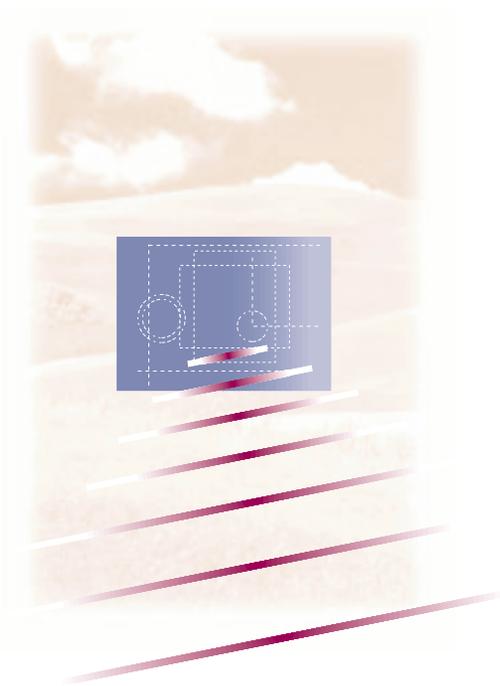


Canadian  
Transportation  
Agency



Office  
des transports  
du Canada

# Guide to Railway Line Construction



**Rail Infrastructure Directorate  
Rail and Marine Branch**



## INTRODUCTION

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

The Agency has prepared a series of guides to highlight the changes brought about by the CTA. This guide is designed to assist railway companies under the Agency's jurisdiction that want to construct a railway line and parties who may be affected by any such construction.

All previous orders and decisions pertaining to the construction of railway lines and issued by the National Transportation Agency or its predecessors remain in effect unless they are inconsistent with the CTA.

## CONSTRUCTION OF A RAILWAY LINE

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Under section 98 of the CTA, the following provisions apply to the construction of railway lines, including main lines, branch lines, yard tracks, sidings, spurs or other track auxiliary to a railway line.

**I.** A railway company shall not construct a railway line without the Agency's approval.

**II.** If the railway company applies to construct a line, the Agency may approve the application if it considers the location of the railway line reasonable. The Agency must consider requirements for railway operations and services, and the interests of the localities that the line will affect.

**III.** No approval is needed to construct a railway line within the right-of-way of an existing line, or within 100 metres of the centre line of an existing railway line for a distance of no more than 3 kilometres.

The Agency must also ensure the protection of the environment for the construction of any new railway line that it must approve. Under the *Canadian Environmental Assessment Act* (the CEAA), the Agency must ensure that an environmental assessment of any proposed project is undertaken. The Agency may only allow the project to proceed if it is satisfied that there will be no significant adverse environmental effects taking into account any mitigative measures proposed by the project proponent.

## NOTICE

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When a railway company wants to construct a railway line covered by the CTA, it must properly notify all parties who may be affected by or have an interest in the proposed line, so that they can have the opportunity to make a submission to the Agency regarding the proposed line. Such notice may include direct notice to affected landowners, communities and others, as well as public notices in local newspapers. Applicants should contact Agency staff to determine the specific notice requirements for the proposed line.

## APPLICATION

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When Agency approval is required to construct a railway line, a written application should be submitted to the following address:

Secretary  
Canadian Transportation Agency  
Ottawa, Ontario K1A 0N9

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

Secretary  
Canadian Transportation Agency  
15 Eddy Street  
17th Floor, Mailroom  
Gatineau, Quebec J8X 4B3

Fax: (819) 997-6727

In addition, a copy of the application should be sent to each of the parties involved.

To help the Agency fully appreciate the situation, the following information should be included in the application:

- I. a map showing the general location of the proposed railway line and accurately indicating the beginning and end of the line, and the localities that the potential construction would affect;
- II. the purpose of the project, when it is not clear;
- III. two copies of a plan or drawing, prepared to scale and appropriately dated and signed, that show:
  - ◆ the right-of-way of the proposed railway line,
  - ◆ the property lines and names of the owners of the land that the railway line will cross,
  - ◆ all proposed road crossings including private, and farm crossings,
  - ◆ all open drains, watercourses, road allowances (rights-of-way) and railways that the railway line may cross or affect,
  - ◆ the approximate location and alignment of the track, and
  - ◆ the profile of the proposed line;
- IV. an environmental assessment of the project that must be conducted by the applicant and screened by the Agency (this is a requirement of the CEAA);
- V. the results of consultation with interested parties; and
- VI. any other pertinent information.

Legal representation is not required. However, in the application, authorization should be included for any agent or solicitor to act on behalf of the applicant.

## PROCESS

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In accordance with its General Rules, after receiving an application, the Agency ensures that each interested party has the opportunity to comment on the application and any disputed issues. In general, the Agency invites the other interested parties to comment within 30 days, and then allows the applicant 10 days to comment. The Agency reviews all material submitted, makes the final decision or determination, and issues the necessary decisions or orders.

The Agency must process all applications within 120 days of receiving the originating documents, unless the parties to the application agree to an extension.

Parties are encouraged to continue any negotiations even though an application may be before the Agency.

## DECISIONS AND APPEALS

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Any Agency decision is subject to the following conditions:

- ◆ it is binding upon the parties and remains in effect until it is amended or rescinded;
- ◆ it may be reviewed by the Agency, if there are new facts or circumstances;
- ◆ it may be appealed to the Federal Court on a matter of law or jurisdiction, within 30 days of the order or decision; and
- ◆ it may be appealed to the Governor in Council at any time.

## CONFIDENTIALITY

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All documents filed with the Agency become part of the public record and may be made available for public viewing. However, in accordance with the Agency's General Rules, a claim for confidentiality can be made.

## SAFETY

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Authority to construct a railway line under the CTA does not relieve the parties of any safety obligations under the *Railway Safety Act* (the RSA). Transport Canada is responsible for safety matters under the RSA. For information on RSA requirements, contact a Transport Canada Surface Regional Office at one of the following numbers:

Atlantic Region: (506) 851-7315

Quebec Region: (514) 283-5722

Ontario Region: (416) 973-9810

Prairie and Northern Region: (204) 983-4214

Pacific Region (B.C.): (604) 666-0011

## OTHER AVAILABLE DOCUMENTS

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- ◆ Agency General Rules
- ◆ *Determining Net Salvage Value*
- ◆ *Environmental Assessment Procedures*
- ◆ *Guidelines on Apportionment of Costs of Grade Separations*
- ◆ *Guide to Certificates of Fitness*
- ◆ *Guide to Private (Farm) Crossings of Railways*
- ◆ *Guide to Railway Charges for the Maintenance and Construction of Road Crossings*
- ◆ *Guide to Railway Crossings of Other Railways*
- ◆ *Guide to Railway Operation Compensation*
- ◆ *Guide to Railway Works Cost Apportionment*
- ◆ *Guide to Relocation of Railway Lines in Urban Areas*
- ◆ *Guide to Road Crossings of Railways*
- ◆ *Guide to Utility Crossings of Railways*
- ◆ Railway Safety Management Systems Regulations
- ◆ Railway Third Party Liability Insurance Coverage Regulations
- ◆ *Resolving Disputes Through Mediation*
- ◆ *The Canada Transportation Act and the Rail and Marine Transportation Branch*
- ◆ *The Rail Infrastructure Directorate: A Guide*
- ◆ *Transfer and Discontinuance of Railway Line Operations and Railway Track Determinations*

The above are available in alternate formats.

## FOR MORE INFORMATION

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

Director  
(819) 953-0327

Manager, Approvals and Determinations  
(819) 953-0365

Manager, Engineering and  
Environmental Services  
(819) 953-2117

Fax: (819) 953-8353  
Toll Free: 1-888-222-2592  
TTY: 1-800-669-5575 or (819) 953-9705



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For more information on the *Canada Transportation Act*, the Agency and its responsibilities, or Agency decisions and orders you can access the Agency's Web site at: [www.cta.gc.ca](http://www.cta.gc.ca).

Minister of Public Works and Government  
Services Canada, 2002

Catalogue no.: TW3-32/2002

ISBN: 0-662-66422-1