

	ROAD AUTHORITY TRANSFERS AT RAIL CROSSINGS		Issued: JUN 2017
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RECOMMENDED PRACTICES	PART	AT-GRADE RAIL CROSSINGS	
	SECTION		
	SUB-SECTION		

General

Road authority transfers for rail crossings may need to be completed when a provincial highway is de-gazetted to a municipal roadway or in situations where Alberta Transportation (AT) has been inaccurately named as the road authority.

The transfer should be completed by amending existing documentation including relevant orders, decisions and agreements. All parties including the railway authority and the Canadian Transportation Agency (CTA) should be informed of the change in responsibility.

Except in rare cases, the department should only be named as the road authority for rail crossings at provincial highways. Urban approach roads and park access roads are under the ownership of municipalities.

Process

The main purpose of the transfer process is to handover all road authority responsibilities for the crossing including maintenance costs. The process should transfer existing road authority responsibilities without changing them.

Existing road authority maintenance responsibilities are usually outlined in CTA orders and decisions and/or in railway-roadway negotiated agreements. Therefore, as the first step, the regional office should find the documents that allocated these responsibilities. Regional office records, RCIA and Highway Operations Standards are all sources that may be consulted in this step.

If the maintenance cost apportionment was stated in a board order or decision, CTA can issue an amendment. A road authority change falls under Clause 32(1) of the *Canada Transportation Act*, which allows CTA to amend an order or decision when there has been “a change in the facts or circumstances”. The following procedure applies:

1. The department should identify and contact the correct owner of the roadway. The department should explain that AT is not or soon will not be (i.e. provincial highway de-gazetting) the road authority at the railway crossing. The department should ask the owner if they agree and if they'll take on the road authority responsibilities.
2. Once confirmation is received, the department should request CTA to change existing orders to reflect the correct ownership. The department should specify which orders need amendment.
3. CTA will ask the new road authority and the railway company for their comments on this change.
4. If the new road authority agrees and no objections are received from the rail company, CTA will issue a decision that acknowledges the new road authority and amends existing orders.

Direct negotiation between rail and road authorities started in the late 1990s. From section 101 (1) of the *Canada Transportation Act*, the rail and road authorities can negotiate an agreement or an amendment to an agreement on the

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“construction, maintenance, or apportionment of costs”. Usually, such an agreement will include a clause that describes the requirements for assigning the road and rail authorities’ responsibilities to a different party. If the cost apportionment was stated in such an agreement, the following general procedure applies:

1. The department should identify the correct owner of the crossing.
2. The department should determine the requirements in the agreement for road authority transfer. In some cases, the department may have to receive “written consent” from the railway to start the transfer process. Usually, the clause allows the roadway to assign their responsibilities to a new highway authority, without consent, as long as the highway remains a public road. It is also critical to check for confidentiality clauses in the agreement as the railway’s permission may be required to share the agreement with a third party, i.e. the new road authority.
3. The department should contact the correct owner of the roadway. The department should explain that AT is not or soon will not be (i.e. provincial highway de-gazetting) the road authority at the crossing. The department should ask the owner if they’ll agree to the road authority transfer and if they’ll take on the road authority responsibilities. The department may also send the new authority the crossing agreement so that they are aware of the precise maintenance responsibilities.
4. The new road authority should contact the railway company and indicate that they are willing to take on the road authority responsibilities, as outlined in the agreement. A copy

of this correspondence should also be sent to the department and CTA. The new road authority should request CTA to make this road authority change an Order of the Agency.

This general procedure should be applicable to most agreements. However, the clauses in the agreement should take precedence.

For some crossings, it may be necessary to amend both board orders and agreements. For example, the crossing surface maintenance may have been outlined in a board order while the signal maintenance cost may have been delegated through an agreement.

References to Standards

Canada Transportation Act	clause 32 (1) clause 101 (1)
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