

Rail Transportation

CTA Home : Rail Transportation : Railway Crossings

Guide to Road Crossings of Railways

INTRODUCTION

Effective July 1, 1996, the Railway Act was abolished, and provisions relating to rail transportation were included in the Canada Transportation Act (hereinafter, the CTA). The new legislation created the Canadian Transportation Agency (hereinafter, the Agency) to replace the National Transportation Agency. Among other duties, this quasi-judicial body is responsible for resolving issues arising between railway companies under its jurisdiction and other interested parties such as utility companies, road authorities or landowners.

A series of guides has been prepared to highlight the changes brought about by the new legislation.

This particular guide is designed to help road authorities and railway companies when they want to construct or reconstruct a road crossing. Road authorities, in this case, include any organization with the authority to construct and maintain a public or private road for vehicles or pedestrians.

All previous road crossing orders and decisions issued by the National Transportation Agency or its predecessors remain in effect unless they are inconsistent with the CTA.

AGREEMENTS

The parties may negotiate any aspect of a crossing. Under sections 100 and 101 of the CTA (Part III), they may file an agreement, or an amendment to an agreement, with the Agency. The filed agreement becomes an order of the Agency authorizing the parties to construct or maintain the crossing, or apportioning the costs, as provided in the agreement.

Any such order for a road crossing establishes a statutory right to cross at a specific location, registers the agreement with the Agency, and provides historical data in the event of a future dispute.

When negotiating an agreement, the parties may want to consider the following items:

- * location of the crossing;
- * a description of the project;
- * the purpose of the project;
- * plans or drawings prepared to scale, signed and dated;
- * terms and conditions, such as those governing alteration, notice, process and supervision;
- * liability;
- * design;

- * material standards;
- * duration (including removal provisions);
- * costs, such as those related to construction, maintenance and restoration;
- * safety requirements;
- * environmental impact; and
- * other project-specific issues.

The agreement, in whatever form it may take, must clearly demonstrate the consent of both parties. Please submit the agreement to the Agency, in writing, at the following address:

Secretary
Canadian Transportation Agency
Ottawa, Ontario
K1A 0N9

If you wish to deliver your agreement by hand or by courier, please use the following address:

Secretary
Canadian Transportation Agency
15 Eddy Street
17th Floor, Mailroom
Gatineau, Quebec
J8X 4B3
Fax: (819) 953-8353
DISPUTES

Under section 101 of the CTA (Part III), if the parties are unable to reach an agreement respecting a road crossing, the party proposing to construct or reconstruct the crossing may apply to the Agency. The Agency may authorize the construction of a suitable road crossing or related work, and may rule on any disputed issue within the Agency's jurisdiction.

If you wish to apply to the Agency, please submit your written, signed application to the appropriate address above.

In addition, you should send a copy of the application to each of the parties involved. If you require assistance in reaching the parties involved, let us know and we will provide you with a contact name and address.

Legal representation is not required. However, any agent or solicitor acting on your behalf should include authorization from you in the application.

To help the Agency fully appreciate the situation, you should include the following information in your application:

- * the location of the crossing (including railway mileage and subdivision, the name of the road and town and/or land title coordinates);
- * a description of the project, in the level of detail that would ordinarily be included in an agreement;
- * the purpose of the project, when it is not clear;
- * a list or description of the issues to which both parties have agreed;
- * a list or description of the contentious issues to be resolved by the Agency, on which the other party will be given an opportunity to comment; and
- * an environmental assessment of the project that must be conducted by the applicant and screened by the Agency. (This is a requirement of the Canadian Environmental Assessment Act and a standard questionnaire is available to help you.)

You should also include two copies of a general arrangement plan or drawing, prepared to scale and appropriately dated and signed. The plan should include the following information:

- * a title block containing the name of the road authority, the road identification, the name of the railway company, the railway subdivision and mileage, the plan number and the date;
- * a key map showing the location of the proposed work and all road crossings affected by it;
- * a plan view of the road crossing and of its approaches showing all the pertinent information, including

- the location and width of the railway right-of-way, including all the railway infrastructure, for at least 400 metres in each direction from the road crossing,
- the location and width of the road allowance, including all the road infrastructure, for at least 100 metres in each direction from the road crossing,
- the angle of the crossing,
- drainage and utility facilities relating to the road crossing, and
- any necessary changes to the railway or road infrastructure;

- * a profile of the railway for at least 100 metres in each direction from the road crossing with the elevation of the original ground at the centre line of the track;
- * a profile of the road for at least 100 metres in each direction from the road crossing, showing the elevation of the road surface, the existing and proposed gradients and the elevation of the original ground at the centre line of the road;
- * a typical cross section of the road allowance around the road crossing showing the location and width of the traffic lanes, shoulders, curbs, medians, sidewalks, drainage and utility facilities; and
- * **for grade separations,**

- the limits of the project within which the parties could share costs, in the applicant's opinion,

- **the boundaries of the existing road allowance and of the proposed road allowance that will contain the proposed work, its approaches, and any related drainage and utility facilities,**
 - **an elevation of the proposed work indicating horizontal and vertical clearances,**
- and**
- **a cross section of the proposed work showing,**
- **for an overhead bridge, the location and width of the traffic lanes, shoulders, curbs, medians, sidewalks, railings, drainage and utility facilities,**
 - **for a subway, the track structure, number and spacing of tracks, walkways, railings, drainage and all utility facilities.**

* Information such as existing and proposed signage and signals, posted or proposed road speeds, vehicle count and seniority may also be useful.

PROCESS

After receiving an application, the Agency, according to its General Rules, ensures that each interested party has the opportunity to comment on the application and any disputed issues. In general, the Agency reviews the application, invites the other interested party to comment on the application within a 30-day time frame, and then allows the applicant 10 days to respond to the other party's submission. The Members of the Agency review all the material and submissions, make the final decision or determination, and issue the necessary orders. Agency staff process all applications and provide support to the Members.

The Agency will process each application as quickly as possible. It must process all applications within 120 days after receiving the originating documents, unless the parties to the application agree to an extension.

An application to the Agency does not prevent the parties from continuing their negotiations.

ORDERS, DECISIONS AND APPEALS

Any Agency order or decision is binding upon the parties and remains in effect until it is amended or rescinded. Any such order or decision may be

- * reviewed by the Agency, if there are new facts or circumstances;
- * appealed to the Federal Court on a matter of law or jurisdiction, within 30 days of the order or decision;
- * appealed to the Governor in Council at any time.

CONFIDENTIALITY

All documents filed with the Agency become part of the public record and may be made available for public viewing. Upon request, certain aspects of your agreement or application may be considered confidential according to the Agency's General Rules.

SAFETY AND FUNDING

Authority to establish or modify a road crossing under the CTA does not relieve the parties of their obligations under the Railway Safety Act. Transport Canada is responsible for safety and funding matters under the Railway Safety Act. With regards to any requirement under the Railway Safety Act, contact a Transport Canada Surface Regional Office at one of the numbers listed below:

Atlantic Region: (506) 851-7040

Quebec Region: (514) 283-5722

Ontario Region: (416) 973-9820

Prairie and Northern Region: (204) 983-4214

Pacific Region (BC): (604) 666-0011

OTHER AVAILABLE DOCUMENTS

- * Agency General Rules
- * The Canada Transportation Act and The Rail and Marine Transportation Branch
- * The Rail Infrastructure Directorate: A Guide
- * Environmental Assessment Procedures
- * Guidelines on Apportionment of Costs of Grade Separations
- * Guide to Private (Farm) Crossings of Railways
- * Guide to Railway Crossings of Other Railways
- * Guide to Railway Line Construction
- * Guide to Railway Works Cost Apportionment
- * Guide to Utility Crossings of Railways
- * Railway Third Party Liability Insurance Coverage Regulations
- * Guidelines on Railway Third Party Liability Insurance Coverage
- * Schedule "A" Directives - Railway Rates for Maintenance and Construction

Available in alternative formats.

FOR MORE INFORMATION

For more information or copies of the above documents, please contact one of the following staff members of the Rail Infrastructure Directorate:

Ian C.W. Spear

Director

(819) 953-0327 Glenn Payne

Manager, Approvals and Determinations

(819) 953-0365

Paul Lacoste

Manager, Engineering

(819) 953-2117 Bill Aird

Senior Environmental Services Officer

(819) 953-9924

Fax: (819) 953-8353

You can obtain copies of the relevant legislation from the following address:

Canadian Government Publishing Centre
Canada Communication Group
Gatineau, Quebec
K1A 0N9
Tel.: (819) 956-4800

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Services Canada
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