

AG 14 MCAR 1  
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new submission

1 Department of Transportation  
2 Public Transportation/Planning Division

3

4 Adopted Rules Relating to the Implementation of the State Rail  
5 Bank Program

6

7 Rules as Adopted

8 14 MCAR S 1.4010 Definitions. For the purposes of 14 MCAR SS  
9 1.4010-1.4016 the following terms have the meanings given them.

7-26-82

10 A. Acquire. "Acquire" means to purchase a rail line with  
11 state funds provided for the state rail bank program.

12 B. Betterments. "Betterments" means required improvements  
13 made to acquired property to prepare the property for continued  
14 rail use.

15 C. Commissioner. "Commissioner" means the Commissioner of  
16 the Minnesota Department of Transportation.

17 D. Continued rail operations. "Continued rail operations"  
18 means the utilization of a rail line for rail service upon  
19 acquisition or in the near or immediate future after acquisition.

20 E. Convey. "Convey" means to sell, lease, or grant an  
21 easement for the use of rail bank property for the purposes  
22 cited in Minn. Stat. S 222.63, subd. 4. ←

Note: ...  
law 82, ch. 424, § 20

23 F. Department. "Department" means the Minnesota Department  
24 of Transportation.

25 G. Dispose. "Dispose" means to convey property to a  
26 governmental subdivision of the state for any of the purposes in  
27 Minn. Stat. S 222.63, subd. 4, or to sell the property as  
28 provided in Minn. Stat. S 222.63, subd. 5.

29 H. Other uses. "Other uses" means any uses of banked  
30 property other than those specified in Minn. Stat. S 222.63,  
31 subd. 2b.

32 I. Preserve. "Preserve" means to hold rail bank property  
33 during the period of time it is not being utilized for the  
34 purposes specified in Minn. Stat. S 222.63, subd. 2b.

35 J. Project. "Project" means any rail line proposed for  
36 acquisition, and rail lines actually acquired under the program.

1 K. Program. "Program" means the state rail bank program.

2 L. Rail line. "Rail line" means abandoned railroad  
3 roadbeds, right-of-way, track structure, and other appurtenances  
4 of railroad right-of-way including public-use sidings, and  
5 railroad buildings.

6 M. Railroad. "Railroad" means a rail carrier as defined in  
7 the Interstate Commerce Act, 49 United States Code, Section  
8 10102(4), (18) and (19).

9 N. Utilize. "Utilize" means to use banked rail lines for  
10 the purposes cited in Minn. Stat. S 222.63, subd. 2b.

11 14 MCAR S 1.4011 Program criteria.

12 A. Eligibility for acquisition and preservation. An  
13 abandoned rail line is eligible for acquisition and preservation  
14 in the state rail bank if it meets the requirements of Minn.  
15 Stat. S 222.63 and 14 MCAR SS 1.4010-1.4016.

16 B. Funding criteria.

17 1. The following criteria will be considered in  
18 determining whether a project will be funded:

19 a. the availability of program funds;

20 b. the probability of the rail line being utilized for  
21 the purpose identified;

22 c. the likelihood that an alternative rail line  
23 right-of-way could not be reestablished in the future;

24 d. the adequacy of the title and the costs to cure any  
25 defects in the title; and

26 e. the likelihood that no other entity will acquire a <sup>PER AG</sup> <sub>suggestion</sub>  
27 the rail line for an appropriate use.

28 --- 2. Special consideration and priority shall be given to  
29 rail lines meeting the criteria specified in a.-d. Priority  
30 shall be given in the following order:

31 a. rail lines that are to be utilized for continued  
32 rail operations;

33 b. rail lines that are needed as part of the future  
34 overall rail system;

35 c. rail lines that have an identified future use that  
36 will benefit a greater portion of the state; and

1 d. rail lines where the identified future utilization  
2 includes more than one use.

3 C. Continued rail operations projects. The following  
4 information shall be used to establish the priority for  
5 continued rail operations projects:

- 6 1. the costs of the project compared to the benefits
- 7 resulting from the project;
- 8 2. a detailed plan of operations for the rail line; and
- 9 3. a detailed plan providing for financing of the project.

10 14 MCAR S 1.4012 Acquisition of rail bank property.

11 A. Published list of proposed projects. The commissioner  
12 shall publish notice in the State Register listing the rail  
13 lines proposed to be acquired. The notice shall also be  
14 published once a week for two consecutive weeks in at least one  
15 newspaper of general circulation in <sup>per AG suggestion</sup> the areas each county where  
16 the rail lines included in the list are located. After an  
17 initial publication, subsequent lists shall be published as  
18 necessary. The published list shall include the following  
19 information:

- 20 1. a statement that the list is published pursuant to
- 21 Minn. Stat. S 222.63, subd. 3;
- 22 2. the name, length, and owning railroad of each line;
- 23 3. the counties where each line is located;
- 24 4. any identified future uses for each line;
- 25 5. the abandonment status of each line;
- 26 6. the name, address, and telephone number of the
- 27 department's contact person; and
- 28 7. other pertinent information.

29 B. Initiation of title search. A title search of the  
30 property proposed for acquisition shall be initiated after the <sup>per AG</sup>  
31 procedures under A. have been completed. For a rail ~~lines~~ <sup>suggestion</sup> line  
32 not yet abandoned, a title search shall be initiated after the  
33 owning railroad has filed an abandonment application with the  
34 appropriate decision making authority. To inform the public of  
35 its action the department shall publish a notice in at least one  
36 newspaper of general circulation in the area each county where

*per AG suggestion*

1 the line is located.

2 C. Public information meeting. After the title search has  
 3 been completed the department shall hold at least one public  
 4 meeting to provide information and to seek comments from the  
 5 public. Notice of the meeting shall be given by publication in  
 6 at least one newspaper of general circulation in the area each  
 7 county where the rail line is located. The meeting shall be  
 8 held at least three days after publication of the notice. At  
 9 least one meeting shall be held in the area each county where  
 10 the rail line is located.

*Ag. Suggestion*

11 D. Decision to acquire. The commissioner shall decide  
 12 whether or not to acquire a rail line after the public meeting.  
 13 The decision shall be based upon the program criteria cited in  
 14 14 MCAR S 1.4011. The department shall publish notice of the  
 15 decision in at least one newspaper of general circulation in the  
 16 area each county where the line is located.

17 E. Notification to railroads. The department shall send a  
 18 notice to each railroad that owns a rail line proposed for  
 19 acquisition at the following times:

- 20 1. when the initial and subsequent lists of proposed  
 21 acquisitions is published pursuant to A.;
- 22 2. when the public meeting notices are published pursuant  
 23 to C.; and
- 24 3. when the department publishes notice of its decision  
 25 pursuant to D.

*see 1st State adoption*

26 E. F. Simultaneous implementation of 14 MCAR SS  
 27 1.4012-1.4014. The commissioner shall simultaneously implement  
 28 the procedures for acquisition, utilization, or disposition of  
 29 rail bank property when it is possible. The initial notices  
 30 which are published in the State Register and newspapers shall  
 31 include a statement noting which procedures are being  
 32 implemented simultaneously.

33 14 MCAR S 1.4013 Utilization of rail bank property.

34 A. Notice to utilize rail bank property. The commissioner  
 35 shall publish notice in the State Register when the department  
 36 is considering utilizing banked property. The notice shall also

1 be published once a week for two consecutive weeks in at least  
2 one newspaper of general circulation in the area each county<sup>per AG</sup>  
3 where the property is located. The published notice shall  
4 include the following:

- 5 1. a statement that the notice is published pursuant to
- 6 Minn. Stat. S 222.63, subd. 3;
- 7 2. the identifying name, length in miles, and acres of
- 8 land of the property;
- 9 3. the counties where the property is located;
- 10 4. the purpose of the proposed use and the conditions
- 11 under which the property would be utilized;
- 12 5. the name, address, and telephone number of the
- 13 department's contact person; and
- 14 6. other pertinent information.

15 B. Public information meeting. After the procedures under  
16 A. have been completed, the department shall conduct at least  
17 one public meeting to provide information on the proposal for  
18 utilization and to seek comments. Notice of the meeting shall  
19 be given by publication in at least one newspaper of general  
20 circulation in the area each county<sup>per AG</sup> where the rail line is  
21 located. The meeting shall be held at least three days after  
22 publication of the notice. At least one meeting shall be held  
23 in the area each county<sup>per AG</sup> where the property is located.

24 C. Decision to utilize. The commissioner shall decide  
25 whether or not to utilize the property as proposed after the  
26 public information meeting. The department shall publish notice  
27 of the decision in at least one newspaper of general circulation  
28 in the area each county<sup>per AG</sup> where the line is located.

29 14 MCAR S 1.4014 Disposition of rail bank property.

30 A. Notice to dispose of rail bank property. The  
31 commissioner shall publish notice in the State Register when  
32 considering disposing of property pursuant to Minn. Stat. S  
33 222.63, subd. 4, or when required to dispose of property  
34 pursuant ~~et~~ to Minn. Stat. S 222.63, subd. 5. The notice shall  
35 also be published once a week for two consecutive weeks in at  
36 least one newspaper of general circulation in the area each<sup>per AG</sup>

1 county where the property is located. The published notice  
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2 shall include the following:

3 1. a statement that the notice is published pursuant to  
 4 Minn. Stat. S 222.63, subd. 3;

5 2. the identifying name, length in miles, and acres of  
 6 land of the property;

7 3. the counties where the property is located;

8 4. the reasons for and the conditions of the disposal;

9 5. the name, address, and telephone number of the  
 10 department's contact person; and

11 6. other pertinent information.

12 B. Public information meeting. After the procedures under A.

13 have been completed, the department shall conduct at least one  
 14 public meeting to provide information on the proposed

15 disposition and to seek comments. Notice of the meeting shall

16 be given by publication in at least one newspaper of general

17 circulation in ~~the area~~ <sup>AG</sup> each county where the rail line is  
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18 located. The meeting shall be held at least three days after

19 publication of the notice. At least one meeting shall be held

20 in ~~the area~~ <sup>AG</sup> each county where the property is located.  
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21 C. Decision to dispose of property. The commissioner shall

22 decide whether or not to dispose of property after the public

23 meeting. The department shall publish notice of its decision in

24 at least one newspaper of general circulation in ~~the area~~ <sup>AG</sup> each  
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25 county where the rail line is located. When the property is to  
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26 be sold because it has not been utilized, the notice shall

27 include the following:

28 1. a statement noting the required six-month period which  
 29 allows owners of private property adjacent to the banked  
 30 property to make offers to purchase the property from the  
 31 department; and

32 2. the name, address, and telephone number of the  
 33 department's contact person.

34 14 MCAR S 1.4015 Management of banked property.

35 A. Maintenance and other uses during preservation of

36 property. Rail bank property shall be maintained and may be

1 leased for other uses while it is being preserved in the  
2 program. Proposed other uses for rail bank property shall be  
3 considered if they meet one or more of the following conditions:

4 1. uses which were in effect prior to department  
5 acquisition of the property;

6 2. uses that minimize maintenance costs and maximize  
7 income to the program;

8 3. uses which are not in conflict with adjacent land  
9 uses; and

10 4. uses that provide a benefit to the state.

11 B. Other uses during utilization of property. Other uses  
12 which were in effect while the property was being preserved may  
13 be continued while the property is being utilized for the  
14 purposes of the program. The other uses shall be continued if  
15 they do not interfere with the utilization of the property.  
16 Other uses which were not in effect prior to utilization may be  
17 allowed if they do not interfere with utilization of the  
18 property.

19 14 MCAR S 1.4016 Administration of the state rail bank program.

20 A. Provision of information for continued rail service  
21 operations projects. The entity proposing a continued rail  
22 ~~service~~ operations project shall provide the commissioner with  
23 any pertinent information necessary to achieve proper evaluation  
24 and adequate administration of a project. The information shall  
25 include financial, commodity, cost and operations data, and  
26 other similar types of data and information.

*per AG suggestion*

27 B. Contracts. Executed written contracts shall be the  
28 documents used to commit betterment funds, implement utilization  
29 projects, and to authorize other uses of banked property.

30 C. Variance. The commissioner may approve a variance from  
31 any of the provisions of 14 MCAR SS 1.4010-1.4016.

32 1. A variance shall be granted if:

33 a. the ~~rationale for~~ purpose of the rule in question  
34 can be met accomplished or exceeded by the specific alternate  
35 practice proposed for substitution;

36 b. the application of the rule in question would

*per AG suggestion*

1 impose an excessive burden on the person or entity applying for  
2 the variance in attempting to carry out the intent of the  
3 program; and

4 c. the granting of the variance will not adversely  
5 affect the public health and safety.

6 2. The commissioner shall set forth in writing the  
7 reasons for granting or denying a variance.

8 3. The person or entity who is granted a variance shall  
9 comply with the alternative practice granted by the commissioner.

10 4. The person or entity who is granted a variance shall  
11 immediately notify the department of any material changes in the  
12 circumstances which justified granting the variance.

13 5. A variance shall be revoked if material changes occur  
14 in the circumstances which justified the variance, or if the  
15 person or entity who was granted the variance fails to comply  
16 with the alternative practice granted by the commissioner.