



UTILITY ACCOMMODATION  
&  
COORDINATION MANUAL



Workers use hand compactors to compact the backfill in the utility trench. Water is sprayed on the dirt to improve compactability.

# Minnesota Department of Transportation (MnDOT) Utility and Right of Way Permit Reviews

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# Office of Land Management (OLM) Review of MnDOT Utility Permit Applications

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# Minnesota Department of Transportation (MnDOT) - a brief history

- May 11, 1858, Minnesota achieved statehood
- 1898 constitutional amendment
- 1905 State Highway Commission
- 1912 amendment to the state constitution
- 1917 Abolished the Highway Commission and created Department of Highways
- 1920 constitutional amendment
- 1921 Legislation mandate and order established regulations

Form 971-7-35

ORDER NO. 10563

REGULATIONS FOR

## Public Utilities on Trunk Highways

In accordance with the provisions of Section 17, Chapter 323, Laws of 1921, and under authority vested in me by law, the following regulations are hereby prescribed with reference to the placing, constructing and maintaining of public utilities across, along, upon or under the right of way of trunk highways:

1. All electrical installation to be made in general conformity with the National Electrical Safety Code of the Bureau of Standards and with the rules and regulations of the Railroad and Warehouse Commission of the State of Minnesota. All other installations to be made in general conformity with regulations of other governmental agencies for the protection of the public.
2. Whenever the roadway or other improved portion is disturbed it must be restored. Trenches or openings through or under the roadway must be back-filled with suitably compacted local material unless otherwise specified.
3. The normal position of pole line, except as modified in permit, will be as follows:
  - a. On right of way 4 rods wide, 28 feet from center line.
  - b. On standard 100-foot right of way 45 feet from center line.
  - c. On other right of way as specified in permit.
4. No poles, anchors, braces or other construction to be on roadway shoulder or closer than 10 feet to shoulder line except as modified in permit.
5. The minimum height of conductors at crossings over a trunk highway shall be in accordance with the National Electrical Safety Code aforesaid.
6. Ordinarily communication lines and power lines should be on separate sides of the highway. Where practicable the communication lines should be consolidated on one pole line on one side of the highway and the supply lines consolidated on another pole line on the opposite side of the highway so as to have only one permanent pole line on either side of the highway.

- 1920's to 1976 many commissions and departments created
- 1959 Laws of Minnesota 1959, chapter 500, article II, section 45 current Minnesota Statutes 161.45 and Minnesota Rules 8810.3100 to 8810.3600
- 1976 Minnesota Department of Transportation was created
- Today MnDOT develops and implements policies, plans and programs for aeronautics, freight and passenger carriers, ports and waterways, public transit, railroads, walking and bicycling.



# Statutes, Rules, and Policies

- Statute 161.45 UTILITY ON HIGHWAY RIGHT-OF-WAY; RELOCATION
  - Subdivision 1.Rules.(a) Electric transmission, telephone, or telegraph lines; pole lines; community antenna television lines; railways; ditches; sewers; water, heat, or gas mains; gas and other pipelines; flumes; or other structures which, under the laws of this state or the ordinance of any city, may be constructed, placed, or maintained across or along any trunk highway, or the roadway thereof, by any person, persons, corporation, or any subdivision of the state, **may be so maintained or hereafter constructed only in accordance with such rules as may be prescribed by the commissioner who shall have power to prescribe and enforce reasonable rules** with reference to the placing and maintaining along, across, or in any such trunk highway of any of the utilities hereinbefore set forth.
- Statute 222.37 PUBLIC ROAD; USE, RESTRICTION
  - Subdivision 1.Use requirements. Any water power, telegraph, telephone, pneumatic tube, pipeline, community antenna television, cable communications or electric light, heat, power company, entity that receives a route permit under chapter 216E for a high-voltage transmission line necessary to interconnect an electric power generating facility with transmission lines or associated facilities of an entity that directly, or through its members or agents, provides retail electric service in the state, or fire department **may use public roads for the purpose of constructing, using, operating, and maintaining lines**, subways, canals, conduits, transmission lines, hydrants, or dry hydrants, for their business, but **such lines shall be so located as in no way to interfere with the safety and convenience of ordinary travel along or over the same**; and, in the construction and maintenance of such line, subway, canal, conduit, transmission lines, hydrants, or dry hydrants, **the entity shall be subject to all reasonable regulations imposed by the governing body** of any county, town or city in which such public road may be.

# Statutes, Rules, and Policies

- Rules 8810.3100 to 8810.3600

- 8810.3200 PURPOSE AND SCOPE.

Subpart 1. Purpose. The purpose of parts 8810.3100 to 8810.3600 is to carry out the mandate of the legislature and to effectuate that mandate as set forth in the Laws of Minnesota 1959, chapter 500, article II, section 45 (Minnesota Statutes, section 161.45) with reference to the placing, constructing, reconstructing, and maintaining of utilities across, along, upon, or under the right-of-way of trunk highways.

- 8810.3300 PERMITS.

Subpart 1. Construction. Except as otherwise permitted, utility construction and relocation on trunk highway right-of-way shall not be commenced until an application for a permit for construction has been made and such permit granted.

- Subp. 2. Maintenance. The utility shall obtain a work permit from the office of the assistant district engineer, maintenance, prior to performing service and maintenance operations on the interstate highways and shall also obtain a work permit prior to performing service and maintenance operations on the non-interstate highways....

# Statutes, Rules, and Policies

- Policy, Guidance, and Manual

- Utility Accommodation on Highway Right of Way Policy

- It is in the public interest to accommodate utility facilities on the rights of way of trunk highways, and local roads and streets receiving federal aid, when such use and occupancy of the right of way:

- does not interfere with the free and safe flow of traffic
      - does not impair the highway or its protected visual quality
      - does not conflict with any provision of federal, state, or local law, rule, or regulation, or
      - does not unreasonably increase the difficulty or future cost of highway construction or maintenance.

- Utility Accommodation Policy is required and approved by FHWA.

- The Code of Federal Regulations (23 CFR § 645.215(a))

- Utility Accommodation and Coordination Manual

- Procedures used by MnDOT for accommodating utility facilities along, across, or on the right of way of all highways under the jurisdiction of the Minnesota Commissioner of Transportation are prescribed in the manual.

# Applicant Process

- Application
  - Utility company applies for permit using MnDOT's [Online Permit Application](#) (OLPA)
  - Ability to create an account or be a guest user
  - Choose the type of permit needed
    - Utility Accommodation on Trunk Highway Right of way
  - Special conditions for applications
  - Supply all required information and mapping
  - Respond if contacted for further information

Welcome to the Minnesota Department of Transportation (MnDOT) Online Right of Way Permit Application.

This site is used to apply for MnDOT Right of Way permits directly online and/or check the status of a permit that you previously applied for. The following types of permits may be applied for on this site:

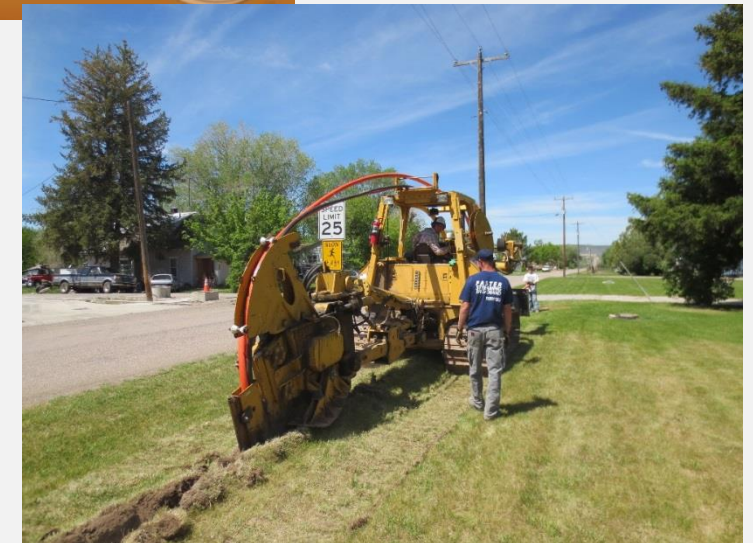
- Utility Accommodation on Trunk Highway Right of Way
- Miscellaneous Work on Trunk Highway Right of Way
- Drainage
- Access / Driveway
- Mowing / Haying
- Special Events
- Rail Bank Access
- Rail Bank Utility Installation
- Soil / Water Sampling Permit on Trunk Highway Right of Way



# Process

- MnDOT Review

- Is the application complete
- Is the mapping readable and accurate
- Is it in a permissible location
- Is it in Tribal Lands
- Are other utilities in the work area shown
- Is the method of installation correct for the circumstances
  - <https://www.nastt.org/resources/photos/>
- Will it interfere with any MnDOT projects
- Does it require review by other functional groups
  - bridges and structures, roadside vegetation management, cultural resources, contaminated materials management, threatened and endangered species, construction, etc.



# Process

- MnDOT Review
  - Will it cause maintenance issues for MnDOT or the applicant
  - Accept or Reject
  - Route to indicated offices for review
  - Write the permit upon return of other office reviews
    - Include all concerns and requirements of other offices
  - Route to district office for review and approval
  - State Utilities Engineer review and approval
  - Permit is issued



# Goals and Best Practices

- Goals
  - Strive for a 4 week turn around from acceptance to issuance
  - Minnesota grant funded or federal program funded applications do get a higher priority
  - This timeline begins when MnDOT has received all required information
  - Applicant can adjust route
    - If other functional groups within MnDOT require a more extensive review the applicant is made aware of this and has the option to adjust their proposed route
- MnDOT strives to accommodate utility facilities whenever possible
  - Work with you to get your facility where it needs to go



# Questions?

Please reach out to myself or a permit writer

Our contact info can be found at [Contacts - Utility Agreements & Permits - MnDOT \(state.mn.us\)](https://state.mn.us/contacts-utility-agreements-permits)

Thank you!





# Cultural Resources Unit (CRU) Review of MnDOT Utility Permit Applications

Jammi Ladwig | MnDOT Office of Environmental Stewardship (OES) Cultural Resources Unit (CRU) Archaeologist

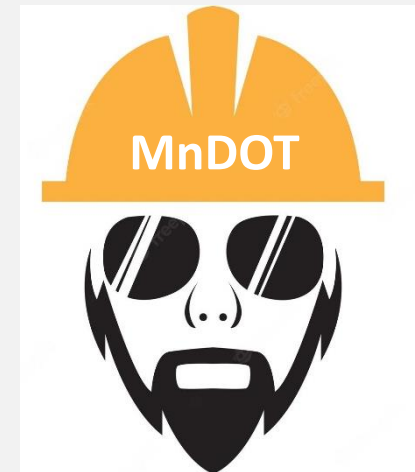
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# Overview of MnDOT's Cultural Resources Unit (CRU)

- MnDOT's Cultural Resources Unit (CRU) is part of the Office of Environmental Stewardship (OES) located in MnDOT's Central Office.
- 7 archaeologists (1 shared with Tribal Affairs) and 6 historians
- Review proposed projects under federal and state laws, as applicable
  - Section 106 of the National Historic Preservation Act
  - Minnesota Historic Sites Act
  - Minnesota Field Archaeology Act
  - Minnesota Private Cemeteries Act
- Consultation with tribes

# CRU's Review Responsibilities

- **Conduct Section 106 reviews on behalf of federal agencies (Federal Highway Administration, Federal Transit Authority, US Army Corps of Engineers, etc.)**
  - State Aid for Local Transportation (SALT)
  - Federal Recreational Trail Program (F RTP)
- **Conduct state statutes reviews on behalf of MnDOT (Historic Sites Act, Field Archaeology Act, and Private Cemeteries Act)**
  - MnDOT Projects
  - **R/W Permits**



# Why is CRU review needed?

## Why is a CRU review important?

- MN State Statute requires MnDOT to be stewards of cultural resources on lands it controls. *We are not just a transportation agency; we are a transportation agency that is required to protect resources that matter to the public.*
  - **HISTORIC SITES ACT (Minn. Stat. 2023 138.661-.669)** – Directs project proposers (including MnDOT) to consult with the MN State Historic Preservation Office (MnSHPO) if projects will impact NRHP-listed or State-listed properties.
  - **FIELD ARCHAEOLOGY ACT (Minn. Stat. 2023 138.40)** – Directs non-federal public landowners (including MnDOT) to request recommendations for site preservation on a project-by-project basis from the MnSHPO, the Office of the State Archaeologist (OSA), and the Minnesota Indian Affairs Council (MIAC) when projects are in areas known or predicted to have significant archaeological sites.
  - **PRIVATE CEMETERIES ACT (Minn. Stat. 2023 307.08)** – Directs landowners (including MnDOT) to request recommendations for the preservation of human burials on a project-by-project basis from the OSA and/or the MIAC when projects are in areas known suspected to have human remains.
  - **GOVERNMENT-TO-GOVERNMENT RELATIONSHIPS WITH TRIBAL GOVERNMENTS (Minn. Stat. 2023 10.65)** – Directs state agencies (including MnDOT) to consult with MN Tribal governments.





# Why is CRU review needed?

- **Under the Private Cemeteries Act (*Minn. Stat. 2023 307.08*)**, any person who intentionally, willfully, and knowingly destroys, mutilates, or injures human burials or disturbs or removes human remains without consent from the appropriate authority, is guilty of a **felony**.
- The discovery of an archaeological site or human remains during project construction can be costly in terms of unintentional damage to sensitive cultural resources, along with taking a lot of time, costing a lot of money, and damaging relationships.

# CRU Permit Review Logistics

## What does CRU review?

- CRU reviews permits when a portion of the project is within 500 feet of a Historically Sensitive Area (HSA).
- HSAs are areas of known archaeological sites or burial/mortuary concerns.
- CRU reviews the project within MnDOT R/W to determine if there is potential to contain additional unidentified sites or burials.
- Sites or human remains may be located where current utilities are located because some roads and utilities were constructed through archaeological sites, cemeteries, and burial mounds historically.
- **Compliance with Minnesota Statute is the responsibility of the entity doing, funding, or licensing the work under the Minnesota Historic Sites Act (Minn. Stat. 2023 138.661-138.669); or the agency controlling any public lands that may be affected by proposed work (e.g., right-of-way or through temporary or permanent easements) for the Minnesota Field Archaeology Act (Minn. Stat. 2023 138.31-138.42) and the Private Cemeteries Act (Minn. Stat. 2023 307.08).**

**\*\*\*MnDOT CRU can only review permits within its statutory responsibilities.\*\*\***

# CRU – Data Points Needed

- After receiving email notification, we review OES permit data to see if all materials needed are there (*Permit applications, maps, etc...*)
- Commonly requested additional information from permit applicants for CRU's review:

GIS shapefile or KMZ of proposed ground disturbance areas (including staging and laydown areas) within MnDOT R/W

Proposed ground disturbance limits description: horizontal & vertical limits, including depth of installation

Information on existing utilities, along with method of installation and date installed, if known

Any additional information related to currently proposed and prior ground disturbance within or adjacent to the permit area that the applicant can supply

**If there has been archaeology/cultural resource investigations completed for these permit areas, and/or coordination with pertinent state agencies and other parties (including SHPO, OSA, MIAC, Tribes) as part of the environmental review process to date, please send this information to CRU.**

# CRU –Data Points Needed

Detailed information of the following by proposed work type	
Handhole/Pedestal/Doghouse Installation: information of proposed locations and dimensions (length, width, depth) of total ground disturbance area to be subjected to excavation or ground disturbance	Aerial Utility Work/Utility Pole Adjustments: if existing utility poles are to be removed and/or replaced, information on methods of removal and/or installation locations of replacement poles including anchors
Potholing: information of proposed potholing locations and methods of potholing (hydro-vacuuming, hand dig, etc.)	Open Trenching: information of proposed locations and dimensions (length, width, depth) of trenches and type of equipment to be used
Directional Boring: information of proposed locations and dimensions (length, width, depth) of entry/exit pits	<b><i>Main idea: CRU needs to have specific information on ground disturbance limits</i></b>



# CRU – Permits Review Process - Review

- CRU staff review:

• Location of project	• SHPO Inventory Database
• Nature of work	• NPS NRHP Database
• Method of construction	• Current and historic aerial imagery
• OSA Portal, MIAC and Historic Cemeteries Database	• Topographic maps
• MnDOT R/W maps	• Previous MnDOT construction plans
• Historic and current plat maps	• Soil map data
• Historic and current roadside imagery	• Historic and current plat maps
• LIDAR imagery	• Previous cultural resources survey reports

- Within 10 business days of receipt of the application and ALL additional requested information, CRU provides written documentation to Permits staff indicating the result of CRU’s review, which may include the following requirements:

• Area of avoidance (horizontal and/or vertical)	• Request for recommendations to OSA & MIAC
• Archeological survey	• Consultation with Minnesota Tribal Nations
• Construction monitoring	• Consultation with SHPO

- If a proposed project is determined to require consultation, CRU will contact the applicant to confirm their desire to proceed with the proposed work, and CRU initiates consultation to applicable parties.

# CRU – Permits Review Process - Consultation

- CRU puts together consultation requests, request for recommendations, and/or request for information letters to be sent to:
  - OSA/MIAC/SHPO/Tribes (as applicable)
  - Permit applicants notified when materials are sent
    - ***EVEN IF the applicant/others may have consulted with these entities, MnDOT is still required to follow state statute compliance and conduct its own coordination/consultation***
- 30-day (138.40, some THPOs) or 45-day (307.08, some THPOs) review period
  - Note: additional consultation and associated review periods may be required dependent on comments received, complexity of resources involved, project modifications, etc.
- Cultural resource investigations that are determined to be required are carried out by applicant's consultant following consultation/request for recommendations submission by CRU
- If archaeological investigations (survey, evaluation, data recovery, cultural resource monitoring during construction, etc.) are required, the cost of any archaeological investigations are the responsibility of the applicant. All cultural resources work done in MnDOT R/W must conform to *MnDOT CRU Project and Report Requirements* (<https://www.dot.state.mn.us/culturalresources/consultants.html>).

**\*\*Additional steps may be required\*\***

# CRU – Findings Letter

- End results is a Findings Letter that documents cultural resource conditions associated with MnDOT issuing permit. A few examples below...

Discovery Plan	Standard CRU permit conditions
Archaeological monitoring during project construction	Other specific conditions by location

## Conclusion & Request for Comments: No Adverse Effect

MnDOT CRU concludes that the state undertaking, as currently proposed, will have **No Adverse Effect** to properties subject to OSA, MIAC, and MnSHPO review under the Minnesota Field Archaeology Act and the Minnesota Historic Sites Act. This conclusion is based on the following conditions (MnDOT CRU will ensure the conditions are met prior to project construction proceeding):

- Archaeological monitoring during construction by a Secretary of the Interior's (SOI) Professional Qualifications Standards (48 FR 44738-44739) qualified archaeologist,
- MnDOT CRU review and approve the Monitoring Plan/Discovery Plan for work within MnDOT R/W, and
- Applicable archaeological licensing be secured by the SOI qualified archaeological Principal Investigator prior to the start of construction.

# Conditions for ALL CRU Reviewed Permits

There is always a chance of encountering archaeological sites or human remains on a project. These conditions always apply...

## *CONDITIONS*

In the event archaeological deposits, including but not limited to, human remains or other indications of burials are discovered, **the applicant must cease all activity in and near the area of discovery and follow the steps below:**

- Use flagging to block off the area of discovery.
- Immediately notify local law enforcement authorities and MnDOT CRU of the discovery, if human remains or suspected human remains are discovered.
- Keep all personnel out of the area of discovery until directed by MnDOT CRU.



# MnDOT CRU Take-Aways

- MnDOT's role associated with proposed projects by utilities in MnDOT R/W is limited to review of associated permit applications for work in MnDOT controlled lands pursuant to applicable state statute obligations – **MnDOT can only review what it is responsible for under state statute**
  - Example: proposed service connections on lands outside of MnDOT's control (i.e. service connections on private property) are outside of MnDOT CRU's review responsibilities.
- **Multiple regulators review under multiple cultural resource statutes**
  - MnSHPO, OSA, and MIAC may have different recommendations depending on their reviews per their review responsibilities – following up with these agencies as their responses are received and reaching consensus will greatly assist with MnDOT CRU's review
- **CAREFULLY read your consultant's cultural resource reports prepared for your projects** – their recommendations, proposed findings, etc. are predicated on what they did or did not review
  - Generally speaking, cultural resource consultants are not “clearing” the entire R/W and recommendations are based on a certain distance from centerline, within areas of previous demonstrated disturbance, etc.
  - If you don't understand your consultant's recommendations, meet with your consultant.
  - Recommend retaining your consultant to assist with consideration of agency (OSA, MIAC, MnSHPO, Tribes) recommendations as responses are received during the environmental review process to determine if additional work is necessary, if recommendations are feasible, and to assist with continued conversation with review agencies through the permitting phase.
  - MnDOT CRU may or may not concur with recommendations based on its review under state statute.

**\*\*\* MnDOT's role associated with proposed projects by utilities in MnDOT R/W is limited to review of associated permit applications for work in MnDOT controlled lands pursuant to applicable state statute obligations\*\*\***

# Questions?

CRU Permits Review  
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