S T A T E O F N E W Y O R K

397

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. JOHN, ABBATE -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to establishing on-track safety standards for New York city transit authority employees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative purpose. The purpose of this act is to prevent accidents and fatalities to New York city transit authority employees and other people on or adjacent to the trackway. This act shall constitute a minimum standard to be used in establishing protection for such employees. This act shall not restrict the New York city transit authority from adopting additional or more stringent requirements not inconsistent with this act.

S 2. The labor law is amended by adding a new article 27-A to read as follows:

ARTICLE 27-A

NEW YORK CITY TRANSIT AUTHORITY

ON-TRACK SAFETY STANDARDS

SECTION 871-A. ON-TRACK SAFETY PROGRAM.
871-B. TRAINING AND QUALIFICATION.
871-C. PROCEDURES FOR PROTECTING TRACKWAY WORKERS.
871-D. PAIRS AND SMALL GROUPS MOVING FROM POINT TO POINT.
871-E. RESPONSIBILITIES FOR ON-TRACK SAFETY.
871-F. LIGHTS, FLAGS, EQUIPMENT AND PROCEDURE.
871-G. INSTRUCTIONS TO TRAIN OPERATORS.
871-H. NEW YORK CITY TRANSIT AUTHORITY RULES.
871-I. THIRD RAIL SAFETY.
871-J. ILLUMINATION.
871-K. GOOD FAITH CHALLENGES.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD02524-01-9

S 871-A. ON-TRACK SAFETY PROGRAM. 1. THE NEW YORK CITY TRANSIT AUTHORITY SHALL ADOPT AND IMPLEMENT A PROGRAM THAT SHALL PROVIDE ON-TRACK SAFETY TO ALL TRACKWAY WORKERS. SUCH PROGRAM SHALL INCLUDE AT LEAST THE MINIMUM LEVEL OF PROTECTION REQUIRED BY THIS ARTICLE. THE ON-TRACK SAFETY PROGRAM ADOPTED TO COMPLY WITH THIS ACT SHALL DETAIL THE PROCEDURES USED BY THE AUTHORITY FOR MONITORING COMPLIANCE WITH THIS ARTICLE.

2. THE AUTHORITY SHALL PROVIDE TO THE PUBLIC EMPLOYEE SAFETY AND HEALTH BUREAU WITHIN THE DEPARTMENT AND TO ALL UNIONS THAT REPRESENT WORKERS OF THE AUTHORITY A COPY OF ITS PROPOSED PROGRAM WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE. UPON RECEIPT OF THE PROPOSED PROGRAM, THE PUBLIC EMPLOYEE SAFETY AND HEALTH BUREAU SHALL CONDUCT A FORMAL REVIEW TO CONFIRM COMPLIANCE WITH THIS ARTICLE.

3. THE AUTHORITY SHALL MAINTAIN ALL OF THE RULES AND OPERATING PROCEDURES GOVERNING TRACK OCCUPANCY AND PROTECTION IN ONE MANUAL THAT SHALL BE READILY AVAILABLE TO ALL EMPLOYEES OF THE AUTHORITY.

4. FOR THE PURPOSES OF THIS ARTICLE, "AUTHORITY" SHALL MEAN THE NEW YORK CITY TRANSIT AUTHORITY AND ITS SUBSIDIARY, MANHATTAN AND BRONX SURFACE TRANSIT OPERATING AUTHORITY, AND ANY OTHER AGENCY THAT MAY COME UNDER THE CONTROL OF THE NEW YORK CITY TRANSIT AUTHORITY, OR WITHIN ITS CUSTODY AND CONTROL.

S 871-B. TRAINING AND QUALIFICATION. 1. THE AUTHORITY SHALL NOT ASSIGN, OR ALLOW TO BE ASSIGNED, ANY PERSON TO ENTER UPON ANY TRACKWAY OR PERFORM ANY DUTIES ON OR ADJACENT TO THE TRACKWAY UNLESS THAT PERSON HAS RECEIVED TRAINING IN THE ON-TRACK SAFETY PROGRAM ESTABLISHED BY THIS ARTICLE.

2. THE AUTHORITY SHALL PROVIDE ALL PERSONS WHOSE DUTIES INCLUDE ENTERING UPON THE TRACKWAY OR ADJACENT TO THE TRACKWAY, RECURRENT TRAINING IN THE ON-TRACK SAFETY PROGRAM ESTABLISHED BY THIS ARTICLE AT LEAST ONCE EVERY CALENDAR YEAR.

3. THE AUTHORITY SHALL MAINTAIN WRITTEN OR ELECTRONIC RECORDS OF TRACKWAY WORKER TRAINING QUALIFICATIONS. EACH RECORD SHALL INCLUDE THE NAME OF THE PERSON, TYPE OF TRAINING AND THE MOST RECENT DATE OF QUALIFICATION. SUCH RECORDS SHALL BE KEPT AVAILABLE FOR INSPECTION FOR A PERIOD OF NOT LESS THAN FIVE YEARS.

THE TRAINING SHALL INCLUDE AS A MINIMUM THE FOLLOWING: THE RECOGNITION AND UNDERSTANDING OF TRACKWAYS INCLUDING SWITCHES; DETECTION AND RECOGNITION OF ON-COMING TRAINS; EFFECTIVE WARNING OF TRACKWAY WORKERS OF THE APPROACH OF TRAINS; SAFE PROCEDURES FOR PERFORMING WORK ON OR NEAR ENERGIZED AND DE-ENERGIZED THIRD RAIL AND ASSOCIATED CABLES, CIRCUIT BREAKERS OR OTHER ELECTRIC APPARATUS INCLUDING ELECTRIC CONTACT SHOES; AND THE CONTENT AND APPLICATION OF THE ON-TRACK SAFETY PROGRAM RULES ADOPTED BY THE AUTHORITY.

4. THE TRAINING AND QUALIFICATION OF PERSONS WHO OPERATE TRACKWAY MAINTENANCE AND CONSTRUCTION MACHINES SHALL INCLUDE PROCEDURES TO PREVENT A PERSON FROM BEING STRUCK BY THE MACHINE, FROM BEING STRUCK BY A TRAIN OR OTHER EQUIPMENT ON THE TRACK, PROCEDURES TO PROVIDE FOR STOPPING THE MACHINE SHORT OF OTHER MACHINES OR OBSTRUCTIONS ON THE TRACK, AND METHODS TO DETERMINE SAFE OPERATING PROCEDURES FOR EACH MACHINE THAT A PERSON IS EXPECTED TO OPERATE.

S 871-C. PROCEDURES FOR PROTECTING TRACKWAY WORKERS. 1. GROUPS OF FOUR OR MORE PERSONS WORKING ON OR ABOUT THE TRACKWAY SHALL BE PROTECTED FROM TRAFFIC THROUGH THE ESTABLISHMENT OF WORKING LIMITS.

2. WORKING LIMITS ON AUTHORITY TRACKWAYS MAY BE ESTABLISHED ONLY IN THE FOLLOWING MANNER:

(A) THE USE OF FLAGGING PROTECTION ON TRACKWAYS TO BE WORKED ON OR OBSTRUCTED (FULL FLAGGING), OR

(B) THE SUSPENSION OF TRAFFIC IN WORK AREAS (GENERAL ORDER).

3. FLAGGING PROTECTION SHALL CONFORM WITH THE FOLLOWING ARRANGEMENTS:

(A) THE FLAGGERS' STATIONS SHALL BE A MINIMUM OF TWO HUNDRED FEET FROM THE BEGINNING AND END OF A WORK AREA.

(B) EACH WORK AREA PROTECTED PURSUANT TO THIS SUBDIVISION SHALL UTILIZE A FLAGGER IN BOTH DIRECTIONS EACH WITH A PORTABLE TRIPPER. TWO YELLOW LIGHTS AND/OR YELLOW FLAGS MUST BE DISPLAYED AT A POINT NOT LESS THAN FIVE HUNDRED FEET, NOR MORE THAN SEVEN HUNDRED FEET IN APPROACH TO POINTS SELECTED BY SUPERVISION AS THE FLAGGERS' STATIONS.

(C) WHEN A FLAGGER'S VIEW OF CAUTION LIGHTS OR FLAGS IS LIMITED OR OBSCURED BY REASON OF CURVES OR OTHERWISE, AN AUXILIARY FLAGGER OR FLAGGERS MUST BE ASSIGNED. WHEN ASSIGNED, THE AUXILIARY FLAGGER MUST BE STATIONED AT THE FARTHEST POINT AWAY FROM THE POINT OF WORK OR OBSTRUCTION, WHILE REMAINING VISIBLE TO THE PRIMARY FLAGGER. WHEN AN AUXILIARY IS UTILIZED, THE PRIMARY FLAGGER'S CAUTION LIGHTS OR FLAGS MUST BE REPOSITIONED AND DISPLAYED NOT LESS THAN FIVE HUNDRED FEET NOR MORE THAN SEVEN HUNDRED FEET IN APPROACH OF THE AUXILIARY FLAGGER'S LOCATION. IF THE AUXILIARY FLAGGER CANNOT SEE THE CAUTION LIGHTS OR FLAGS FROM HIS POSITION, ADDITIONAL AUXILIARY FLAGGERS MUST BE ASSIGNED UNTIL THE CAUTION LIGHTS OR FLAGS ARE VISIBLE TO AN AUXILIARY FLAGGER FROM A MINIMUM DISTANCE OF FIVE HUNDRED FEET. AUXILIARY FLAGGERS MUST BE EQUIPPED WITH A WHISTLE OR AIR HORN, A YELLOW LIGHT/FLAG, A RED LIGHT/FLAG AND A PORTABLE TRIPPER, WHICH MUST BE USED. AUXILIARY FLAGGERS WILL NOT REMOVE THE PORTABLE TRIPPER UNTIL THE APPROACHING TRAIN HAS COME TO A COMPLETE STOP, UNLESS IT IS SAFE TO DO SO. AUXILIARY FLAGGERS WILL THEN GIVE THE TRAIN OPERATOR A PROCEED VERY SLOWLY SIGNAL WITH THEIR YELLOW LIGHT/FLAG. THE PRIMARY FLAGGER AT THE POINT OF WORK OR OBSTRUCTION WILL NOT REMOVE THE PORTABLE TRIPPER UNTIL THE APPROACHING TRAIN HAS COME TO A COMPLETE STOP, UNLESS IT IS SAFE TO DO SO.

(D) WHEN WORKERS OR EQUIPMENT HAVE THE POTENTIAL TO ENCROACH WITHIN FIVE FEET OF THE FIELD SIDE OF THE NEAR RUNNING RAIL ON ANY ADJACENT TRACK, FLAGGING PROTECTION MUST BE ESTABLISHED IN ACCORDANCE WITH THIS SUBDIVISION.

(E) WHENEVER ANY WORK IS PERFORMED ON A STATION PLATFORM WITHIN FIVE FEET FROM THE TRACKWAY OR WORKERS ARE ENGAGED IN WORK ON LADDERS ON STATION PLATFORMS WITHIN A DISTANCE EQUAL TO OR LESS THAN THE HEIGHT OF THE LADDER, THE SUPERVISOR IN CHARGE OF THE WORK MUST ENSURE THAT FLAGGING PROTECTION IS ESTABLISHED IN ACCORDANCE WITH THIS SUBDIVISION.

(F) ON EXPRESS TRACKS OR WHERE THERE IS A LONG DESCENDING GRADE OR AT ANY POINT WHERE TRACK CONDITIONS OR TRAIN SCHEDULES PERMIT TRAIN SPEEDS OF THIRTY-FIVE OR MORE MILES PER HOUR, TWO ADDITIONAL YELLOW LIGHTS AND/OR TWO YELLOW FLAGS MUST BE DISPLAYED AT A POINT THREE HUNDRED FEET FARTHER IN THE DIRECTIONS FROM WHICH TRAINS APPROACH.

(G) WHEN A TRAIN OPERATOR'S VIEW OF A PRIMARY FLAGGER'S TWO YELLOW CAUTION LIGHTS OR FLAGS IS LIMITED BY REASON OF CURVES OR OTHERWISE, TWO ADDITIONAL YELLOW CAUTION LIGHTS OR FLAGS MUST BE DISPLAYED AT A POINT THREE HUNDRED FEET FARTHER IN THE DIRECTIONS FROM WHICH TRAINS APPROACH.

(H) ON ANY TRACK WHERE LIGHTS OR FLAGS ARE DISPLAYED, ONE GREEN LIGHT AND/OR ONE GREEN FLAG MUST BE DISPLAYED SEVEN HUNDRED FEET BEYOND THE FARTHEST POINT OF WORK AT EACH END OF A JOBSITE. WHEREVER TURNOUTS OR CROSSOVERS WITHIN AREAS PROTECTED BY CAUTION LIGHTS OR FLAGS ALLOW DIVERGING TRAIN MOVEMENTS TO AN ADJACENT TRACK WHICH IS NOT ALREADY FLAGGED, ONE GREEN LIGHT AND/OR FLAG MUST BE DISPLAYED ON SUCH TRACK THE SAME DISTANCE AS THAT DISPLAYED ON THE OTHER TRACK.

(I) CAUTION LIGHTS OR FLAGS SHALL NOT BE DISPLAYED WITHIN THE LIMITS OF STATION PLATFORM.

(J) WHENEVER WORK ON A TRACK WITHIN A PROTECTED AREA REQUIRES WORKERS TO BE WORKING AT SEPARATE POINTS IN CLOSE PROXIMITY TO EACH OTHER IN SUCH A MANNER THAT ONE FLAGGER CANNOT SAFELY PROTECT ALL THE WORKERS SO ENGAGED, ONE OR MORE INTERMEDIATE FLAGGERS MUST BE STATIONED AT SUITABLE SUCCESSIVE POINTS WITHIN THAT AREA SO THAT EACH INTERMEDIATE FLAGGER DIRECTLY PRECEDING HIM OR HER IN THE ANTICIPATED DIRECTION OF TRAIN TRAFFIC CAN BE SEEN. EACH INTERMEDIATE FLAGGER MUST BE EQUIPPED WITH A RED LIGHT OR FLAG, A YELLOW LIGHT OR FLAG, A WHISTLE OR AIR HORN AND A PORTABLE TRIPPER. THE SUPERVISOR OF THE WORK AREA MUST ENSURE THAT ALL WORKERS, IN ALL GROUPS, ARE IN THE CLEAR BEFORE HE OR SHE SIGNALS THE PRIMARY FLAGGER CLOSEST TO THE LAST WORK GROUP TO ALLOW THE TRAIN TO PROCEED.

(K) IN INSTANCES WHERE TWO OR MORE GROUPS OF WORKERS, WHETHER FROM THE SAME OR DIFFERENT SECTIONS, ARE ENGAGED IN WORK ON OR ADJACENT TO OR OBSTRUCTING A TRACK AT SUCH LOCATIONS THAT THE FLAGGING PROTECTION FOR ONE GROUP WOULD OVERLAP THAT OF ANOTHER GROUP, THE SUPERVISORS IN CHARGE OF EACH GROUP MUST ARRANGE BETWEEN THEMSELVES TO PROVIDE THE NECESSARY PROTECTION IN ACCORDANCE WITH THE AFOREMENTIONED RULES, INCLUDING THE ASSIGNMENT OF PRIMARY FLAGGERS AT BOTH ENDS OF THE ENTIRE WORK AREA. THE FLAGGERS PROTECTING EACH GROUP OF WORKERS MUST BE EQUIPPED WITH A YELLOW LIGHT OR FLAG, A RED LIGHT OR FLAG, A WHISTLE OR AIR HORN AND A PORTABLE TRIPPER.

4. THE PROTECTION OF TRACKWAY WORKERS BY THE ISSUANCE OF A GENERAL ORDER SUSPENDING TRAFFIC SHALL CONFORM TO THE FOLLOWING MINIMUM REQUIREMENTS:

(A) THE GEOGRAPHICAL LIMITS OF A GENERAL ORDER SHALL BE BARRICADED WITH A TEMPORARY BUMPER BLOCK TO PHYSICALLY PREVENT UNAUTHORIZED TRAFFIC FROM ENTERING.

(B) SWITCH AND SIGNAL LEVERS MUST BE TAGGED AND BLOCKED AND THE SWITCHES MUST BE BLOCKED AND CLAMPED IN SUCH POSITION THAT TRAINS CANNOT ENTER SAID TRACK IN EITHER DIRECTION.

(C) EACH WORK GROUP WITHIN THE LIMITS OF A GENERAL ORDER MUST BE PROTECTED BY A FLAGGER WITH A RED LIGHT OR FLAG AND A PORTABLE TRIPPER PLACED NOT LESS THAN TWO HUNDRED FEET FROM EACH END OF THE WORK AREA. WHERE TWO OR MORE GROUPS ARE WORKING WITHIN SEVEN HUNDRED FEET OF EACH OTHER AND ARE ABLE TO VISUALLY AND VERBALLY COMMUNICATE, THE SUPERVISORS OF EACH WORK GROUP SHALL COORDINATE THE FLAGGING.

(D) FLAGGING ON TRACKS ADJACENT TO THE TRACK UNDER A GENERAL ORDER SHALL BE ESTABLISHED BY SUPERVISION IN ACCORDANCE WITH PARAGRAPH (D) OF SUBDIVISION THREE OF THIS SECTION.

(E) THERE SHALL NOT BE UNMANNED PORTABLE TRIPPERS ON THE TRACKWAY. SUPERVISION SHALL ASSIGN A FLAGGER OR FLAGGERS TO ACCOMPANY EACH PORTABLE TRIPPER UTILIZED PURSUANT TO THIS SUBDIVISION.

S 871-D. PAIRS AND SMALL GROUPS MOVING FROM POINT TO POINT. 1. AUTHORITY EMPLOYEES ONLY, PERFORMING WORK OF A NON-ENGROSSING MANNER ON OR ADJACENT TO THE TRACKWAY WHILE MOVING FROM POINT TO POINT SHALL BE PROTECTED FROM TRAFFIC IN THE FOLLOWING MANNER:

(A) WHENEVER A PAIR OR GROUP OF THREE OR LESS AUTHORITY EMPLOYEES ARE ASSIGNED TO WORK ON THE TRACKWAY, SUPERVISION SHALL ASSIGN ONE EMPLOYEE OF SUCH PAIR OR GROUP TO BE WATCHMAN TO WARN AND PROTECT THE EMPLOYEE OR EMPLOYEES AT WORK.

(B) WHILE MOVING ALONG THE TRACKWAY FROM POINT TO POINT, THE WATCHMAN MUST REMAIN A MINIMUM OF FIFTY FEET IN ADVANCE OF THE EMPLOYEE OR EMPLOYEES HE OR SHE IS PROTECTING. IF THE EMPLOYEE STOPS MOVING FROM POINT TO POINT ALONG THE TRACKWAY AND/OR PAUSES TO WORK IN ONE LOCATION, A FLASHING YELLOW LIGHT MUST BE DISPLAYED ON THE TRACKWAY A MINIMUM OF

SIX HUNDRED FIFTY FEET IN APPROACH TO THE BEGINNING OF THE WORK AREA. IF THE FLASHING YELLOW LIGHT IS NOT VISIBLE TO THE WATCHMAN WHILE STILL BEING ABLE TO SEE AND COMMUNICATE WITH THE EMPLOYEE OR EMPLOYEES HE OR SHE IS PROTECTING, THE FULL FLAGGING PROTECTION IS REQUIRED. OUTDOORS BETWEEN SUNRISE AND SUNSET, A FLUORESCENT ORANGE FLAG MUST BE UTILIZED INSTEAD OF A FLASHING YELLOW LIGHT.

(C) IF AN EMPLOYEE OR EMPLOYEES MUST PERFORM WORK OF A NON-ENGROSSING NATURE BETWEEN TWO TRACKS, PROPERLY EQUIPPED WATCHMEN MUST BE ASSIGNED TO BOTH TRACKS, ADHERING TO PARAGRAPH (A) OF THIS SUBDIVISION.

(D) ON LEAD TRACKS, LOOP TRACKS, MIDDLE TRACKS ON THE MAINLINE OR WHEREVER IT IS NOT UNCOMMON FOR TRAINS TO OPERATE IN EITHER DIRECTION, SUPERVISION MUST ASSIGN PROPERLY EQUIPPED WATCHMEN TO WARN OF APPROACHING TRAINS IN BOTH DIRECTIONS.

(E) ANYTIME AN EMPLOYEE IS ASSIGNED TO ENTER THE TRACKWAY HE OR SHE MUST BE EQUIPPED WITH AN APPROVED LIGHT. ADDITIONALLY, HE OR SHE MUST BE ACCOMPANIED BY A SECOND EMPLOYEE WITH AN APPROVED LIGHT. EMPLOYEES ENTERING ONTO A TRACKWAY ALREADY PROTECTED BY A GENERAL ORDER OR FLAGGING NEED NOT HAVE AN APPROVED FLAGGING LIGHT BUT MUST BE EQUIPPED WITH A FLASHLIGHT.

(F) APPROVED FLAGGING LIGHTS MUST MEET THE FOLLOWING CRITERIA:

(I) THE BEAM MUST PROVIDE A MINIMUM OF FIVE HUNDRED FOOT CANDLES OF ILLUMINATION, MEASURED AT FIVE FEET FROM THE SOURCE; AND

(II) THE LENS OF THE APPROVED LIGHT MUST BE A MINIMUM OF FOUR INCHES IN WIDTH.

2. PROTECTION AGAINST TRAIN TRAFFIC BY THE USE OF A WATCHMAN AND/OR POINT TO POINT FLAGGING IS ALLOWABLE ONLY IN THE FOLLOWING SITUATIONS:

(A) THE WORK MUST BE OF A NON-ENGROSSING NATURE (EX. VISUAL INSPECTIONS, QUICK AND/OR MINOR ADJUSTMENTS, CARRYING SMALL TOOLS TO A WORK AREA). WORK OF A NON-ENGROSSING NATURE IS WORK WHICH CAN BE SUSPENDED IMMEDIATELY, ALLOWING EMPLOYEES TO IMMEDIATELY CLEAR UP. IF THE WORK IS SUCH THAT EMPLOYEES MUST FIRST "SAFE UP" TOOLS OR BAGS OF DEBRIS, ETC. TO PREVENT INTERFERING WITH TRAIN TRAFFIC, THEN FULL FLAGGING PROTECTION IS REQUIRED IN ACCORDANCE WITH THIS SECTION.

(B) EACH EMPLOYEE MUST HAVE A DESIGNATED CLEAR UP SPACE WITHIN FIFTEEN FEET OF WHERE THEY ARE WORKING. THERE MUST BE A SUFFICIENT NUMBER OF CLEAR UP SPACES TO MATCH THE NUMBER OF EMPLOYEES.

(C) THIS TYPE OF FLAGGING PROTECTION SHALL NOT BE UTILIZED BETWEEN 6:00AM AND 9:00AM OR BETWEEN 4:00PM AND 7:00PM, MONDAY THROUGH FRIDAY OR ANY HIGH TRAFFIC PERIODS.

(D) THIS TYPE OF FLAGGING PROTECTION SHALL NOT BE UTILIZED IN UNDER RIVER TUNNELS EXCEPT BY AGREEMENT WITH THE AFFECTED BARGAINING UNIT OR UNITS.

(E) WHEREAS POINT TO POINT FLAGGING WITH A WATCHMAN PROVIDES A LESSER LEVEL OF PROTECTION THAN THE PROTECTION OF A GENERAL ORDER OR FULL FLAGGING, IF QUESTIONS SHOULD ARISE ABOUT THE TYPE OF PROTECTION TO BE UTILIZED, THE SAFER COURSE SHOULD ALWAYS BE TAKEN.

S 871-E. RESPONSIBILITIES FOR ON-TRACK SAFETY. 1. PRIOR TO ASSIGNING EMPLOYEES TO WORK UNDER ANY OF THE ALLOWABLE METHODS OF TRACKWAY WORKER PROTECTION (GENERAL ORDER, FULL FLAGGING OR POINT TO POINT) THE SUPERVISOR IN CHARGE OF THE ASSIGNMENT SHALL HOLD A PRE-JOB MEETING TO OUTLINE THE JOB; DISCUSS THE TYPE OF FLAGGING PROTECTION TO BE UTILIZED; DISCUSS THE CLEARING UP PROCEDURES AND AREAS WHICH WILL BE UTILIZED AT THE WORK AREA; TO DESIGNATE THE FLAGGER OR FLAGGERS AND TO PROVIDE AN OPPORTUNITY FOR EMPLOYEES TO DISCUSS THEIR CONCERNS AND/OR OBJECT TO THE TYPE OF PROTECTION PROPOSED BY THE SUPERVISOR.

2. THE SUPERVISOR SHALL GIVE DETAILED AND SPECIFIC INSTRUCTIONS REGARDING THE PLACEMENT OF THE CAUTION LIGHTS, AND THE PLACEMENT OF THE RED LIGHT AND PORTABLE TRIPPER TO THE DESIGNATED FLAGGER OR FLAGGERS. THE SUPERVISOR SHALL STATION THE FLAGGER IN A WELL ILLUMINATED AREA, NOT ADJACENT TO AN ENERGIZED THIRD RAIL, IF POSSIBLE.

3. THE SUPERVISOR MUST ASSIGN ANOTHER QUALIFIED FLAGGER TO ACCOMPANY THE PRIMARY FLAGGER IN SETTING UP AND REMOVING CAUTION LIGHTS AND/OR FLAGS.

4. THE SUPERVISOR IN CHARGE OF THE WORK TO BE PERFORMED MUST PROVIDE FOR AND ENSURE THAT THE REQUIRED FLAGGING PROTECTION IS ESTABLISHED AND MAINTAINED, FOR THE SAFETY OF EMPLOYEES AND THE SAFE PASSAGE OF TRAINS.

5. UNTIL THE SUPERVISOR IN CHARGE OF THE WORK KNOWS THAT PROPER FLAGGING PROTECTION IS ESTABLISHED, HE OR SHE MUST NOT PERMIT ANY PERSONS FOR WHOM THE TRACKWAY PROTECTION IS INTENDED TO OBSTRUCT THE TRACK IN ANY WAY.

6. WHENEVER AN EMPLOYEE OF AN EMPLOYER OTHER THAN THE AUTHORITY ENTERS THE TRACKWAY OF THE SYSTEM, A DESIGNATED REPRESENTATIVE OF THE RAPID TRANSIT OPERATIONS DIVISION MUST PROVIDE AND MAINTAIN APPROPRIATE FLAGGING PROTECTION IN ACCORDANCE WITH THIS SECTION. IN CASES WHERE WORK IS BEING PERFORMED IN ROOMS (I.E. ELECTRICAL DISTRIBUTION ROOMS, PUMP ROOMS, MANHOLES) WHICH CAN BE ACCESSED OFF THE END OF THE STATION PLATFORM, AND WITHOUT ENTERING THE TRACKWAY ONE FLAGGER, DESIGNATED BY SUPERVISION, MUST ESCORT THE WORKERS TO AND FROM THE ROOM WHILE EQUIPPED WITH A RED LIGHT OR FLAG. SUCH ESCORT MUST BE DONE AFTER THE PASSAGE OF A TRAIN.

S 871-F. LIGHTS, FLAGS, EQUIPMENT AND PROCEDURE. 1. CAUTION LIGHTS AND/OR FLAGS SHALL BE UTILIZED IN THE FOLLOWING MANNER:

(A) UNDERGROUND: ILLUMINATED LIGHTS OF THE PRESCRIBED COLOR AND TYPE MUST BE USED PURSUANT TO THIS SECTION.

(B) OUTDOORS: FLAGS (AT LEAST 23" X 29" IN DIMENSION) OF THE PRESCRIBED COLOR MUST BE USED BETWEEN SUNRISE AND SUNSET, EXCEPT THAT, WHEN FLAGS CANNOT BE PLAINLY SEEN, ILLUMINATED CAUTION LIGHTS IN ADDITION TO FLAGS MUST BE USED. BETWEEN SUNSET AND SUNRISE ILLUMINATED LIGHTS OF THE PRESCRIBED COLOR MUST BE USED PURSUANT TO THIS SECTION.

2. FLAGGING SIGNAL COLORS HAVE THE FOLLOWING MEANINGS:

(A) RED NOTIFIES THE TRAIN OPERATOR TO STOP;

(B) YELLOW NOTIFIES THE TRAIN OPERATOR TO PROCEED AT A SPEED NOT TO EXCEED TEN MILES PER ONE-HALF THE RANGE OF VISION;

(C) ORANGE (FLUORESCENT FLAG) NOTIFIES THE TRAIN OPERATOR TO PROCEED AT A SPEED NOT TO EXCEED TEN MILES PER HOUR, AND TO BE PREPARED TO STOP WITHIN ONE-HALF THE RANGE OF VISION;

(D) GREEN NOTIFIES THE TRAIN OPERATOR TO RESUME NORMAL SPEED; AND

(E) WHITE NOTIFIES THE TRAIN OPERATOR TO PROCEED.

3. SUPERVISION MUST PROVIDE FLAGGERS WITH THE REQUIRED EQUIPMENT AS FOLLOWS:

(A) THE NECESSARY LIGHTS AND/OR FLAGS OF PRESCRIBED COLOR AND IN WORKING CONDITION, TO PERFORM THE TYPE OF FLAGGING PROTECTION ASSIGNED BY SUPERVISION;

(B) A WHISTLE OR AIR HORN;

(C) A PORTABLE TRIPPER; AND

(D) A LENGTH OF STOUT CORD, AT LEAST FOUR BUT NOT MORE THAN SIX FEET, FOR TYING THE RED LIGHT OR FLAG TO THE STOP ARM OF THE PORTABLE TRIPPER.

4. AS SOON AS AN APPROACHING TRAIN IS VISIBLE TO A FLAGGER, THE FLAGGER SHALL WARN THE GROUP BEING PROTECTED. AS SOON AS THE TRACKWAY WORKER IS AWARE OF AN APPROACHING TRAIN HE MUST BEGIN TO CLEAR UP.

5. THE FLAGGER MUST NOT SIGNAL THE TRAIN TO PROCEED UNTIL AN ALL CLEAR SIGNAL IS RECEIVED FROM THE AUTHORITY EMPLOYEE DESIGNATED BY SUPERVISION.

6. CAUTION LIGHTS AND/OR FLAGS MUST NOT BE DISPLAYED ON STATION PLATFORMS. IF AN INTERVENING STATION PLATFORM INTERFERES WITH A FLAGGER'S ABILITY TO SEE AND/OR COMMUNICATE WITH THE WORKERS BEING PROTECTED, THE SUPERVISOR IN CHARGE MUST ASSIGN INTERMEDIATE FLAGGERS ON THE STATION PLATFORM AS NEEDED. THE INTERMEDIATE FLAGGER OR FLAGGERS MUST BE ABLE TO SEE THE PRIMARY FLAGGER AND THE WORK GANG AT ALL TIMES.

S 871-G. INSTRUCTIONS TO TRAIN OPERATORS. 1. UPON ENCOUNTERING CAUTION LIGHTS OR FLAGS ON THE TRACKWAY ON WHICH THEY ARE OPERATING, TRAIN OPERATORS MUST IMMEDIATELY ADJUST THE SPEED OF THEIR TRAINS TO NOT MORE THAN TEN MILES PER HOUR, SOUND TWO LONG BLASTS OF THEIR TRAIN HORN OR WHISTLE AS A WARNING TO WORKERS AND BE PREPARED TO STOP WITHIN ONE-HALF THE RANGE OF VISION.

2. TRAIN OPERATORS OBSERVING A FLASHING YELLOW LIGHT OR FLUORESCENT ORANGE FLAG MUST IMMEDIATELY ADJUST THE SPEED OF THEIR TRAINS TO NOT MORE THAN TEN MILES PER HOUR, SOUND TWO LONG BLASTS OF THEIR HORN OR WHISTLE AND BE PREPARED TO STOP AT ONE-HALF THE RANGE OF VISION, EXPECTING TO FIND WORKERS ON THE TRACKWAY.

3. TRAIN OPERATORS MUST STOP THEIR TRAIN AT LEAST ONE CAR LENGTH FROM FLAGGERS, RED LIGHTS OR FLAGS.

4. IF A PROCEED SIGNAL IS GIVEN WITH A YELLOW LIGHT OR FLAG, TRAIN OPERATORS MUST EXPECT TO ENCOUNTER ANOTHER FLAGGER ON THE TRACKWAY.

S 871-H. NEW YORK CITY TRANSIT AUTHORITY RULES. 1. EXISTING AUTHORITY RULES WHICH DO NOT CONFLICT WITH THIS ARTICLE SHALL NOT BE REQUIRED TO BE MODIFIED.

2. ANY FUTURE ON-TRACK SAFETY RULES PROMULGATED BY THE AUTHORITY SHALL COMPLY WITH THIS ARTICLE.

S 871-I. THIRD RAIL SAFETY. 1. A THIRD RAIL SYSTEM USED TO TRANSMIT ELECTRICITY FOR THE PURPOSE OF POWERING RAIL TRANSIT VEHICLES OR OTHER RAILROAD EQUIPMENT, INCLUDING ITS ASSOCIATED CABLES, CIRCUIT BREAKERS AND OTHER ELECTRICAL APPARATUS IS AN ELECTRICAL TRANSMISSION AND DISTRIBUTION LINE.

(A) THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 AND OTHER REGULATIONS, STANDARDS AND REQUIREMENTS, INCLUDING THOSE PROMULGATED BY THE PUBLIC EMPLOYEE SAFETY AND HEALTH BUREAU, APPLICABLE TO CRANE OPERATIONS NEAR ELECTRICAL TRANSMISSION AND DISTRIBUTION LINES ARE APPLICABLE TO CRANE OPERATIONS NEAR A THIRD RAIL. THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 AND OTHER REGULATIONS, STANDARDS AND REQUIREMENTS, INCLUDING THOSE PROMULGATED BY THE PUBLIC EMPLOYEE SAFETY AND HEALTH BUREAU, APPLICABLE TO CRANE OPERATIONS NEAR AN OVERHEAD WIRE ARE APPLICABLE TO CRANE OPERATIONS NEAR A THIRD RAIL.

(B) CRANE OPERATIONS IN PROXIMITY TO A THIRD RAIL ARE GOVERNED, IN PART, BY THE PROVISION OF 29 CFR 1926.550(A)(15) AND 20 CFR 1910.333(C)(1), (2) AND (3). IF AND WHEN THESE STANDARDS ARE REVISED, UPDATED OR REDESIGNATED, THIS PARAGRAPH SHALL BE REVISED OR REDESIGNATED TO CORRESPOND.

2. WHEN WORKING ON TRACKWAYS WHERE THE THIRD RAIL IS DE-ENERGIZED IT IS THE RESPONSIBILITY OF THE SUPERVISOR IN CHARGE OF THE WORK TO VERIFY "POWER OFF".

3. WHEN WORKING ON TRACKWAYS WHERE THE THIRD RAIL IS DE-ENERGIZED, A THIRD RAIL "POWER INDICATOR ALARM BOX" AND A RED BANK OF LIGHTS MUST BE USED TO WARN TRACKWAY WORKERS IF THIRD RAIL POWER IS ACCIDENTALLY RESTORED.

4. A THIRD RAIL PROTECTION MAT MUST BE USED WHILE WORKING ON TRACKWAYS WITHIN FIVE FEET OF A THIRD RAIL.

S 871-J. ILLUMINATION. 1. WORK AREAS ON AUTHORITY TRACKWAYS SHALL BE ILLUMINATED TO A MINIMUM OF THIRTY FOOT CANDLES.

2. THE DEGREE OF ILLUMINATION SHALL BE MEASURED BY A STANDARD LIGHT METER, WITH THE ILLUMINATION SAMPLE MEASURED AT THE WORK AREA.

3. FLAGGERS' STATIONS ON ALL TRACKWAYS ARE WORK AREAS AND SHALL MEET THE REQUIREMENTS OF THIS SECTION.

S 871-K. GOOD FAITH CHALLENGES. AUTHORITY EMPLOYEES SHALL HAVE THE ABSOLUTE RIGHT TO CHALLENGE IN GOOD FAITH ANY WORK ORDER OR THE ASSIGNMENT OF ANY TASK WHICH VIOLATES ANY PROVISION OF THIS ARTICLE, OR OTHER APPLICABLE LAW, OR AN AUTHORITY SAFETY RULE. PROCEDURES FOR SUCH CHALLENGES SHALL BE INCLUDED IN THE AUTHORITY'S ON-TRACK SAFETY PROGRAM.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law, except that any rules and regulations necessary for the timely implementation of this act on its effective date shall be promulgated on or before such date.