

Provincial Railway Guides

Section:

INFRASTRUCTURE

Subject:

**PUBLIC CROSSING MAINTENANCE
RESPONSIBILITIES OF ROAD
AUTHORITIES AND RAILWAYS**

This guide deals with the maintenance roles and responsibilities of provincial railways and road authorities regarding public grade crossing maintenance; development of public grade crossing maintenance agreements; public grade crossing maintenance cost apportionment; and public grade crossing maintenance dispute resolution.

INTRODUCTION:

The Railway Act (the Act) grants powers to the Minister responsible for the Act (the Minister) and the Highway Traffic Board (HTB) to impose responsibilities on the railway and road authority with regard to ensuring safety at public crossings.

“Grade Crossing” means an at-grade crossing and intersection of a railway and a highway, road, street, or lane.

“Public Grade Crossing” means a grade crossing intended for or used by the general public for the passage of vehicles or pedestrians.

“Railway” means the company authorized to own a railway within the province of Saskatchewan and within the jurisdiction of *The Railway Act* of Saskatchewan.

“Road Authority” means the public authority (municipal or provincial government department or agency) responsible for the direction, control and management of a public highway, road, street, or lane within the boundaries of their jurisdiction or municipality.

RESPONSIBILITIES:

The responsibility for maintaining a public crossing in a safe condition is a joint responsibility shared by the road authority and the railway.

A railway is required by section 25 and 28 of the Act to maintain its railway in a safe condition. Road Authorities are required to ensure safe movements by road traffic.

Maintaining a crossing in a safe condition includes ensuring adequate sightlines, crossing protection as well as maintaining an adequately smooth crossing surface to allow unrestricted travel by the public over the crossing.

The Minister may order, under section 30 of the Act, that any trees, buildings, earth or other obstruction to be removed to improve sightlines approaching the crossing. The Minister may also issue an order to repair the surface of a crossing or upgrade or downgrade the existing crossing protection. All public grade crossings shall be

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RESPONSIBILITIES:**

maintained to meet or exceed the appropriate requirements of the RTS 2001 Public Grade Crossing Standards (the Standards)

Work performed on the railway and on the crossing surface, as defined in RTS 2001 Public Grade Crossing Standards, will be performed by or under the supervision of the railway. Work performed outside these limits shall be performed or supervised by the Road Authority.

RAILWAYS:

Maintenance activities, as listed below, shall be performed by railway personnel or by contractors of the railway.

Railways must ensure compliance with the Standards and manage or carry out the installation, inspection and replacement/maintenance activities for and related to:

- (i) Railway Crossing signs;
- (ii) a Stop sign (if required) that is installed on the same post as a railway crossing sign;
- (iii) warning systems;
- (iv) a crossing surface as defined in RTS 2001 Public Grade Crossing Standards (railway shall keep rail flangeways free of gravel, snow and ice to allow safe rail movement through the crossings), and
- (v) sightlines within the railway right-of-way and over land adjoining the railway right-of-way, including the removal of trees and brush that obstruct the sightlines.

ROAD AUTHORITIES:

Maintenance activities, as listed below, shall be performed by the road authority or by contractors of the road authority. Road authorities must ensure compliance with the Standards and manage or carry out the installation, inspection and replacement or maintenance activities for and related to:

- (i) the design, construction and maintenance of a road approaches leading up to the crossing;
- (ii) traffic control devices (crossing ahead signs, stop ahead signs, advisory speed signs, interconnected traffic signals or active advance

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warning signals), except for the maintenance of a Stop sign that is installed on the same post as a Railway Crossing sign;

(iii) the design of a crossing surface; and,

(iv) sightlines within the land on which the road is situated and over land in the vicinity of the grade crossing, including the removal of trees and brush that obstruct the sightlines.

Both the railway and road Authority will work together jointly to work with adjacent landowners to resolve sightline problems resulting from obstructions on adjacent private land.

INSPECTIONS:

Crossings shall be inspected by the railway to ensure the safe operation of warning devices and the safe passage of the crossing by trains, road vehicles, and pedestrians, where applicable.

Any time a complaint is received by the railway regarding the crossing condition or operation of protection at a crossing, the railway shall inspect the crossing in question as soon as practicable and no later than prior to a train using the crossing. Written records shall be kept of all complaints made to the railway with respect to crossings.

Any time a complaint is received by the road authority regarding the crossing condition or visibility at a crossing, the road authority shall notify the railway as soon as practicable. Written records shall be kept of all complaints made to the road authority with respect to crossings.

It is recommended that railways and the road authorities conduct regular joint inspections of crossings to plan crossing maintenance for each year to allow the railway and road authority to budget and prioritize crossing repairs.

NOTIFICATION TIMELINE (PLANNED MAINTENANCE)

It is recommended that the road authority or railway provide a minimum of 7 calendar days written notice to the other party prior to conducting work on or near the crossing that will not impact the use or operation of the crossing.

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For crossing maintenance work that could impact the use or operation of the crossing by the public or the railway, it is recommended that the parties provide a minimum of 30 calendar days written notice prior to conducting the work.

If the planned crossing maintenance work could have cost implications for the other party, it is recommended that parties provide a minimum of 6 months' notice prior to conducting the work.

NOTIFICATION TIMELINE (EMERGENCY REPAIRS)

When a railway company or road authority becomes aware of a situation that could constitute a threat to the safety of railway operations or safe use of the crossing by the public, the railway and road authority must put in place the necessary protection measures to address the threat or unsafe condition as soon as possible.

Within a reasonable period of time before action is taken to resolve the unsafe condition, the railway or road authority must attempt to notify the other and provide sufficient details about the safety hazard and proposed temporary protective measures to be put in place.

INFORMATION SHARING:

Railways and Road Authorities are each responsible for deciding and determining some design aspects for each railway crossing. These design aspects and information related to road operations and railway operations impact the sightline requirements and protection requirements for each crossing.

In order to determine the appropriate standard and requirements for each crossing, it is recommended the railway and road authorities provide to each other information identified in the information sharing section of RTS 2001 Public Grade Crossing Standards. Any information shared between railways and road authorities regarding design specifications may also be submitted to Rail Policy and Programs.

In the absence of any formal crossing information sharing provided between railways and road authorities, the ministry will assume the design criteria for railways and road authorities when conducting inspections of provincially regulated railway crossings.

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CONSTRUCTION OR RELOCATION:

Additional information on the design aspects and information to be established by both railways and road authorities can be found in RTS 2001 Public Grade Crossing Standards.

If a new crossing is constructed or if an existing crossing needs to be relocated because of changes caused by the railway, it is recommended that the railway pay for all crossing work costs. Alternatively, if a new crossing is required or if a crossing needs to be relocated because of changes caused by the road authority (municipal government) it is recommended that the road authority pay for all crossing work costs.

Scheduling of the work for construction or relocation of a crossing should be jointly agreed upon.

MAINTENANCE COSTS:

Railways and road authorities have a shared responsibility for ensuring crossings remain safe and meet minimum standards. It is common for railways and road authorities to share the cost of constructing, maintaining and upgrading crossings. The amount each party pays depends on the unique circumstances of each crossing and should be determined on a case by case basis.

It is common for the road authority to pay for some or all of the labour and/or material costs associated with the repair or replacement of crossing surfaces.

It is common for the railway to pay for labour and material costs associated with maintenance of the rail, other track materials (OTM), railbed and/or subgrade at a crossing, and standard crossing warning signs.

It is recommended that both parties pay for costs associated with the maintenance of clear sight triangles on their own property and rights-of-way. It is also recommended that railways and road authorities work with adjacent property owners and share equal portions of costs associated with maintaining and resolving sightline issues on adjacent privately owned land.

The cost of flangeway cleaning is normally the responsibility of the railway.

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WARNING SYSTEM MAINTENANCE COSTS

Costs associated with maintenance of grade crossing warning systems are normally shared equally (50/50) by the road authority and the railway.

Railways and road authorities may use any apportionment percentage they agree to, or may carry on previous crossing maintenance cost sharing arrangements established for the previous railway owner if both parties voluntarily agree to do so.

Conducting routine inspection, testing and maintenance work on crossing warning systems is the responsibility of the railway. It is common for railways to invoice road authorities on a monthly or annual basis for the road authority's share of the cost of routine warning system maintenance.

It is common for railways to base their warning system maintenance invoices on the recommended standard monthly maintenance rates established in Schedule A of the most recent Guide to Railway Charges for Crossing Maintenance and Construction as published annually by the Canadian Transportation Agency (CTA).

The warning system rates developed by the CTA are a reflection of the average cost incurred by the railways. For some crossings, the actual cost incurred by the railways may be higher than the average rate developed by the CTA.

If the railway's actual costs are higher than the average CTA rates, the railway may ask the road authority to pay more than the CTA rates. As a guideline, the maximum rate charge by the railways should be no more than 30% higher than the published CTA rate.

Example:

If the recommended monthly CTA rate for warning system maintenance is \$554/month the maximum recommended rate should be \$720/month. If the road authority and railway share this cost equally (50/50) the railway's maximum invoice to the road authority should be no more than \$360/month.

Railways and road authorities are not legally obligated to use the CTA rates in developing crossing maintenance agreements; however these

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rates may be used as reference by the Highway Traffic Board in absence of other evidence when resolving a cost apportionment dispute.

It is recommended that the road authority and railway develop cost sharing agreements in which the maintenance and inspection costs are based on actual costs incurred by the railway. It is also recommended that the railway keep records including service and material invoices for maintenance and inspection activities to provide evidence and justification for charging more than the recommended average CTA maintenance rates.

AGREEMENTS:

Railways and road authorities may carry on current crossing agreements or previous cost sharing arrangements established between the previous railway owner and road authority responsible for a specific crossing.

If either party wishes to change existing cost sharing arrangements the railway and the road authority should negotiate a new agreement that clarifies the duties and responsibilities of both parties and cost apportionment of crossing maintenance. Any such agreements must not endanger the ongoing safety of the railway operation.

Federal crossing board orders established for Canadian National Railway (CN) and Canadian Pacific Railway (CP) are not legally binding on provincially regulated railways or road authorities responsible for provincially regulated railway crossings.

Railways and road authorities may carry on the cost sharing terms and conditions established in the previous railway owner's federal crossing board order if both parties voluntarily agree to do so.

If either party believes the federal board order is no longer relevant, fair or applicable to the current circumstances of a specific crossing, then it is recommended that the railway and road authority develop a new mutually agreeable crossing maintenance agreement.

COST APPORTIONMENT DISPUTE RESOLUTION:

In case of a dispute regarding the apportionment of costs related to crossing maintenance or upgrading, the road authority or the railway may apply to the Highway Traffic Board for non-binding mediation or binding dispute resolution.

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As of August 25, 2003, the following sections of *The Railway Act* have been delegated to the Highway Traffic Board:

- Section 10(1)(b)
- Section 10(2)(c)
- Section 11(2)
- Section 30(2)(c)

Section 10 of *The Railway Act* give the HTB the authority to issue orders that apportion the cost of constructing and maintaining crossings.

Section 11 of *The Railway Act* gives the HTB the authority to issue orders that apportion the cost of making improvements or upgrades to a crossing to address safety concerns.

Section 30 of *The Railway Act* gives the HTB the authority to issue orders that apportion the cost related to the removal of trees, buildings, earth or other obstructions necessary to improve crossing sightlines and diminish the danger at a railway crossing.

In case of a dispute regarding the apportionment of costs related to crossing maintenance or upgrading, and if the parties cannot agree on a third party mediator, either the road authority or the railway may appeal to the Highway Traffic Board for non-binding dispute mediation.

In the event a dispute on cost apportionment of crossing maintenance cannot be resolved and a binding dispute resolution process is preferred, either party can request binding dispute resolution in the form of a formal cost apportionment hearing at the Highway Traffic Board. Requests for more information on HTB's binding dispute resolution process and submissions for formal cost apportionment hearings can be submitted to:

Manager
Highway Traffic Board
1621A McDonald St.
REGINA SK S4N 5R2
Phone: (306) 775-6661
Email: contactus@highwaytrafficboard.sk.ca

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CONTACT:

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