219.47 CLEARANCE EXCEPTIONS.

Subdivision 1. **Permanent.** The commissioner of transportation, upon application made, after a thorough investigation, may permit a common carrier, person, or corporation to which sections 219.45 to 219.53 apply, to erect an overhead or side obstruction closer to the track than provided for in section 219.46, to construct track at less clearance than provided for in section 219.46, and to reconstruct and maintain them when in the judgment of the commissioner compliance with the clearance prescribed in section 219.46 is unreasonable or unnecessary or the erection or construction of the overhead or side obstruction or tracks or the reconstruction and maintenance of them at less clearance than provided in section 219.46 will not create a condition unduly hazardous to the employees of that common carrier, person, or corporation. Before taking final action on the application, the commissioner need conduct only those hearings or other proceedings as it finds necessary for the resolution of the material issues raised by the application.

Subd. 2. **Temporary.** The commissioner, upon application made, may grant temporary clearance variances, with appropriate safeguards and without hearing, for statutory encroachments resulting from emergency or temporary construction situations.

History: *(4755) 1913 c 307 s 3; 1915 c 171 s 2; 1937 c 238 s 3; 1943 c 390 s 8; 1971 c 25 s 67; 1976 c 166 s 42; 1980 c 460 s 21; 1980 c 534 s 41; 1985 c 265 art 4 s 1; 1986 c 468 s 3; 1998 c 403 s 29*