail to the corporate office of the railroad company rail carrier. If the information is not received within 60 days of the receipt of the final demand, the commissioner may issue a subpoena to compel production of the information.

Subp. 3. **Use of confidential railroad data.** Railroad Rail carrier data entrusted to the department Mn/DOT will be used only by department Mn/DOT personnel or the authorized agents of the department Mn/DOT to implement the purpose set forth in the act.

Subp. 4. **Release of information.** Information intended for the restricted use of department by Mn/DOT personnel will may be

furnished provided to persons outside the department Mn/DOT only in the following circumstances:

- A. the ~~railroad~~ rail carrier gives written approval to the commissioner to make the information public;
- B. the information has already been made public by the action of the ~~railroad~~ rail carrier or other public authority; or
- C. the information is aggregated at a sufficient level to obscure the shipping information specific to ~~any~~ an individual rail user.

STATE RAIL BANK PROGRAM

8830.5800 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of The terms used in parts 8830.5800 to 8830.5860 the following terms have the meanings given them in this part and part 8830.0100.

Subp. 1a. Abandoned. "Abandoned" has the meaning given it in Minnesota Statutes, section 222.63, subdivision 1.

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

Subp. 5. [See repealer.]

[For text of subp 6, see M.R.]

Subp. 7. [See repealer.]

Subp. 8. **Dispose.** "Dispose" means to convey property to a governmental subdivision of the state for ~~any of the purposes a purpose~~ cited in Minnesota Statutes, section 222.63, subdivision 4, or to sell the property as provided in Minnesota Statutes, section 222.63, subdivision 5.

[For text of subs 9 to 12, see M.R.]

Subp. 12a. Rail carrier. "Rail carrier" has the meaning given in the Interstate Commerce Act, United States Code, title 49, section 10102, clauses (4), (20), and (21).

[For text of subp 13, see M.R.]

Subp. 14. [See repealer.]

Subp. 14a. State rail bank. "State rail bank" means a program to preserve abandoned railroad right-of-way, as defined in Minnesota Statutes, section 222.63, subdivision 1.

[For text of subp 15, see M.R.]

8830.5810 PROGRAM CRITERIA.

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

Subp. 2. **Funding criteria.** The commissioner shall consider the following criteria ~~will be considered~~ in determining whether a project will be funded:

- A. the availability of program funds;
- B. the probability of the rail line being utilized for the purpose identified;
- C. the likelihood that an alternative rail line right-of-way could not be reestablished in the future;
- D. the adequacy of the title and the costs to cure ~~any~~ defects in the title; and
- E. the likelihood that no other entity will acquire the rail line for an appropriate use.

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

8830.5820 ACQUISITION OF ACQUIRING RAIL BANK PROPERTY.

Subpart 1. **Published list of proposed projects.** The commissioner shall publish notice in the *State Register* listing the rail lines proposed to be acquired. The notice ~~shall~~ must also be published once a week for two consecutive weeks in at least one newspaper of general circulation in each county where the rail lines included in the list are located. ~~After an initial publication, subsequent lists shall be published as necessary.~~

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Proposed Rules

The published list ~~shall~~ must include the following information:

- A. a statement that the list is published pursuant to *Minnesota Statutes*, section 222.63, subdivision 3;
- B. the name, length, and ~~owning railroad~~ owner of each line;
- C. the counties where each line is located;
- D. any identified future uses for each line;
- E. the abandonment status of each line; and
- F. the name, address, and telephone number of ~~the department's~~ Mn/DOT's contact person; and
- G. ~~other pertinent information.~~

Subp. 2. **Initiation of Beginning title search.** A title search of the property proposed for acquisition ~~shall must be initiated~~ started after the procedures under subpart 1 have been completed. For a rail line not yet abandoned, a title search ~~shall must be initiated~~ started after the ~~owning railroad rail~~ carrier has filed an abandonment application with the appropriate ~~decision making~~ decision-making authority. To inform the public of its action ~~the department,~~ Mn/DOT shall publish a notice in at least one newspaper of general circulation in each county where the line is located.

Subp. 3. **Public information meeting.** After the title search has been completed ~~the department,~~ Mn/DOT shall hold at least one public meeting to provide information and to seek comments from the public. Notice of the meeting ~~shall must~~ be given by publication in at least one newspaper of general circulation in each county where the rail line is located. The meeting ~~shall must~~ be held at least no fewer than three days after publication of the notice. At least one meeting ~~shall must~~ be held in each county where the rail line is located.

Subp. 4. **Decision to acquire.** The commissioner shall decide whether or not to acquire a rail line after the public meeting. The decision ~~shall must~~ be based upon the program criteria cited in part 8830.5810. ~~The department~~ Mn/DOT shall publish notice of the decision in at least one newspaper of general circulation in each county where the line is located.

Subp. 5. **Notification to railroads rail carriers.** ~~The department~~ Mn/DOT shall send a notice to each ~~railroad rail~~ carrier that owns a rail line proposed for acquisition at the following times:

- A. when the initial and subsequent lists of proposed acquisitions are published ~~pursuant to~~ under subpart 1;
- B. when the public meeting notices are published ~~pursuant to~~ under subpart 3; and
- C. when ~~the department~~ Mn/DOT publishes notice of its decision ~~pursuant to~~ under subpart 4.

Subp. 6. **Simultaneous implementation.** When possible, the commissioner shall simultaneously implement the procedures of parts 8830.5820 to 8830.5840 ~~for acquisition, utilization, or disposition to acquire, utilize, or dispose~~ of rail bank property when it is possible. The initial notices ~~which are~~ published in the *State Register* and newspapers ~~shall must~~ include a statement noting which procedures are being implemented simultaneously.

8830.5830 UTILIZATION OF UTILIZING RAIL BANK PROPERTY.

Subpart 1. **Notice to utilize rail bank property.** The commissioner shall publish notice in the *State Register* when ~~the department~~ Mn/DOT is considering utilizing banked property. The notice ~~shall must~~ also be published once a week for two consecutive weeks in at least one newspaper of general circulation in each county where the property is located.

The published notice ~~shall must~~ include the following:

- A. a statement that the notice is published pursuant to *Minnesota Statutes*, section 222.63, subdivision 3;
- B. the identifying name, length in miles, and acres of land of the property;
- C. the counties where the property is located;
- D. the purpose of the proposed use and the conditions under which the property would be utilized; and
- E. the name, address, and telephone number of ~~the department's~~ Mn/DOT's contact person; and
- F. ~~other pertinent information.~~

Subp. 2. **Public information meeting.** After the procedures under subpart 1 have been completed, ~~the department~~ Mn/DOT shall conduct at least one public meeting to provide information on the proposal for utilization and to seek comments. Notice of the meeting ~~shall must~~ be given by publication in at least one newspaper of general circulation in each county where the rail line is located. The meeting ~~shall must~~ be held at least no fewer than three days after publication of the notice. At least one meeting ~~shall must~~ be held in each county where the property is located.

Subp. 3. **Decision to utilize.** The commissioner shall decide whether or not to utilize the property as proposed after the public information meeting. ~~The department~~ Mn/DOT must publish notice of the decision in at least one newspaper of general circulation in each county where the line is located.

8830.5840 DISPOSITION DISPOSING OF RAIL BANK PROPERTY.

Subpart 1. **Notice to dispose of rail bank property.** The commissioner shall publish notice in the *State Register* when considering disposing of property pursuant to under Minnesota Statutes, section 222.63, subdivision 4, or when required to dispose of property pursuant to under Minnesota Statutes, section 222.63, subdivision 5. The notice ~~shall~~ must also be published once a week for two consecutive weeks in at least one newspaper of general circulation in each county where the property is located. The published notice ~~shall~~ must include the following:

- A. a statement that the notice is published pursuant to *Minnesota Statutes*, section 222.63, subdivision 3;
- B. the identifying name, length in miles, and acres of land of the property;
- C. the counties where the property is located;
- D. the reasons for and the conditions of the disposal; and
- E. the name, address, and telephone number of ~~the department's~~ Mn/DOT's contact person; ~~and~~
- F. ~~other pertinent information.~~

Subp. 2. **Public information meeting.** After the procedures under subpart 1 have been completed, ~~the department~~ Mn/DOT shall conduct at least one public meeting to provide information on the proposed disposition and to seek comments. Notice of the meeting ~~shall~~ must be given by publication in at least one newspaper of general circulation in each county where the rail line is located. The meeting ~~shall~~ must be held ~~at least no fewer than~~ three days after publication of the notice. At least one meeting ~~shall~~ must be held in each county where the property is located.

Subp. 3. **Decision to dispose of property.** The commissioner shall decide whether or not to dispose of property after the public meeting. ~~The department shall~~ Mn/DOT must publish notice of its decision in at least one newspaper of general circulation in each county where the rail line is located.

When the property is to be sold because it has not been utilized, the notice ~~shall~~ must include the following:

- A. a statement noting the required six-month period ~~which that~~ allows owners of private property adjacent to the banked property to make offers to purchase the property from ~~the department~~ Mn/DOT; and
- B. the name, address, and telephone number of ~~the department's~~ Mn/DOT's contact person.

8830.5850 MANAGEMENT OF BANKED PROPERTY.

Subpart 1. **Maintenance and other uses during preservation of property.** Rail bank property ~~shall~~ must be maintained and may be leased for other uses while it is being preserved in the program. The commissioner shall consider a proposed other uses use for rail bank property ~~shall be considered if they meet it meets~~ one or more of the following conditions:

- A. ~~uses that were it was a use~~ in effect ~~prior to department acquisition of before~~ Mn/DOT acquired the property;
- B. ~~uses that the use will~~ minimize maintenance costs and maximize income to the program;
- C. ~~uses that are the use is~~ not in conflict with ~~uses of adjacent land uses lands; and or~~
- D. ~~uses that the use will~~ provide a benefit to the state.

Subp. 2. **Other uses during utilization of property.** The commissioner shall allow other uses that were in effect while the property was being preserved ~~may be continued to continue~~ while the property is being utilized for the purposes of the program- if the other uses shall be continued if they do not interfere with the utilization of the property.

Other uses The commissioner shall allow a use that were was not in effect prior to before utilization may be allowed if they do it does not interfere with utilization of the property- and it meets one or more of the following conditions:

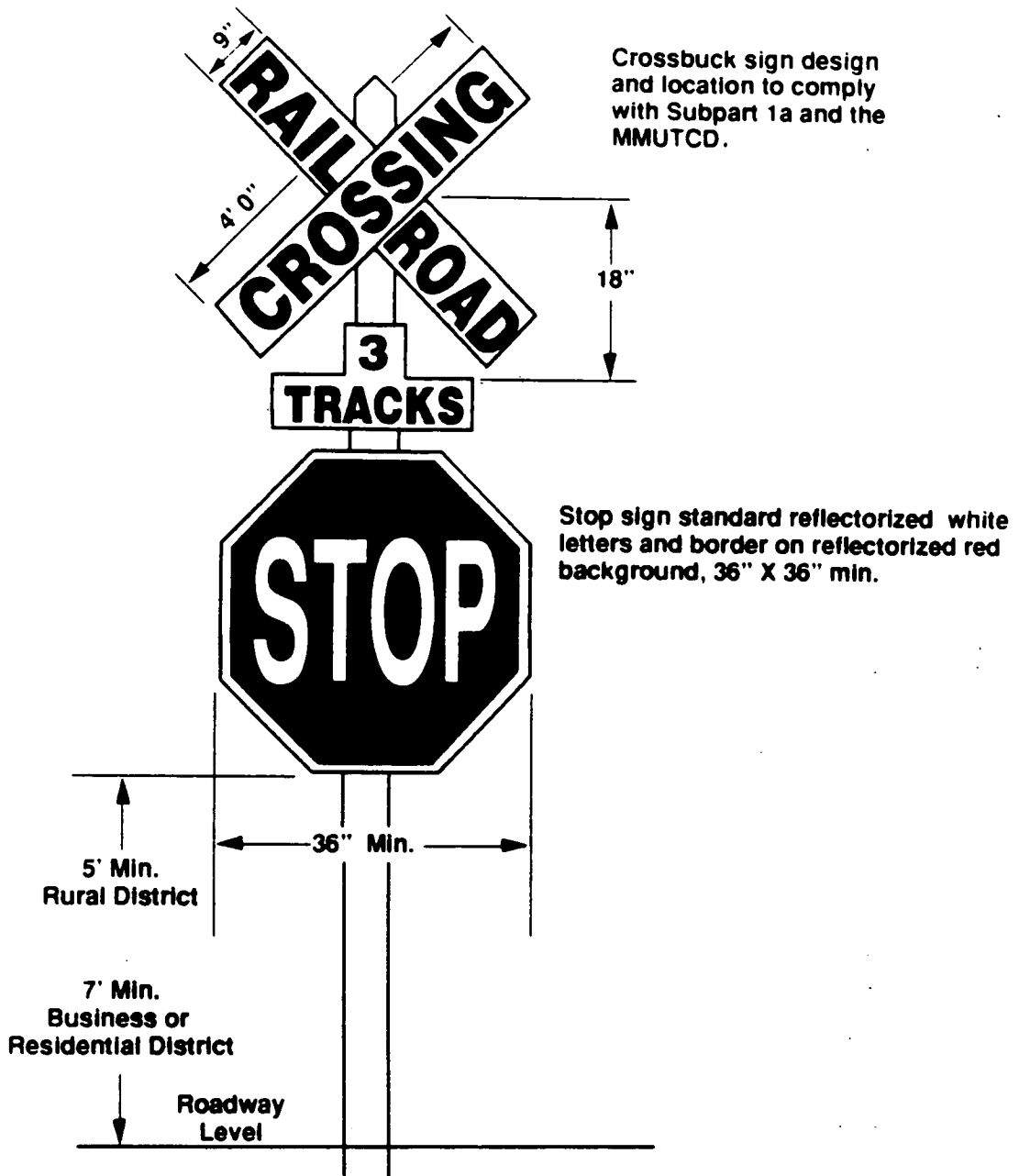
- A. the use will minimize maintenance costs and maximize income to the program;
- B. the use is not in conflict with uses of adjacent lands; or
- C. the use will provide a benefit to the state.

8830.5860 ADMINISTRATION OF THE STATE ADMINISTERING RAIL BANK PROGRAM; VARIANCES.

Subpart 1. **Information for continued rail operations projects.** The entity proposing a ~~continued rail operations~~ project shall provide the commissioner with ~~any~~ pertinent information necessary to achieve proper evaluation and adequate administration of a

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Subp. 2. Stop sign at railroad crossing.



STOP SIGNS AT RAILROAD CROSSINGS

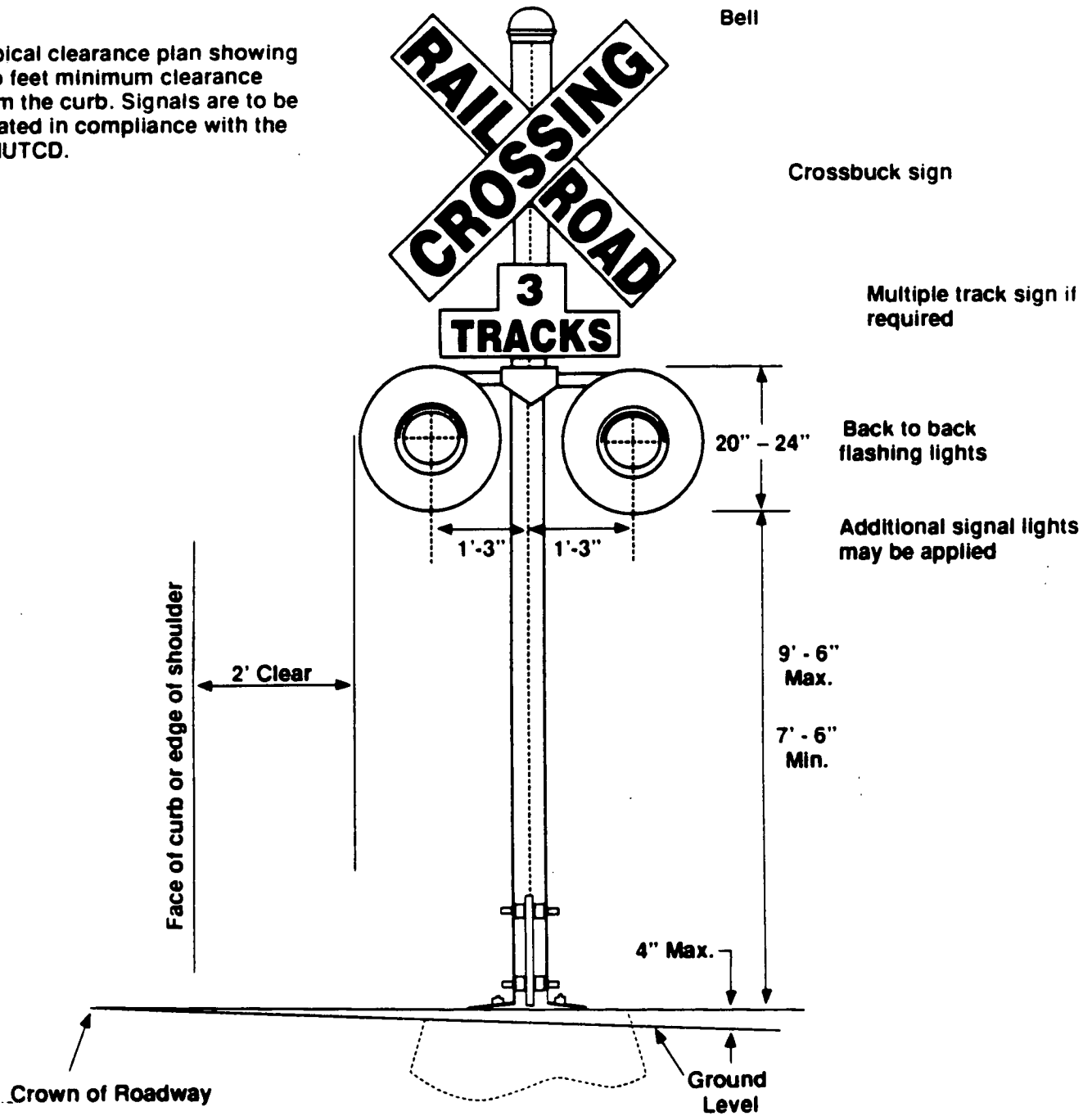
MINNESOTA
DEPARTMENT OF TRANSPORTATION

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Proposed Rules

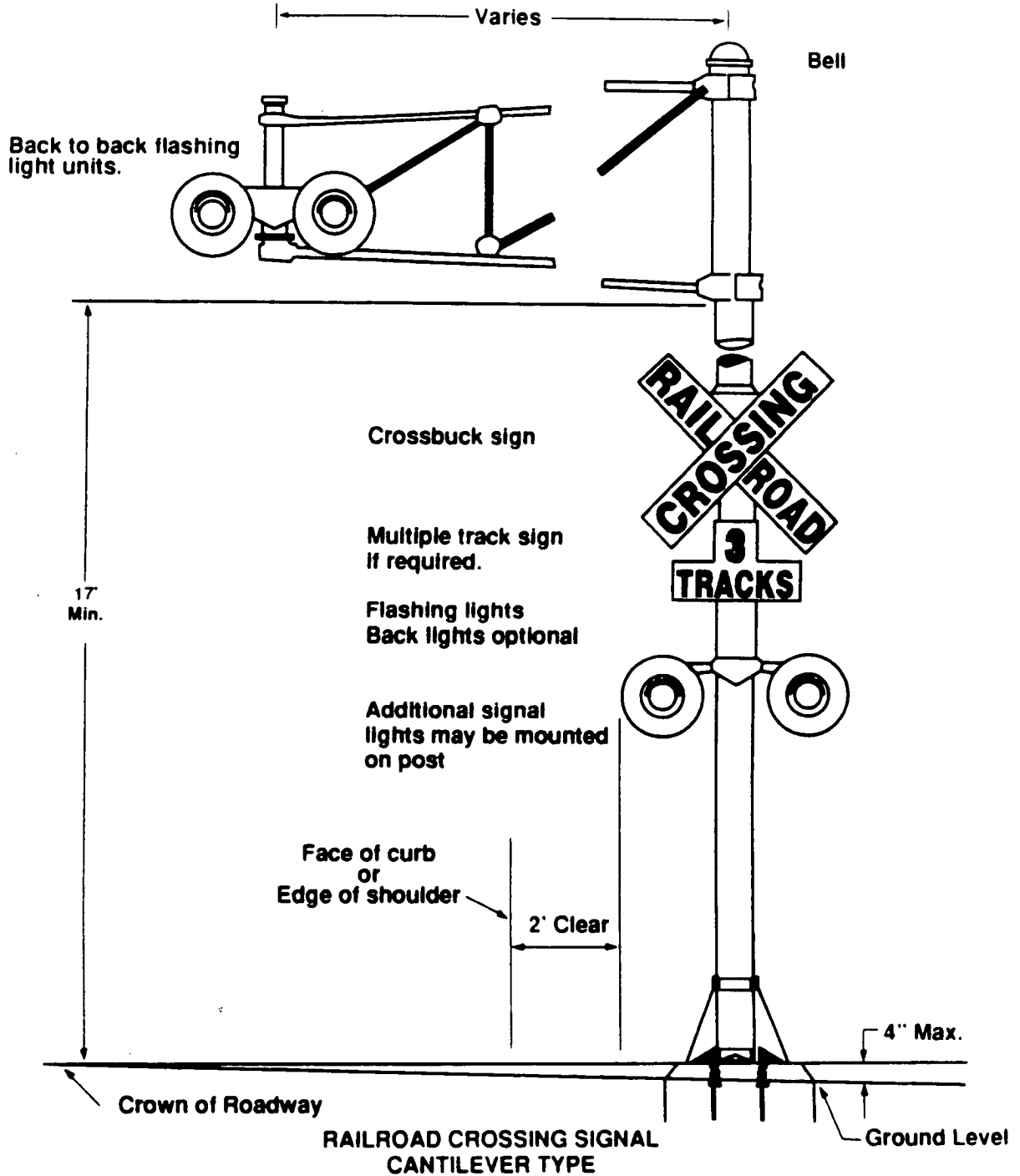
Subp. 3. Railroad crossing signal.

Typical clearance plan showing two feet minimum clearance from the curb. Signals are to be located in compliance with the MMUTCD.



RAILROAD CROSSING SIGNAL
MINNESOTA
DEPARTMENT OF TRANSPORTATION

Subp. 4. Railroad crossing signal; cantilever type.

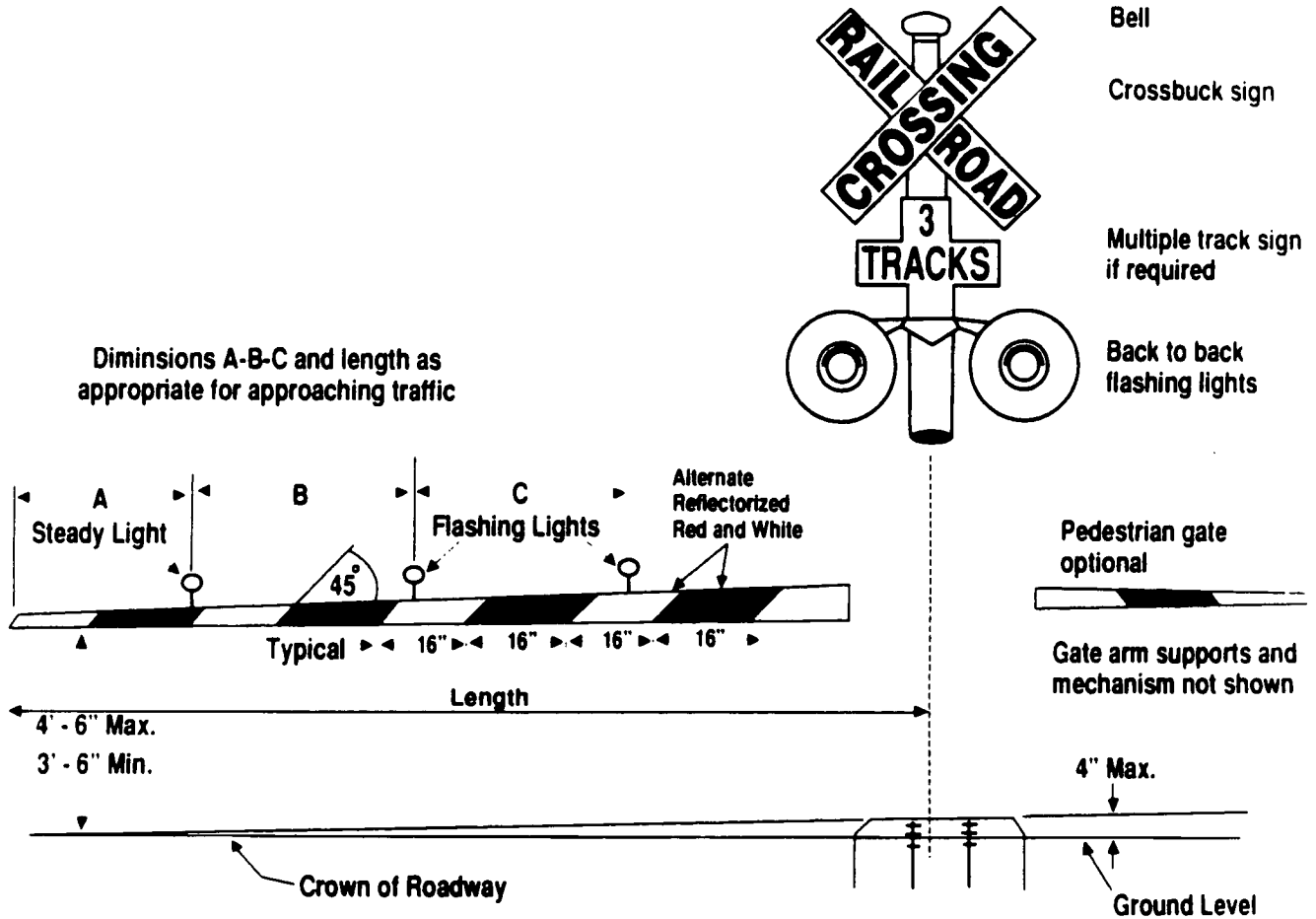


MINNESOTA
DEPARTMENT OF TRANSPORTATION

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Proposed Rules

Subp. 5. Railroad crossing signal with gate.



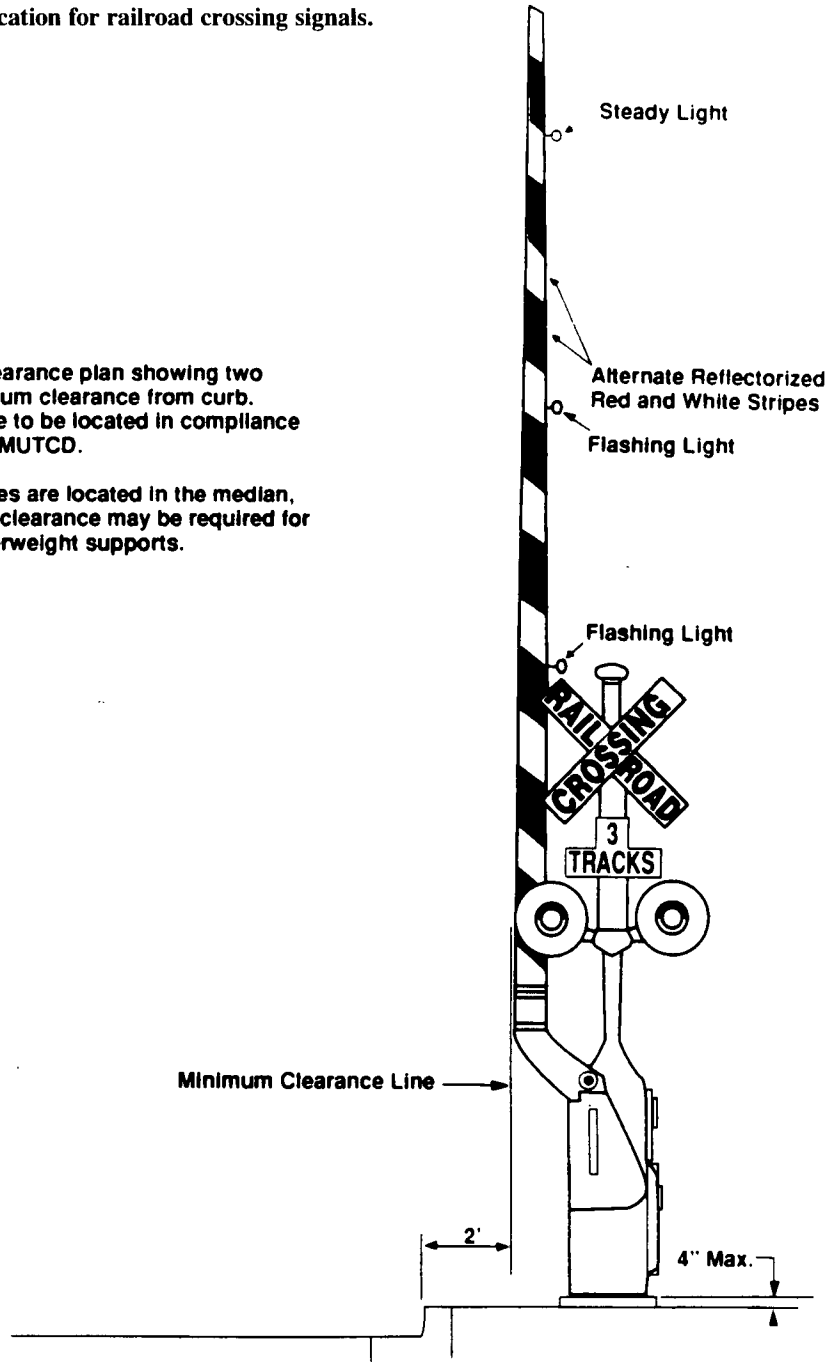
RAILROAD CROSSING SIGNAL WITH GATE

MINNESOTA
DEPARTMENT OF TRANSPORTATION

Subp. 6. Typical location for railroad crossing signals.

Typical clearance plan showing two feet minimum clearance from curb. Signals are to be located in compliance with the MMUTCD.

Where gates are located in the median, additional clearance may be required for the counterweight supports.



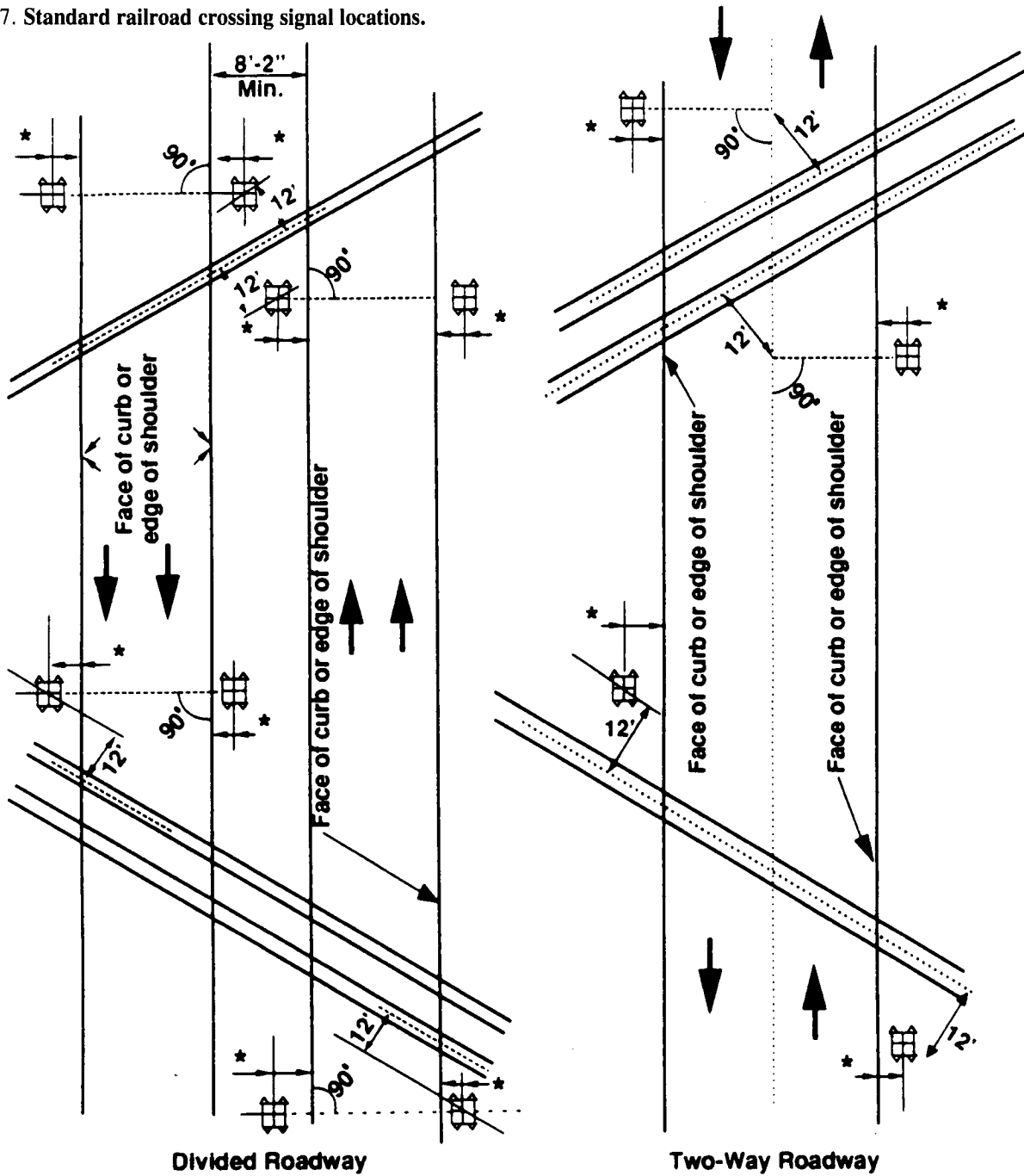
TYPICAL LOCATION PLAN FOR RAILROAD CROSSING SIGNALS WITH OR WITHOUT GATE

MINNESOTA DEPARTMENT OF TRANSPORTATION

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Proposed Rules

Subp. 7. Standard railroad crossing signal locations.



* = 4'-1" to 4'-3"

STANDARD RAILROAD CROSSING SIGNAL LOCATIONS

MINNESOTA
DEPARTMENT OF TRANSPORTATION

8830.9904 RAILROAD CROSSBUCK AND AUXILIARY SIGNS.

Subpart 1. Crossbuck sign.



R15-1
White background

Subp. 2. Auxiliary sign.



R15-2
White background

8830.9906 RAILROAD ADVANCE-WARNING SIGNS.

Subpart 1. Railroad advance-warning sign.

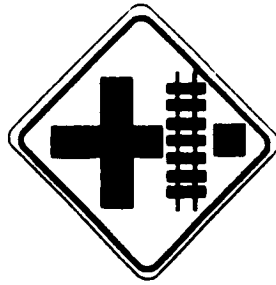


W10-1
Yellow background

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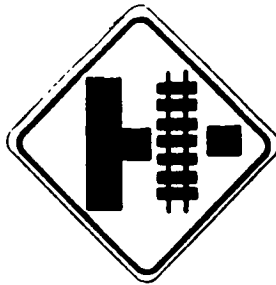
Proposed Rules

Subp. 2. Railroad advance-warning sign.



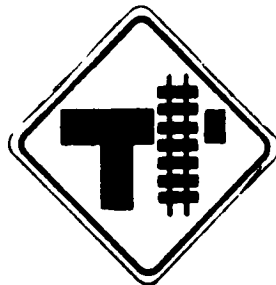
W10-2
Yellow background

Subp. 3. Railroad advance-warning sign.



W10-3
Yellow background

Subp. 4. Railroad advance-warning sign.



W10-4
Yellow background

Subp. 5. Track-angle sign.



W10-X1
Yellow background

Subp. 6. Blind-crossing sign.



W10-X2
Yellow background

Subp. 7. "Look for trains" sign.



W10-X3
Yellow background

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Proposed Rules

Subp. 8. Exempt-crossing sign.



R15-3 White background
W10-1a Yellow background

8830.9908 OTHER REGULATORY SIGNS.

Subpart 1. "Do not stop on tracks" sign.



R8-8
White background

Subp. 2. "Tracks out of service" sign.



R8-9
White background

8830.9911 OPERATING LICENSE.

Authorized Signal System:	DEPARTMENT OF TRANSPORTATION STATE OF MINNESOTA *****	USDOTNO: Agreement No: File:
() 12" Lenses		
() Gates		
() Cantilevers		Plans Approved:
() Flashing Lights	(Location)	
() Motion Detectors	(Railroad)	
() Speed Predictors		In Service Date:
()		
Reason for Issuance:	***** OPERATING LICENSE RAILROAD CROSSING SIGNALS *****	Inspection Date:

The warning signal system with its various parts and appliances, having been duly inspected and examined by the Department of Transportation of the State of Minnesota, as provided by law, and having been found sufficient for the purpose of such a signal system, a plan of which is filed in this office;

NOW, THEREFORE, the aforesaid signal system is hereby approved in manner and form as described and shown upon the plan approved now on file in the Office of the Department, and this license shall authorize the above mentioned Railway Company to operate the said signal system until further order of this Department, subject, however, to the following conditions, to-wit:

FIRST: That the aforesaid Railway Company shall not operate its trains over the crossing without providing a warning time for the railroad crossing signals as required by D.O.T. rules 8830.12 and 8830.13 and shall not operate its trains over the approach circuits of this signal system at a rate of speed in excess of:

(Maximum train speed)

SECOND: The aforesaid Railway Company shall cause said signal system to be frequently inspected and properly maintained and shall provide for its continuous efficient operation so long as it is in use under this license.

THIRD: When notified of failure of the aforesaid warning signal system to function properly, means shall be provided to furnish adequate warning for each train movement at said crossing until the signal system is again restored to normal operation.

FOURTH: No change shall be made in said signal system, or any of its parts, nor in the manner of operating the same, without the approval of the Department.

FIFTH: The speed limit or limits established by this license relate only to the maximum permissible train speed in the vicinity of the grade crossing with its associated signal device circuitry which will provide adequate warning time to highway traffic. It does not preclude the establishment of more restrictive speed limits caused by track conditions or by any regulatory authority of a governmental unit.

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION

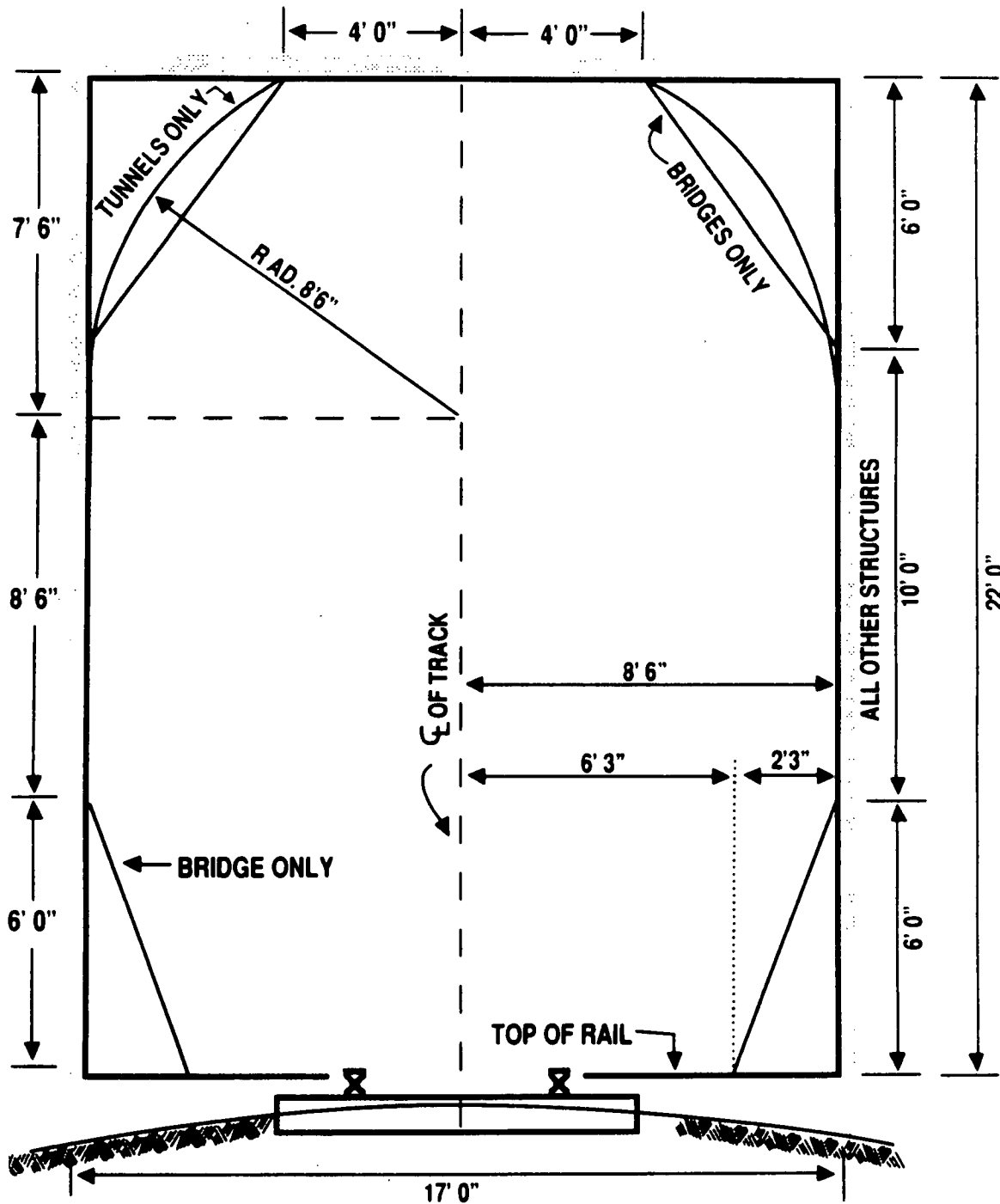
Dated in St. Paul, MN

Director, Railroad Administration

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Proposed Rules

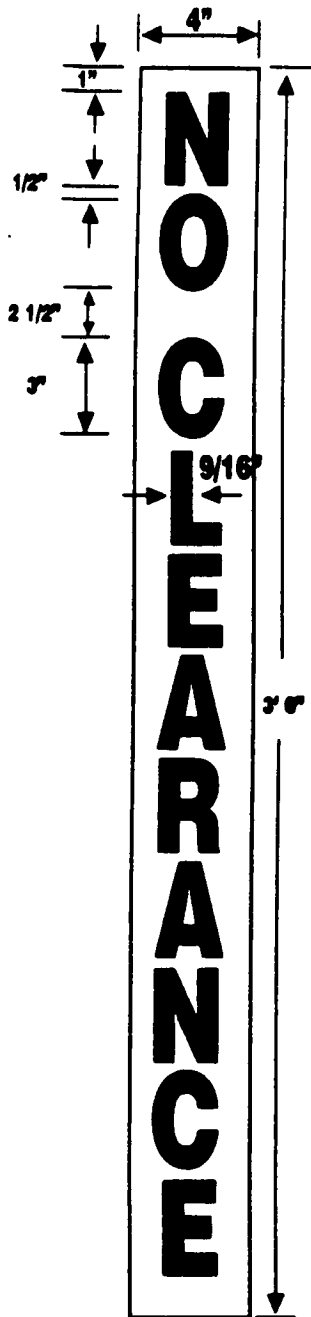
8830.9921 CLEARANCES FOR STRUCTURES, BRIDGES, AND TUNNELS.



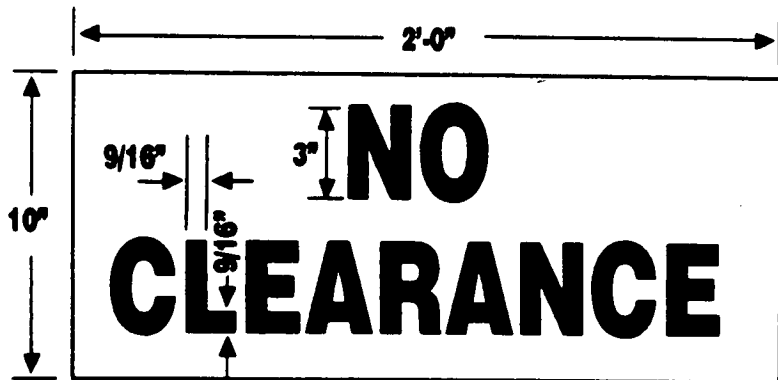
MINNESOTA
TRANSPORTATION REGULATION BOARD

**CLEARANCE DIAGRAM
STRUCTURES, BRIDGES & TUNNELS**

8830.9931 STANDARD "NO CLEARANCE" SIGNS.



STANDARD VERTICAL NO CLEARANCE SIGN



STANDARD HORIZONTAL NO CLEARANCE SIGN

NOTE: Black letters on white background, letters 3" high, 9/16" stroke

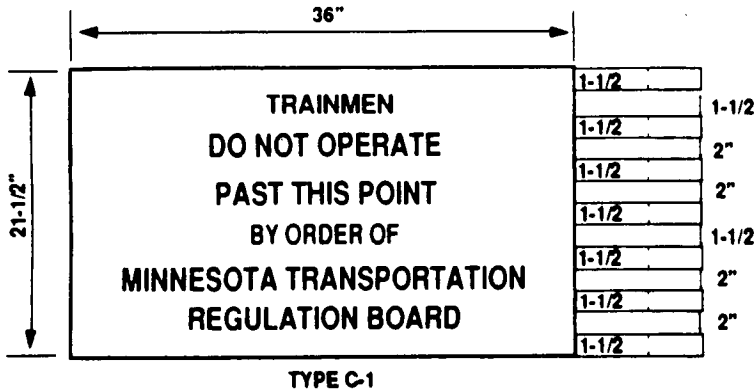
MINNESOTA TRANSPORTATION REGULATION BOARD

STANDARD VERTICAL & HORIZONTAL NO CLEARANCE SIGNS

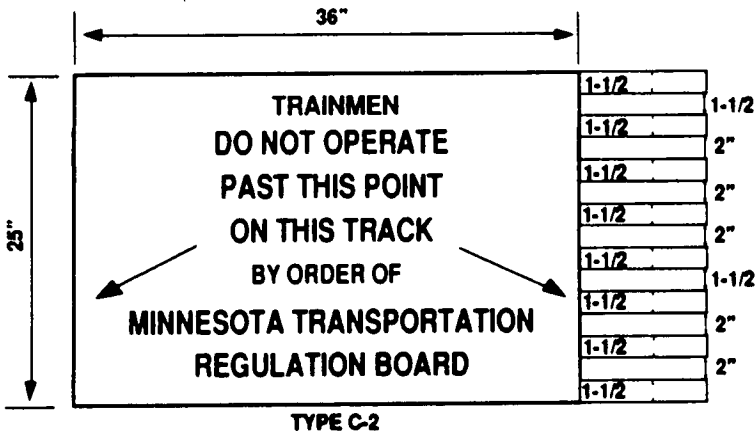
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Proposed Rules

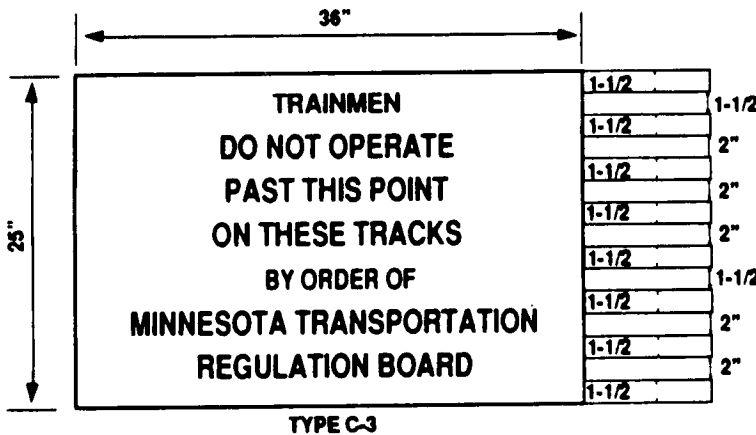
8830.9941 WARNING SIGNS FOR TRAIN CREW MEMBERS.



Warning Signs:
 Black letters, 1 1/2" and 2"
 with 1/4" stroke, on white background



Note: Arrow to be placed on left or right side of the sign depending on track involved.



Warning signs to be placed at point along tracks beyond which trainmen are not to operate. No such sign shall be placed at any point along side or over any track without authority of the Minnesota Department of Transportation.

WARNING SIGN FOR TRAINMEN
MINNESOTA
TRANSPORTATION REGULATION BOARD

REPEALER. Minnesota Rules, parts 8830.0100, subparts 2, 3, 6, and 7; 8830.0500, subpart 3; 8830.0600, subpart 2; 8830.0700, subpart 7; 8830.1000, subpart 3; 8830.1300, subpart 5; 8830.2600; 8830.2900; 8830.3500; 8830.5100, subparts 3, 8, 9, 14, 16, and 18; 8830.5400; 8830.5800, subparts 5, 7, and 14; 8830.5810, subparts 3 and 4; 8830.6100; 8830.6200; 8830.6300; 8830.6400; 8830.6500; 8830.6600; 8830.6700; 8830.9900; 8830.9910; 8830.9920; 8830.9930; and 8830.9940, are repealed.

INSTRUCTION TO REVISOR. In the next edition of Minnesota Rules, the revisor shall renumber part 8830.0100, subpart 8, as part 8830.0100, subpart 19; and part 8830.5600, as amended, as part 8830.5250.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Department of Human Services

Adopted Permanent Rules Relating to Reimbursement for Cost of Care of Clients in State Facilities

The rules proposed and published at *State Register*, Volume 16, Number 8, pages 306-314, August 19, 1991 (16 SR 306), are adopted with the following modifications:

Rules as Adopted

9515.2300 NET INCOME OF CLIENT.

Subp. 2. **Lump sums.** Lump sums, other than excluded property, shall be treated as income in the month received and thereafter shall be treated as property, except that retroactive awards of ~~social security or veterans' benefits retirement, survivors, and disability insurance~~ shall be treated excluded as income during the months to which such benefits are attributable property for six months if retained after the month of receipt. The client shall report the lump sum to the department within ten working days.

9515.2600 RESPONSIBLE RELATIVE'S ABILITY TO PAY.

Subp. 8. **Daily payment based on ability to pay according to household size and annual gross earnings of responsible relatives.**

**Annual
Gross
Earnings of
Responsible
Relative**

Household Size

	1	2	3	4	5	6	7	8	9	10
11,000- 11,999	.33	0								

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Adopted Rules

Annual Gross Earnings of Responsible Relative

	Household Size									
	1	2	3	4	5	6	7	8	9	10
12,000-12,999	.45	.33	0							
13,000-13,999	.57	.45	.33	0						
14,000-14,999	.72	.57	.45	.33	0					
15,000-15,999	.87	.72	.57	.45	.33	0				
16,000-16,999	1.05	.87	.72	.57	.45	.33	0			
17,000-17,999	1.23	1.05	.87	.72	.57	.45	.33	0		
18,000-18,999	1.45	1.23	1.05	.87	.72	.57	.45	.33	0	
19,000-19,999	1.81	1.45	1.23	1.05	.87	.72	.57	.45	.33	0
20,000-20,999	2.26	1.67	1.45	1.23	1.05	.87	.72	.57	.45	.33
21,000-21,999	2.82	1.92	1.67	1.45	1.23	1.05	.87	.72	.57	.45
22,000-22,999	3.52	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72	.57
23,000-23,999	4.41	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72
24,000-24,999	5.51	3.06	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87
25,000-25,999	6.89	3.82	2.75	2.45	2.17	1.92	1.67	1.45	1.23	1.05
26,000-26,999	8.61	4.77	3.05	2.75	2.45	2.17	1.92	1.67	1.45	1.23
27,000-27,999	10.76	5.96	3.37	3.05	2.75	2.45	2.17	1.92	1.67	1.45
28,000-28,999	13.45	7.46	4.21	3.37	3.05	2.75	2.45	2.17	1.92	1.67
29,000-29,999	16.81	9.32	5.26	3.72	3.37	3.05	2.75	2.45	2.17	1.92
30,000-30,999	21.01	11.65	6.57	4.07	3.72	3.37	3.05	2.75	2.45	2.17
31,000-31,999	26.29 <u>23.30</u>	14.56	8.21	4.45	4.07	3.72	3.37	3.05	2.75	2.45
32,000-32,999	26.29	18.20	10.26	4.83	4.45	4.07	3.72	3.37	3.05	2.75

Annual Gross Earnings of Responsible Relative	Household Size									
	1	2	3	4	5	6	7	8	9	10
33,000- 33,999	26.29 <u>27.15</u>	22.75	12.83	6.03	4.83	4.45	4.07	3.72	3.37	3.05
34,000- 34,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	16.04	7.53	5.25	4.83	4.45	4.07	3.72	3.37
35,000- 35,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	20.05	9.41	5.67	5.25	4.83	4.45	4.07	3.72
36,000- 36,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>25.06</u>	11.76	6.12	5.67	5.25	4.83	4.45	4.07
37,000- 37,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	14.70	7.56	6.12	5.67	5.25	4.83	4.45
38,000- 38,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	18.38	9.45	7.56	6.12	5.67	5.25	4.83
39,000- 39,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	22.96	11.81	9.45	7.56	6.12	5.67	5.25
40,000- 40,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	14.76	11.81	9.45	7.56	6.12	5.67
41,000- 41,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	18.45	14.76	11.81	9.45	7.56	6.12
42,000- 42,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	23.06	18.45	14.76	11.81	9.45	7.56
43,000- 43,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	23.06	18.45	14.76	11.81	9.45
44,000- 44,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	23.06	18.45	14.76	11.81
45,000- 45,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	23.06	18.45	14.76
46,000- 46,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	23.06	18.45
47,000- 47,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	23.06
48,000- 48,999	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>	26.29 <u>27.15</u>

Pollution Control Agency

Adopted Permanent Rules Relating to Water Quality Permit Fees

The rules proposed and published at *State Register*, Volume 16, Number 12, pages 578-583, September 16, 1991 (16 SR 578), are adopted as proposed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Adopted Rules

Pollution Control Agency

Adopted Permanent Rules Relating to Individual On-Site Wastewater Treatment Grants Program

The rules proposed and published at *State Register*, Volume 16, Number 8, pages 349-356, August 19, 1991 (16 SR 349), are adopted with the following modifications:

Rules as Adopted

7077.0713 ON-SITE FUNDING LIST.

Subp. 2. **Requirements for placement on the on-site funding list.** To be placed on the on-site funding list a municipality must meet the requirements of part 7077.0710, subpart 5, and either item A, B, or C, as appropriate.

A. A municipality with a project proposal must submit a written request for the project to be placed on the on-site funding list to the commissioner during a submittal period announced by a notice in the *State Register*. The notice shall include submittal deadlines and conditions. The placement request must be made on forms provided by the agency and must include:

(5) the municipality's estimated date of site evaluation, design, and construction for all eligible systems; ~~and~~

(6) a copy of a draft ordinance for adopting the requirements of chapter 7080 and establishing a maintenance plan for the individual on-site wastewater treatment systems within the jurisdiction of the municipality; and

(7) the estimated amount of grant funding necessary for eligible site evaluation, system design, and construction costs.

Minnesota Racing Commission

Adopted Permanent Rules Relating to Teleracing and Simulcast

The rules proposed and published at *State Register*, Volume 16, Number 18, pages 1064-1084, October 28, 1991 (16 SR 1064) which have not been withdrawn from consideration by the attorney general, are adopted with the following modifications:

Rules as Adopted

7874.0100 GENERAL PROVISIONS.

Subp. 4. **Recapitulation.** On each day that deposits are made by the association, a report must be filed with the commission containing the following recapitulation:

E. state's share of breakage; and

Separate recapitulations must be filed for each full card simulcast, ~~whether at the racetrack or a teleracing facility.~~

7877.0155 CONDITIONS PRECEDENT TO LICENSING.

Acceptance of a Class C license, including a temporary or emergency license, shall mean that the licensee consents and agrees to the following conditions:

E. The licensee will submit to inspections and searches as hereinafter provided:

(1) When investigating for violations of law or rules upon the grounds of an association, the commission or the stewards may designate the Minnesota Department of Public Safety, Gambling Enforcement Division or another appropriate law enforcement agency as having authority to conduct searches of any Class C licensee, or any employee or agent of a Class A, B, or D, ~~or E~~ licensee under the commission's jurisdiction. This authority shall extend to searches and inspections of persons and personal effects in and about grounds.

(2) Each applicant for a Class C license and each employee or agent of a Class A, or B, ~~or E~~ licensee consents to such searches and inspections, and waives all claims or possible actions for damages that he or she believes he or she may have suffered in connection with any such search or inspection.

7878.0110 MINIMUM SELECTION STANDARDS.

Subpart 1. **Applicant must meet selection standards.** A person eligible to be licensed by the commission as a security officer must be an employee of a Class A, B, or D, ~~or E~~ licensee and shall meet the following minimum selection standards prior to being appointed a security officer. The appointing authority may certify that the applicant has already completed certain of these standards and provide documentation to that effect pursuant to subpart 2. In all cases, the security officer must:

[The proposed rules affecting the following rule parts have been withdrawn from consideration by the attorney general: 7869.0100; 7870.0180; 7870.0190; 7870.0200; 7870.0210; 7870.0220; 7870.0221; 7870.0240; 7870.0250; 7870.0260; 7870.0270; 7870.0280;

7870.0290; 7870.0300; 7870.0310; 7870.0320; 7870.0330; 7870.0340; 7870.0350; 7870.0360; 7870.0370; 7870.0380; 7870.0390; 7870.0400; 7870.0410; 7870.0420; 7870.0430; 7870.0450; 7870.0470; 7870.0500; 7870.0510; 7871.0005; 7871.0010; 7871.0020; 7871.0030; 7871.0080; 7871.0100; 7871.0110; 7871.0115; 7871.0120; 7871.0130; 7871.0140; 7871.0160; 7873.0400; 7874.0100, subpart 3; 7875.0100; 7875.0200; 7877.0100; 7877.0110; 7878.0100, subparts 2 and 11; 7878.0160; 7897.0100; 7897.0130 and the proposed repeal of parts 7869.0100, subparts 19, 33a, and 65a; 7870.0500, subparts 6, 7, 8, 9, and 10; 7871.0010, subpart 2; 7871.0020, subpart 1; 7871.0070; 7871.0090; 7871.0150; 7873.0120, subpart 2; and 7873.0300.]

Veterans Homes Board

Adopted Permanent Rules Relating to Resident Care

The rules proposed and published at *State Register*, Volume 16, Number 10, pages 478-484, September 3, 1991 (16 SR 478); and Volume 16, Number 19, pages 1126-1127, November 4, 1991 (16 SR 1126), are adopted as proposed.

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Agriculture

Agronomy Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Liquid Commercial Fertilizers

NOTICE IS HEREBY GIVEN that the State Department of Agriculture is seeking information or opinions from sources outside the department in preparing to propose adoption of new rules and repeal of current rules governing liquid commercial fertilizers. The adoption is authorized by *Minnesota Statutes*, section 18C.121 which allows the commissioner to adopt rules necessary to implement and enforce *Minnesota Statutes*, chapter 18C.

The State Department of Agriculture requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Carol Milligan, Planning Division, Minnesota Department of Agriculture, 90 West Plato Blvd., St. Paul, MN 55107. Oral statements will be received during regular business hours over the telephone at (612) 296-6906 and in person at the above address.

All statements of information and opinions shall be accepted until February 10, 1992. Any written material received by the department shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 4 January 1992

Elton Redalen
Commissioner

Minnesota Comprehensive Health Association

Notice of Meeting of the Research Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association (MCHA), Research Committee will be held at 9:00 a.m. on Thursday, January 30, 1992 at Medica, 5601 Semtana Drive, Minneapolis, Minnesota, in the small conference room on the ninth floor.

For additional information please call Lynn Gruber at (612) 593-9609.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Minnesota State Department of Health

Health Promotion and Education Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed New Rules Governing the Establishment of a Traumatic Brain Injury and Spinal Cord Injury Registry

NOTICE IS HEREBY GIVEN that the State Department of Health is seeking information or opinions from sources outside the agency in preparing to propose new rules governing the establishment of a Traumatic Brain Injury and Spinal Cord Injury Registry. The adoption of the new rules is authorized by *Minnesota Statutes* section 144.664, subdivision 5 (Supplement 1991) which permits the Commissioner of Health to adopt rules to administer the registry, collect information, and distribute data. The rules must include, but are not limited to the following:

- (1) the specific ICD-9 procedure codes included in the definition of "traumatic brain injury" and "spinal cord injury";
- (2) the type of data to be reported;
- (3) standards for reporting specific types of data;
- (4) the persons and facilities required to report and the time period in which reports must be submitted;
- (5) criteria related to the use of registry data by public and private entities engaged in research; and
- (6) specification of fees to be charged for the provision of data or data analysis to public and private entities.

The State Department of Health requests information and opinions concerning the subject matter of the proposed new rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Mark Kinde, Minnesota Department of Health, Health Promotion and Education Division, 717 SE Delaware, P.O. Box 9441, Minneapolis, Minnesota 55440. Oral statements will be received during regular business hours over the telephone by Mark Kinde at 612/623-5782 and in person at the above address.

It is anticipated that State Department of Health staff will begin preparing a draft of the rules in March, 1992. Therefore, it is recommended that all statements of information and opinions be submitted by March 1, 1992. However, statements of information and opinions will be accepted until the formal rulemaking process is commenced. Any written material received by the State Department of Health shall become part of the rulemaking record to be submitted to the Attorney General or Administrative Law Judge if the rules are adopted.

Dated: 15 January 1992

Marlene E. Marschall
Commissioner of Health

Department of Labor and Industry

Labor Standards Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Prevailing Wages

NOTICE IS HEREBY GIVEN that the State Department of Labor and Industry is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rules governing the payment of prevailing wages on state-funded projects pursuant to *Minnesota Statutes*, section 177.41-177.44 (1990).

The adoption of the rule is authorized by *Minnesota Statutes*, section 175.171 (2) (1990) and 177.41-177.44 (1990) which permits the agency to adopt reasonable and proper rules regarding implementation of the prevailing wage law. The proposed rule may include provisions setting forth:

- 1) The method of setting the prevailing wage rate, including the geographic division of survey areas (counties, districts or other unit), the appropriate classes of labor and equipment subject to survey, and methods to determine whether work or equipment falls within a particular class;
- 2) Differentiation between the respective roles of the Minnesota Department of Transportation, Minnesota Department of Labor and Industry, and the Minnesota Department of Administration in enforcement of the prevailing wage laws;
- 3) Application of the truck rental rate rule: when the truck rental rate applies and to whom, and recordkeeping requirements for independent truck owner-operators on state-funded projects; and

4) Procedures to resolve disputed prevailing wage issues.

The State Department of Labor and Industry requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing, or orally. Written statements should be addressed to:

Nancy Christensen
Assistant Commissioner
Department of Labor and Industry
443 Lafayette Road
St. Paul, Minnesota 55155
(612) 296-6529

Oral statements will be received during regular business hours over the telephone at (612) 296-6529 and in person at the above address; such oral statements will not become part of the rulemaking record to be submitted to the attorney general or the administrative law judge in the event that the rule is adopted.

All statements of information and opinions will be accepted until April 21, 1992. Any written material received by State Department of Labor and Industry shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 17 January 1992

John B. Lennes, Jr.
Commissioner

Minnesota Pollution Control Agency

Water Quality Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Requirements for Aquaculture Facilities

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) is seeking information or opinions from outside sources outside of the Agency in preparing to propose the adoption of rules governing requirements for aquaculture facilities, *Minnesota Rules* Part 7050.0216. The 1991 Legislature mandated the Agency to formulate administrative rules for aquaculture facilities and the proposed rules are designed to comply with the authorizing legislative mandate. The proposed rules are authorized by *Minnesota Statutes* Sections 115.03, 115.44 and 116.07, subd. 4 (1990) and Minn. Laws 1991, ch. 309, Sec. 10.

The Agency's proposed permanent rules relating to aquaculture facilities, including a notice of public hearings on the proposed rules, are published at *State Register*, Volume 16, number 25, pages 1495-1501, December 16, 1991 (16 S.R. 1495).

The Agency requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject in writing. Written statements or comments should be directed to:

Douglas Hall
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155

Oral statements can be presented at the public hearing in Grand Rapids, Minnesota on January 29, and at the public hearing in St. Paul, Minnesota on January 31.

All statements of information and opinion will be accepted until February 7, 1992. Any written materials received by the Agency shall become a part of the rulemaking record to be submitted to the Attorney General and the Administrative Law Judge.

Charles W. Williams
Commissioner

Office of the Secretary of State

Notice of Vacancies in Multi-Member Agencies

NOTICE IS HEREBY GIVEN to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* 15.0597, subdivision 4. Application forms may be obtained from the Office of the Secretary of State, Open Appointments,

Official Notices

180 State Office Building, St. Paul MN 55155-1299; (612) 297-5845, or in person at Room 174 of the State Office Building. More specific information about these vacancies may be obtained from the agencies listed below.

The application deadline is February 18, 1992.

WORKERS COMPENSATION COURT OF APPEALS

775 Landmark Towers, 345 St. Peter St., St. Paul 55102. 612-296-6526

Minnesota Statutes 175A.01

APPOINTING AUTHORITY: Governor. Senate confirmation. COMPENSATION: \$78,768 per year.

VACANCY: One member to serve as workers compensation judge: term will end January 2, 1995. Full time paid position.

The court has statewide appellate jurisdiction over all workers' compensation appeals within the court's jurisdiction as provided in *Minnesota Statutes*, Chapters 175A and 176. The court consists of five judges, serving six year terms, full time positions. All members must be learned in the law, have been licensed to practice law for at least five years, and have experience with and knowledge of workers compensation and the workers compensation laws of Minnesota. Members must file with the Ethical Practices Board.

PUBLIC UTILITIES COMMISSION

780 American Center Bldg., 150 E. Kellogg Blvd., St. Paul 55101. 612-296-7124

Minnesota Statutes 216, 216A, 216B, 237

APPOINTING AUTHORITY: Governor, Senate confirmation. COMPENSATION: \$54,500 per year.

VACANCY: One member. Please see the description of this commission for further information on membership requirements.

The commission regulates the rates and services of electric, natural gas, and telephone companies. It acts through public hearings, contested case hearings, rulemaking hearings as well as informal complaint resolutions. The commission is a five-member body. No more than three members may be from the same political party. At least one member must have been domiciled at the time of appointment outside the seven county metropolitan area. Consideration is given to persons learned in the law or persons who have engaged in engineering, public accounting, or property and utility evaluation, finance, physical or natural sciences, production agriculture, or natural resources, as well as being representative of the general public. Members may not be in the employ of or holding any official relation to or pecuniarily interested in any individual proprietorship, firm, copartnership, corporation or association, the activities of which are wholly or partially subject to regulation by the public utilities commission, nor serve on or under any committee of any political party. Members may not receive any income, other than dividends or other earnings from a mutual fund or trust if these earnings do not constitute a significant portion of the person's income, directly or indirectly from any public utility or other organization subject to regulation by the commission. No person is eligible to be appointed as a member if the person has been employed with an entity, or an affiliated company of an entity, that is subject to rate regulation by the commission within one year from the date when the person's term on the commission will begin. Full-time positions. Members must file with the Ethical Practices Board.

State Grants

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Human Services

Deaf Services Division

Contract Available for Service Provision to Persons With Deaf-Blindness

The State of Minnesota, Department of Human Services, Deaf Services Division is soliciting proposals for service delivery to deaf-blind persons in the areas of: 1) provision of independent living skills and related services, 2) provision of technical assistance and training to statewide human service providers regarding service provision, 3) interagency collaboration of service provision, and 4) continuum of service provision to families and individuals.

Priority funding will be given to those agencies or organizations that demonstrate the following: 1) interagency collaboration, 2) evaluation instruments quantifying outcomes of each project, 3) incorporation of persons with deaf-blindness and/or their families

in the planning and evaluation of service delivery, 4) timelines for all projects as specified in the proposal, 5) measurement of client/member's progress, 6) utilization of community resources, 7) training components for staff and community members, and 8) willingness to participation to overall evaluation.

Contract activities also include monitoring of service delivery, provision of reports utilizing a specified format participation in quarterly evaluations of the services provided with all vendors, and regular meetings to review pertinent financial reports.

The Department of Human Services anticipates contracting for this activity in the amount of \$200,000.00* for fiscal year 1993 (July 1, 1992 through June 30, 1993).

For a copy of the full text of the Request for Proposal, contact:

Amy McQuaid, Program Planner
Department of Human Services
Deaf Services Division
444 Lafayette Road
St. Paul, Minnesota 55155-3814
612/296-8978 VOICE
612/297-1506 TDD

Responses must be received no later than 4:00 p.m. on Friday, April 3, 1992. Later proposals will not be accepted. Award date for the contract(s) will be May 31, 1992.

*Pending approval of the 1991 Minnesota State Legislature

Supreme Court Calendar

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning dates, locations, cases, etc., should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN 55155 612-296-2581.

February 1992

Compiled by Susan K. Larson, (612) 296-2775

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to the publication in the *State Register*. Questions concerning the time and location of hearings should be directed to: Clerk of the Appellate Courts, Room 245 Minnesota Judicial Center, St. Paul, MN 55155, (612) 296-2581.

Monday, February 3, 1992 9:00 a.m. at Supreme Court Courtroom, State Capitol Building

C2-91-1629 Robert Ast, Respondent (Attorney Pro Se) vs. **Har Ned Lumber and American Mutual Insurance Liability Co./ Minnesota Insurance Guaranty Assoc. (MIGA)**, Realtors (Attorneys Peter M. Banovetz & Adam S. Wolkoff of Gilmore, Aafedt Forde et al.) vs. **Har Ned Lumber and Retail Lumbermen's Inter-Insurance Exchange**, Respondents (Attorney James S. Pikala of Arthur, Chapman, McDonough et al) vs **Har Ned Lumber and American Motorist Insurance Co.**, Respondents (Attorney Thomas J. Misurek of Pustorino, Pederson, Tilton & Parrington). Decision from Workers' Compensation Court of Appeals.

Does the Workers' Compensation Court of Appeals have jurisdiction to award reimbursement to a party who has paid benefits pursuant to *Minnesota Statutes* § 176.191 and who seeks reimbursement from another party?

Does *Minnesota Statutes* § 60C.09 include, as a covered claim, a workers' compensation insurer's claim for reimbursement under *Minn. Stat.* § 176.191?

Whether *Minnesota Statutes* § 60C.09(2) is constitutional?

C5-91-1516 United Power Association, Respondent (Attorney Harold H. Sheff of Smith, Gendler, Shiel & Sheff and Michell J. Ulrich of St. Paul) vs. **Commissioner of Revenue**, Relator (Jerilyn K. Aune, Special Assistant Attorney General) and **County of Sherburne**, Relator (Attorney Kathleen A. Heaney, Assistant Sherburne County Attorney). Order Tax Court.

Did the Commissioner of Revenue properly deny exemption under *Minnesota Statutes* § 272.02(1)(9) for the storage building and conveyor system at Respondent's refuse derived fuel facility because they were not used primarily for the abatement and control of pollution?

Supreme Court Calendar

Did the Commissioner of Revenue properly deny exemption under *Minnesota Statutes* § 272.02(7) where the storage building and conveyor system at Respondent's refuse derived fuel facility were not "boiler modifications necessary to efficient handling and burning of refuse derived fuel" nor any other specified property?

Can Respondent raise a constitutional issue that was not included in the notice of appeal, was not briefed by the parties on motion for summary judgment, and was not addressed by the trial court?

Tuesday, February 4, 1992 9:00 a.m. at Supreme Court Courtroom, State Capitol Building

CX-91-762 State of Minnesota, Respondent (Attorney Paul Kempainen, Assistant State Attorney General) vs. Steve Paul Berry, Appellant (Attorney Susan Hauge, Assistant State Public Defender). Judgment Benton County.

Was the evidence sufficient as a matter of law to sustain Appellant's conviction for first degree murder?

Did the trial court properly admit evidence of three Spreigl incidents involving Appellant, where the probative value of evidence far outweighed its prejudicial impact?

Did the trial court properly refuse to suppress a statement made by Appellant to Coleman Salvog in which Appellant implied that he had previously murdered someone?

C4-88-1993 In Re Petition for Disciplinary Action against Dennis R. Strid, an Attorney at Law of the State of Minnesota. Attorney Patrick R. Burns, Senior Assistant Director, Office of Lawyers Professional Responsibility and Attorney David W. Lee of Richfield, MN for the Respondent. Petition for Disciplinary Action.

Were the referee's findings and conclusions that Respondent engaged in fraud by violating Rule 8.4, *Minnesota Rules of Professional Conduct* (MRPC), clearly erroneous?

Is a one year suspension an appropriate sanction for a lawyer with a prior discipline record who has, by fraudulent means, defeated a mortgage given to secure a loan from a vulnerable former client?

Wednesday, February 5, 1992 9:00 a.m. Supreme Court Courtroom, State Capitol Building

C5-91-801 In Re Petition for Disciplinary Action against David V. Anderley, an Attorney at Law of the State of Minnesota. Attorney Kenneth L. Jorgensen, Senior Assistant Director of the Office of Lawyers Professional Responsibility and Attorney Jack S. Norby of Meshbesh & Spence for the Respondent. Petition for Disciplinary Action.

Were the referee's findings and conclusion that Respondent failed to prove, by clear and convincing evidence, that his misconduct was caused by alcoholism, clearly erroneous?

Does Respondent's conduct in contriving a complex and calculated scheme, which included fabrication and alteration of numerous documents, and misrepresentations and forgeries in order to misappropriate funds from the client, warrant disbarment?

C5-91-580 In Re Petition for Disciplinary Action against Mark H. Stromwall, an Attorney at Law of the State of Minnesota. Attorney William J. Wernz, Director of the Office of Lawyers Professional Responsibility and Attorney Theodore J. Collins of Collins, Buckley, Saunty & Haugh for the Respondent. Petition for Disciplinary Action.

What discipline is appropriate for an attorney who misappropriates funds from two clients; commingles funds and commits other trust account violations; forges a client's signature on insurance checks; lies to the client repeatedly to conceal the misappropriation and to defraud the client; and through the lies and misappropriation, intentionally kept the client from resuming business matters?

Were the referee's findings, regarding aggravating and alleged mitigating circumstances, clearly erroneous?

CX-90-2372 State of Minnesota, Appellant (Attorney Robert J. Alfton, Minneapolis City Attorney) vs. Theora Reha, Respondent (Attorney Stan Nathanson of Minneapolis, MN). Opinion Court of Appeals.

Is the term "clean and sanitary", which is contained in the City of Minneapolis Ordinance § 244.690, when applied to Respondent unconstitutionally vague and discretionary because said language has neither an established meaning, settled usage, or tradition of interpretation in Law?

Is the term "clean and sanitary", which is contained in the City of Minneapolis Ordinance § 244.690, vague and discretionary when applied to different meanings in different contexts, because it does not provide for an objective standard, inviting discriminatory and arbitrary enforcement.

Is Minneapolis Ordinance § 244.690 unconstitutional because it fails to put Respondent on notice of what conduct is prohibited in violation of the minimal standard of due process?

Is more specificity than the term "clean and sanitary", which is contained in the City of Minneapolis Ordinance 244.690 impractical for home sanitation?

Professional, Technical & Consulting Contracts

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Department of Administration

Department of Human Services

Notice of Request for Proposals for Rental of a Four Bedroom Home

The Department of Administration on behalf of the Department of Human Services desires proposals for providing or constructing a four (4) bedroom handicapped accessible home in the City of Rochester, for lease by the State to provide residential quarters for developmentally disabled persons.

Contact: Department of Administration
Real Estate Management Division
309 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Telephone: (612) 296-6674

Proposals must be submitted by 4:30 p.m. (CST) on Friday, February 7, 1992.

Hennepin Technical College

Eden Prairie Campus

Request for Proposal—Valuing Diversity

Hennepin Technical College is requesting proposals for Valuing Diversity.

The goal of the proposal is to improve the climate of diversity on the Hennepin Technical College Campuses by: (1) identifying needs, (2) promoting recruitment and retention of a culturally diverse student body and staff, (3) initiating staff diversity training and (4) recommending future, long-term directions for improving and maintaining a climate of diversity.

Eden Prairie Campus will be the site at which the grant activities will occur, but all recommendations for on-going work on the issue of diversity will be applied to both the Eden Prairie and Brooklyn Park Campuses and must be designed accordingly.

For further information and a copy of the Request for Proposal

Contact Person:

John Lobben, President
Hennepin Technical College
1820 North Xenium Lane
Plymouth, MN 55441-3790
Phone: (612) 550-7107

or

Sharon Grossbach, Campus Director
Hennepin Technical College
9200 Flying Cloud Drive
Eden Prairie, MN 55347
Phone: (612) 550-3100

Due Date is 4:00 p.m. Friday, February 14, 1992

Department of Human Services

Health Care Division

Notice of Availability of a Contract for a Registered Nurse Consultant for Primary Care Utilization Review and Case Management

The Primary Care Utilization Review Unit of the Minnesota Department of Human Services is seeking applications for professional services of a qualified registered nurse who is experienced in utilization review and case management for inappropriate utilization of medical services.

Consultant experience and background will consist of demonstrated expertise in the following areas:

1. Knowledge of the review of utilization of medical services, and case management.

Professional, Technical & Consulting Contracts

2. Experience working with Medical Assistance recipients, county agencies, physicians and other medical providers in accessing appropriate medical care.

3. Demonstrated ability to determine appropriate medical care and in assisting providers in the limiting of inappropriate utilization of medical services by recipients.

The total contract price will not exceed \$40,000 for the contract, based on a 40-hour work week. The contract will be effective on or about March 15, 1992, and will be one year in length. Interested parties must submit a written response containing the following information:

- * Educational background.
- * Professional qualifications and experience.
- * Previous relevant consulting experience.

All written responses received by the deadline will be evaluated according to relevant education and professional qualifications, as well as experience. The Department may consider any previous history of contracting with the State of Minnesota. Evaluation and contractor selection will be completed by March 1, 1992. All responders will receive written notification of the results. The Department is not obligated in any way by this notice, and reserves the right to reject all responses if such action is determined to be in the best interest of the Department.

All written responses must be received at the following address no later than 4:30 p.m., February 15, 1992. Responses and inquiries must be directed to:

Ronald Rogers, Supervisor
Primary Care Utilization Review
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3853
Phone: (612) 297-7791

Department of Jobs and Training

Services for the Blind and Visually Handicapped Division

Request for Proposals to Provide Can Pop and Snack Vending Services at Selected Interstate Rest Area Site

The Minnesota Department of Jobs and Training, Division of Services for the Blind and Visually Handicapped, Business Enterprises Program (BEP), desires proposals for the provision of can pop and snack vending service at the Forest Lake Rest Area on Interstate 35 near Forest Lake, Minnesota.

Product and services will be provided under contract, and all relevant information is outlined in detail in the RFP. The formal RFP may be requested and inquiries directed to: Charles E. Hamilton, Director of Business Enterprises, Services for the Blind and Visually Handicapped, 1745 University Avenue West, St. Paul, Minn. 55104-3690, (612) 642-0512. The deadline for completed proposals is the end of the business day (4:30 p.m.) February 14, 1992.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Commodities contracts with an estimated value of \$15,000 or more are listed under the Materials Management Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information.

Materials Management Division—Department of Administration:

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

COMMODITY CODE KEY		
A = Sealed Bid	G = \$5,000-\$15,000 Estimated Dollar Value	J = Targeted Vendors Only
B = Write for Price	H = \$15,000-\$50,000 Sealed Bid	K = Local Service Needed
C = Request for Proposal	I = \$50,000 and Over Sealed Bid/Human Rights Compliance Required	L = No Substitute
D = Request for Information		M = Installation Needed
E = \$0-\$1,500 Estimated Dollar Value		N = Pre-Bid Conference
F = \$1,500-\$5,000 Estimated Dollar Value		O = Insurance or Bonding Required

Commodity: B F—HP printer, rebid
Contact: Bernadette Vogel 612-296-3778

Bid due date at 4:30pm: January 29
Agency: Bemidji State University
Deliver to: Bemidji
Requisition #: B 26070-14658-1

Commodity: B G L—Honeywell software

Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: February 4
Agency: Department of Administration
Deliver to: St. Paul
Requisition #: B 02307-24281

Commodity: A F—Video equipment (editing system)

Contact: Pam Anderson 612-296-1053
Bid due date at 2pm: January 29
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23308

Commodity: B G—Roll bar security screen

Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: January 30
Agency: Department of Public Safety/Finance
Deliver to: St. Paul
Requisition #: B 07500-27135

Commodity: B F—Musical instruments

Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: January 24
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-51439

Commodity: B E—Miscellaneous auto supplies

Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: January 24
Agency: Department of Natural Resources—Southern Service Center
Deliver to: St. Paul
Requisition #: B 29008-80496

Commodity: B G—Upholstery supplies

Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: January 24
Agency: Minnesota Correctional Facility—Faribault
Deliver to: Faribault
Requisition #: B 78790-20471

Commodity: B F L—Gateway computer, rebid

Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: January 29
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23245-1

Commodity: B E—Portable TV production system

Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: January 29
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23307

Commodity: B D—Signal monitor

Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: January 29
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23305

Commodity: B F—Theatre lighting system

Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: January 29
Agency: Inver Hills Community College
Deliver to: Inver Grove Heights
Requisition #: B 27157-48701

Commodity: A H—Junior trooper badges

Contact: Linda Parkos 612-296-3725
Bid due date at 2pm: January 31
Agency: Department of Public Safety/Finance
Deliver to: New Brighton
Requisition #: B 07500-27150

Commodity: B G—Plastic bags

Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: January 30
Agency: Department of Natural Resources—General Andrews Nursery
Deliver to: Various Places
Requisition #: B 29003-04114

Commodity: B G—Meat for February 1992

Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: January 30
Agency: Minnesota Correctional Facility
Deliver to: Stillwater
Requisition #: B 78620-00426

State Contracts and Advertised Bids

Commodity: B G—Concrete saw—
rebid
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: January 31
Agency: Minnesota Department of
Transportation
Deliver to: Various Places
Requisition #: B 79382-02361-1

Commodity: B G—Metal pieces
Contact: Jack Bauer 612-296-2621
Bid due date at 4:30pm: January 31
Agency: Minnesota Department of
Transportation
Deliver to: Fort Snelling
Requisition #: B 79990-00346

Commodity: B G—Assorted medical/
surgical supplies
Contact: Teresa Manzella 612-296-7556
Bid due date at 4:30pm: January 30
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23337

Commodity: A H—GIS hardware &
software
Contact: Bernadette Vogel 612-296-
3778
Bid due date at 2pm: February 3
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-60295

Commodity: B E—386SX/25 computer
Contact: Bernadette Vogel 612-296-
3778
Bid due date at 4:30pm: January 30
Agency: Moose Lake Regional
Treatment Center
Deliver to: Moose Lake
Requisition #: B 55103-05799

Commodity: B E—Sony monitors
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: January 30
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23304

Commodity: A H—2 and 3 part NCR—
blank
Contact: Brenda Thielen 612-296-9075
Bid due date at 2pm: February 4
Agency: Community College Board
Deliver to: St. Paul
Requisition #: B 27138-53128

Commodity: B D—Hollow metal
frames
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: January 30
Agency: Brainerd Regional Human
Services Center
Deliver to: Various places
Requisition #: B 55304-09162

Commodity: B F L—Ghostwriter
software
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: January 30
Agency: Brainerd Regional Human
Services Center
Deliver to: Brainerd
Requisition #: B 55304-09163

Commodity: B F—Vehicle hydraulic lift
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 4:30pm: February 3
Agency: Anoka-Metro Regional
Treatment Center
Deliver to: Anoka
Requisition #: B 55100-04902-1

Commodity: B F—Ethernet card for
Mac
Contact: Bernadette Vogel 612-296-
3778
Bid due date at 4:30pm: January 30
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-02165

Commodity: B F L—Series 6500
interface
Contact: Bernadette Vogel 612-296-
3778
Bid due date at 4:30pm: January 30
Agency: Anoka Ramsey Community
College
Deliver to: Coon Rapids
Requisition #: B 27152-46909

Commodity: B F—386SX/25 computer
Contact: Bernadette Vogel 612-296-
3778
Bid due date at 4:30pm: January 30
Agency: Public Utilities Commission
Deliver to: St. Paul
Requisition #: B 82000-01232

Commodity: B D—Lumber/plywood
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: January 30
Agency: Faribault Regional Center
Deliver to: Faribault
Requisition #: B 55303-16331

Commodity: B F—Mini cell power
supply
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: February 3
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23336

Commodity: W* 2B 8½ x 11 1 part
Contact: Brenda Thielen 612-296-9075
Bid due date at 4:30pm: January 30
Agency: Bemidji State University
Deliver to: Bemidji
Requisition #: B 26070-14668

Commodity: Telecommunications:
telephones for the hearing impaired—
part II
Contact: Pat Anderson 612-296-3770
Bid due date at 2pm: February 7
Agency: Various
Deliver to: Various
Requisition #: Price contract

Commodity: Batteries, storage for
automotive and truck
Contact: Dale Meyer 612-296-3773
Bid due date at 2pm: February 6
Agency: Various
Deliver to: Various
Requisition #: Price contract

Commodity: Vending machines
Contact: Ann Wefald 612-296-2546
Bid due date at 2pm: February 11
Agency: Jobs and Training—Services for
the Blind
Deliver to: Various
Requisition #: Price contract

Commodity: A I—Conveyant attendant
phone console
Contact: Teresa Manzella 612-296-7556
Bid due date at 2pm: February 4
Agency: Minnesota Pollution Control
Agency
Deliver to: St. Paul
Requisition #: B 32600-31021

State Contracts and Advertised Bids

Commodity: B F—Seagate drive
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: January 31
Agency: Minnesota Department of Agriculture
Deliver to: St. Paul
Requisition #: B 04671-21782

Commodity: B F—DEC memory module
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: January 31
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-50717

Commodity: B F—Rotor
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: January 31
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-73022

Commodity: A H—Incircuit emulator
Contact: Bernadette Vogel 612-296-3778
Bid due date at 2pm: January 31
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23303

Commodity: A H—386/33 computers
Contact: Bernadette Vogel 612-296-3778
Bid due date at 2pm: February 4
Agency: Department of Natural Resources—Division of Forestry
Deliver to: Various places
Requisition #: B 29000-57826

Commodity: B E—Oscilloscope
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: January 31
Agency: Minnesota Department of Transportation
Deliver to: Bemidji
Requisition #: B 79000-22803

Commodity: B G L—Dell computer
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: January 31
Agency: Department of Administration
Deliver to: St. Paul
Requisition #: B 02307-24280

Commodity: B E—Wyse terminals
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: January 31
Agency: Trade & Economic Development/Fiscal Services
Deliver to: St. Paul
Requisition #: B 22400-05710

Commodity: B F—Disk for decstation
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: January 31
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-50720

Commodity: B E—H P printer supplies
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: January 31
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23301

Commodity: B F—Etherlink adapter
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: January 31
Agency: Vermilion Community College
Deliver to: Ely
Requisition #: B 27147-47424

Commodity: B F—386SX/20 notebook
Contact: Bernadette Vogel 612-296-3778
Bid due date at 4:30pm: January 31
Agency: Minnesota Academy for the Blind
Deliver to: Faribault
Requisition #: B 37001-20540

Commodity: B D—25" monitor recorder
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: January 31
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-26168

Commodity: B D—CC TV security system
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: January 31
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23309

Commodity: B D—Digital mixer
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: January 31
Agency: Inver Hills Community College
Deliver to: Inver Grove Heights
Requisition #: B 27157-48702

Commodity: B D—Security system
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: February 4
Agency: Thistledeew Youth Camp
Deliver to: Togo
Requisition #: B 78780-05010

Commodity: B E—Used steam cooker
Contact: Joan Breisler 612-296-9071
Bid due date at 4:30pm: January 31
Agency: Southwest State University
Deliver to: Marshall
Requisition #: B 26175-02268

Commodity: B F—Imprinted paper shopping bags
Contact: Linda Parkos 612-296-3725
Bid due date at 4:30pm: February 7
Agency: Community College Board
Deliver to: St. Paul
Requisition #: B 27000-53134

Commodity: B D—Speech analysis product
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: January 31
Agency: St. Cloud State University
Deliver to: St. Cloud
Requisition #: B 26073-23340

Commodity: B E—Lease front-end loader and operator
Contact: Pam Anderson 612-296-1053
Bid due date at 4:30pm: January 31
Agency: Minnesota Pollution Control Agency
Deliver to: St. Paul
Requisition #: B 32300-30994

Department of Administration: Print Communications Division

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Printing vendors NOTE: Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.

Commodity: 1992-94 Inver Hills Community College catalog, camera ready copy, two-sided, 189 pp. plus cover, 25,000 books, perfect bound

Contact: Printing Buyer's Office

Bids are due: January 30

Agency: Inver Hills Community College

Deliver to: Inver Grove Heights

Requisition #: 20840

Commodity: License, 100# white tag, fan-fold, three-up, pin feed

Contact: Printing Buyer's Office

Bids are due: January 30

Agency: Administration—Intertech Division

Deliver to: Arden Hills

Requisition #: 20885

Commodity: Lakewood Community College catalog 1992-94, dylux, camera ready copy, two-sided 13,000 books, 216pp + cover perfect bound, 4 color process cover

Contact: Printing Buyer's Office

Bids are due: February 3

Agency: Lakewood Community College

Deliver to: White Bear Lake

Requisition #: 20839

Commodity: Anoka-Ramsey Community College catalog 1992-94, type to be set, 200pp + cover, 30,000 books, two-sided perfect bound

Contact: Printing Buyer's Office

Bids are due: February 3

Agency: Anoka-Ramsey Community College

Deliver to: Coon Rapids

Requisition #: 20899

Commodity: Non-credit continuing education registration form, negs available, one-sided, 30,000 sets, carbonless black, perforating

Contact: Printing Buyer's Office

Bids are due: January 31

Agency: Minnesota Community College System

Deliver to: St. Paul

Requisition #: 20930



Social workers', counselors' and therapists' guides and directories

It's Never OK. A handbook for professionals on sexual exploitation by counselors and therapists. It covers the therapeutic and prevention issues and employer responsibilities, plus recommended curriculum for training institutions for counselors and therapists. Stock No. 14-16. \$19.95 + tax.

Chemical Dependency Programs Directory 1989/90. Features comprehensive listings for programs ranging from prevention/intervention services to a wide range of treatment services. Each type of program includes a listing of facilities and description of programs. Stock No. 1-12, \$15.00 + tax.

Process parenting—Breaking the Addictive Cycle. This training manual provides parent education and treatment techniques for professionals working with recovering chemically dependent parents or dysfunctional families. Stock No. 5-4, \$15.00 + tax.

TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6½% sales tax and \$2.00 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard, American Express and Discover orders accepted over phone. FAX: (612) 296-2265.

Publication editors: As a public service please reprint this ad in your publications. Thank you.



Armchair Adventures in Minnesota

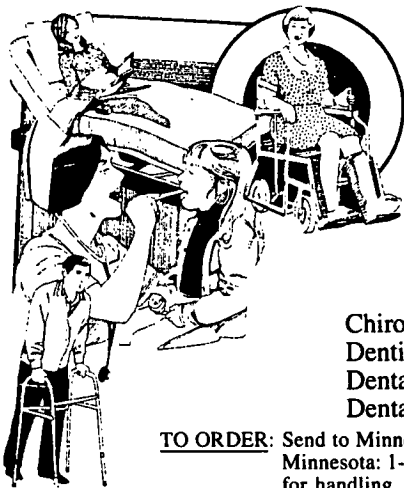
Our Minnesota. More than 100 full-color photos by Les and Craig Blacklock portray Minnesota in her seasonal beauty, with text from the personal journal of Fran Blacklock's thirty years of traveling the state. Stock #9-23. \$13.95 plus tax.

Minnesota Geographic Names. Place names by the thousand, with even more intriguing historical tidbits, in this over 800-page book. A must for the Minnesota-lover! Stock #17-13, \$12.95 + tax.

Historic Sites and Place Names of Minnesota's North Shore. John Fritzen, long time employee of the Minnesota DNR draws upon his almost 40 years as a forester, mostly spent on Minnesota's colorful and legendary North Shore, to regale readers with tales of timbermen, pioneer settlers, miners, commercial fishermen and others. Black and white photos. Stock No. 9-11. \$3.50.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6½% sales tax. On all orders, add \$2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard, American Express and Discover orders accepted over phone and through mail. **Prices are subject to change.** FAX: (612) 296-2265.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.



Reach Minnesota's health care field decision makers

Health Care Facilities Directory 1991

A list of hospitals and related institutions licensed and/or certified to deliver various levels of care. The list is alphabetical by county, town and facility name. Stock No. 1-89. \$18.95

Mailing Lists of Health Care Professionals Licensed by the State of Minnesota Now Available

Call 297-2552 for more information or write to the address below for your free mailing list service packet.

Chiropractors	Medical Corporations (Clinics)	Pharmacists
Dentists	Registered Nurses	Physical Therapists
Dental Assistants	Licensed Practical Nurses	Physicians
Dental Hygienists	Pharmacies	Veterinarians

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6½% sales tax. On all orders, add \$2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard, American Express and Discover orders accepted over phone and through mail. **Prices are subject to change.** FAX: (612) 296-2265.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Minnesota's North Shore

Historic Sites and Place Names of Minnesota North Shore. Stories recounted by a retired DNR Forester about the North Shore's timbermen, pioneer settlers, commercial fishermen, and others who knew the area first hand. Stock #9-11. 35pp. \$3.50 + tax.

Up North. A memorable collection of essays and stories that capture the mystic moods, seasonal subtleties and colorful characters that fill the landscape up north. Stock #19-16. \$16.95 + tax.

A Family Guide to Minnesota's North Shore. The 150 miles from Duluth to the Canadian border offer travelers wilderness experiences, places of historic significance, and visions of astonishing beauty. Stock #19-84. \$3.95 + tax.

Boundary Waters. Almost 100 pages of beautiful color photographs of Minnesota's canoe country, by Jerry Stebbins with rich text by Greg Breining. Stock #19-69. \$24.99 + tax.

A Paddler's Guide to the Boundary Waters Canoe Area, 78 pages of detailed maps and descriptions of 31 wilderness canoe routes in the Superior National Forest of Northern Minnesota. Includes what to bring along on canoe trips, regulations, canoe tips and detailed information for self-guided tours. Stock #19-17, \$4.95.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6½% sales tax. On all orders, add \$2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard, American Express and Discover orders accepted over phone and through mail. **Prices are subject to change.** FAX: (612) 296-2265.



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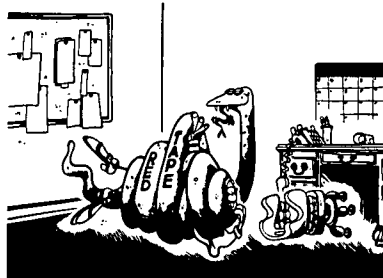
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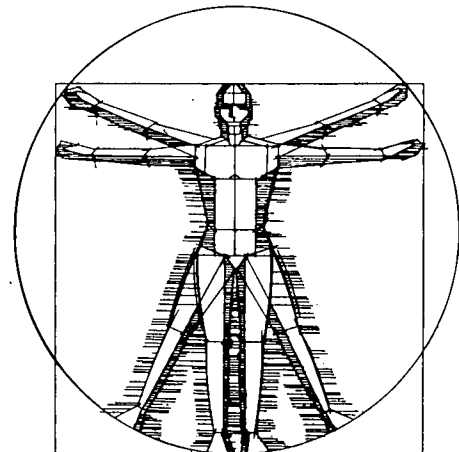
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