The following information is general in nature only. Changes in Statutes, Rules, or court cases could alter this document.

OFFSITE FACILITY AND TRUCKING FLOW CHART

MnDOT's State and Federally Funded Projects

(Affective on State Funded Projects Advertised after June 26, 2001) (Specification, Forms, Manuals, LCU 11/16/04) Specific questions should be directed to the Mn/DOT Labor Compliance Unit. Mn/L&I has final authority

Does the offsite facility meet all the following criteria to be deemed Projects funded in whole or part with state money either a "commercial establishment"? directly or indirectly under the authority of the • The determination must be based on a location-by-location not commissioner of transportation. All Mn/DOT federal aid highway projects are funded in part with state funds. on a business wide basis, and • The determination must be based on a **product-by-product** basis. The production of mineral aggregate is considered production of one product. Is the contractor, Removal of Excess The offsite facility must have been in business at the location subcontractor, or entity Material prior to the advertisement of the contract. performing work under the The facility must have sufficient utilities and equipment to The state law covers the contract? employees and hired serve the public upon demand. The offsite facility was not set up primarily to serve public trucks removing excess Minn. Stat. 177.44 Subd. 1 & materials off the project works projects. Minn. Rules 5200.1106 Subp. 2. work site regardless of Prior to and at the time of advertising, the offsite facility: "Work under the contract" where the materials are (a) owned or leased the land on which it operates, hauled or who hired them. (b) possessed business records indicating that sales from the **location** from which deliveries are made are for Rules 5200.1106 Subp. 3 (B) (4) other than the contracting agency's public works Yes If No. the (c) advertised the availability of material for sale to the state law general public from the location, and Is the entity does not (d) had facilities available for effecting sales at the No the Prime apply. Yes location; and Contractor? (e) has acquired all necessary permits to operate from the location, and met all legal obligations of state and Refer to the ALJ's - F.F.C.L.&R. local regulations to excavate soils, sand, gravel, or Yes, for all 5/10/2002 & Mn/DOT's rock for the purpose of receiving something of value materials Commissioner's Order issued 4/3/2003 for the product. for case-by-case enforcement. If the produced at and Note: facts are similar, the prime would not delivered from 1. A commercial facility can be closed on a seasonal basis. receive the exemption found in Minn. the facility for 2. Construction projects are not considered commercial Stat. 177.44 subd. 2. for their off-site the project. establishments. facility personnel and truck hauls. Minn. Stat. 177.44 Subd. 2/Minn. Rules 5200.1106 Subp. 5 (D) (E) (F). The state prevailing wage law does not cover the Material Who hired Yes, for Mineral Aggregates Supplier employees directly the trucks to No, the facility does working for a Commercial deliver the not meet all the No, for Bituminous or Concrete Establishment materials to criteria listed above. products produced at and delivered the project? from the facility for the project. Prime Contractor, Truck drivers would be Subcontractor or The state law would subject to the other entities. Commercial cover the employees Minn. Stat. 177.44 state law. The state law would cover the Establishment subd. 2 "By and For" working at the facility employees working at the pit in as well as all trucks direct support of bituminous or that delivered the concrete plant including the person Truck materials to the Bituminous, loading the hoppers and to the drivers project. Mineral Aggregate concrete, or other trucks delivering the bituminous or would not Minn. Rule 5200.1106 non-mineral concrete materials to the project. be subject Subp.5 (A) Minn. Stat. 177.44 Subd. aggregate Minn. Rules 5200.1106 Subp. 3 (A) to the state 1 & Subd. 2. products. Minn. Rule 5200.1106 law Was the aggregate deposited on The truck drivers would be subject to Truck drivers would the project site directly or No the state law for the full round trip not be subject to the through spreaders where it Yes haul regardless of who hired them. state prevailing wage could be spread from or Minn. Rule 5200.1106 Subd. 5 (B) & Subp 3 law. compacted at the location (B) (6) where it was deposited?