

Notice is hereby given, pursuant to subsection 50(1)^a of the *Railway Safety Act*^b, that the Governor in Council, pursuant to subsection 7(1), section 7.1^c, subsection 18(2)^d, paragraph 23.1(a)^e, subsection 24(1)^f and sections 37^g and 47 of that Act, proposes to make the annexed *Grade Crossings Regulations*.

Any interested person may make representations to the Minister of Transport concerning the proposed Regulations within 90 days after the date of publication of this notice. All such representations must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be sent to the Safety Programs Branch, Railway Safety Directorate, Transport Canada, Place de Ville, Tower C, 10th Floor, 330 Sparks Street, Ottawa, Ontario K1A 0N5.

Ottawa,

Eileen Boyd
Assistant Clerk of the Privy Council

^a S.C. 1999, c. 9, s. 36

^b R.S., c. 32 (4th Supp.)

^c S.C. 1999, c. 9, s. 4

^d S.C. 1999, c. 9, s. 12

^e S.C. 1999, c. 9, s. 18

^f S.C. 1999, c. 9, s. 19(1)

^g S.C. 1999, c. 9, s. 29

Whereas, pursuant to subsection 50(1)^a of the *Railway Safety Act*^b, a copy of the proposed *Grade Crossings Regulations*, substantially in the annexed form, was published in the *Canada Gazette*, Part I, on _____ and a reasonable opportunity was afforded to interested persons to make representations to the Minister of Transport with respect to the proposed Regulations;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Transport, pursuant to subsection 7(1), section 7.1^c, subsection 18(2)^d, paragraph 23.1(a)^e, subsection 24(1)^f and sections 37^g and 47 of the *Railway Safety Act*^b, hereby makes the annexed *Grade Crossings Regulations*.

^a S.C. 1999, c. 9, s. 36

^b R.S., c. 32 (4th Supp.)

^c S.C. 1999, c. 9, s. 4

^d S.C. 1999, c. 9, s. 12

^e S.C. 1999, c. 9, s. 18

^f S.C. 1999, c. 9, s. 19(1)

^g S.C. 1999, c. 9, s. 29

NOTE 1: “CIF” means the date of coming into force. The actual dates will be entered when the date at which the Regulations will come into force is determined.

NOTE 2: References to RTD 10 to be verified when that document is finalized.

GRADE CROSSINGS REGULATIONS

INTERPRETATION

1. (1) The definitions in this section apply in these Regulations.

“Act” means the *Railway Safety Act*. (*Loi*)

“average annual daily traffic” means

(a) in respect of a line of railway, the number of train and engine movements over a point or segment of the line of railway in any year, divided by the number of days in that year; and

(b) in respect of a road, the number of vehicles passing over a point or segment of the road in any year divided by the number of days in the year. (*débit journalier moyen annuel*)

“cross-product”, in respect of a grade crossing, means the product of the average annual daily traffic of trains and engines on the line of railway and the average annual daily number of vehicles on the road that pass over the grade crossing. (*produit vectoriel*)

“forecast cross-product” means the cross-product predicted for a grade crossing following an assessment of the potential road and railway traffic over a predetermined period of time in the future. (*produit vectoriel prévu*)

“Geometric Design Guide” means the *Geometric Design Guide for Canadian Roads*, published in January 1986 by the Transportation Association of Canada (TAC), as amended from time to time. (*Normes de conception géométriques*)

“grade crossing” means a road crossing whose road passes across a line of railway at grade. A road that crosses adjacent lines of railway of different railway companies is considered to be one grade crossing, but where two adjacent but separate roads cross a line of railway, each road crossing is considered to be a separate grade crossing. (*passage à niveau*)

“Manual of Uniform Traffic Control Devices for Canada” means the *Manual of Uniform Traffic Control Devices for Canada*, 4th edition, prepared by the National Committee on Uniform Traffic Control, Transportation Association of Canada (TAC), and dated September, 1998, as amended from time to time. (*Manuel canadien de la signalisation routière*)

“private grade crossing” means a grade crossing whose road is a private road. (*passage à niveau privé*)

“private road” means a road that is not a public road. (*route privée*)

“public grade crossing” means a grade crossing whose road is a public road. (*passage à niveau public*)

“public road” means a road that is opened or maintained for public use by a road authority and includes a pedestrian or bicycle path that is opened or maintained for public use by a road authority. (*route publique*)

“qualified person” means, in respect of a specified duty, a person who, because of their knowledge, training and experience, is qualified to perform that duty safely and properly. (*personne qualifiée*)

“railway company”, in respect of a grade crossing, means a railway company that operates the line of railway at the grade crossing. (*compagnie de chemin de fer*)

“responsible authority” means

(a) in respect of a public grade crossing, the railway company and the road authority; and

(b) in respect of a private grade crossing, the railway company. (*autorité responsable*)

“road approach” means that part of a road leading up to or away from a line of railway that affects safety at a grade crossing and within which the behaviour of a driver of a vehicle, a pedestrian, a person using an assistive device or a cyclist may be influenced. (*abord routier*)

“road authority”, in respect of a grade crossing, means the road authority that has the legal authority to open and maintain the road that passes across the line of railway at the grade crossing. (*autorité responsable du service de voirie*)

“RTD 10” means *Road/Railway Grade Crossings: Technical Standards and Inspections, Testing and Maintenance Requirements*, established by the Department of Transport and published in _____XX, as amended from time to time. (*RTD 10*)

“sightlines” means lines of sight drawn between a person on a grade crossing or its road approaches and the grade crossing, railway crossing signs, signals and trains, engines and other railway equipment approaching or occupying the grade crossing. (*lignes de visibilité*)

“unrestricted grade crossing” means a public grade crossing or a grade crossing whose road is one of the following:

(a) a recreation road or trail or a pedestrian or bicycle path maintained by a club, association or other organization, including a snowmobile or hiking trail;

(b) a road or a pedestrian or bicycle path of a commercial or industrial establishment, including a business operated from a residential or farm property, that is used in connection with the establishment by persons other than employees of the establishment;

(c) a road that serves three or more principal residences;

(d) a road that serves three or more seasonal residences access to which is not controlled by a gate equipped with a lock;

(e) a private road that connects two public roads; or

(f) a private road maintained by a natural resource company, such as a company involved in forestry or mining activities. (*passage à niveau libre*)

“**vehicle**” means a vehicle that is designed to be driven or drawn by any means, other than exclusively by muscular power, and includes industrial and farm equipment, but does not include a vehicle designed to run exclusively on rails or an assistive device designed for a person with a disability. (*véhicule*)

“vicinity”, in respect of a grade crossing, means the area around the crossing within which an activity or other thing may affect the safety of the crossing. (*voisinage*)

(2) The use of the words “responsible” and “responsibilities” in these Regulations shall not be interpreted as determining liability for costs.

APPLICATION

2. These Regulations apply to all grade crossings.

REQUIREMENT FOR THE MINISTER TO CONSULT

3. The Minister shall not make an amendment to RTD 10 without first undertaking consultations with interested persons concerning the amendment.

SAFETY OF GRADE CROSSINGS

4. Every responsible authority shall manage the safety of its grade crossings in accordance with these Regulations.

DETAILED SAFETY ASSESSMENTS

Construction

5. A responsible authority that proposes to undertake the construction of a grade crossing shall conduct a detailed safety assessment before construction begins.

Building and Operational Changes

6. Before a responsible authority causes or authorizes any of the following changes, it shall conduct a detailed safety assessment:

(a) a significant change in the road or railway infrastructure, including a relocation of the grade crossing, or in the traffic patterns at or in the vicinity of a grade crossing, such as the installation of traffic signals on road approaches or a change in the location of the meeting

or passing points of trains or engines on sidings or on passing tracks or in the switching of railway equipment;

(b) anything that is likely to cause a significant increase in the traffic volume on the road or line of railway at or in the vicinity of a grade crossing, such as the addition of a new commuter rail service or the development of a residential area or an industrial area or an industrial, commercial or recreation facility;

(c) a significant increase in the speed of traffic on the road or line of railway at or in the vicinity of a grade crossing;

(d) a significant change in the type of vehicles passing over the grade crossing; or

(e) any other action that might cause a significant change in road or railway operations that could adversely affect the safety of a grade crossing.

7. (1) Before a municipality, a railway company or a road authority that is not a responsible authority conducts or authorizes a change referred to in section 6, it shall notify and consult with the responsible authority as follows:

(a) in the case of a public grade crossing, the road authority; and

(b) in the case of a private grade crossing, the railway company.

(2) The municipality, railway company or road authority shall not conduct or authorize the change until

(a) a detailed safety assessment has been conducted by the responsible authority; and

(b) confirmation is received from the responsible authority that adequate safety measures are in place in respect of the grade crossing.

Cessation of the Use of the Whistle

8. Before a railway company ceases the use of the whistle on railway equipment at or in the vicinity of a grade crossing in response to a resolution of the government of a municipality declaring that it agrees that the whistle should not be used in that area, the responsible authorities for the affected grade crossing shall jointly conduct detailed safety assessments of the area to determine whether the area meets the requirements set out in section 27.

Other Circumstances Requiring a Detailed Safety Assessment

9. Every responsible authority shall conduct a detailed safety assessment jointly with the other responsible authorities within a reasonable time after it becomes aware of any of the following circumstances at or in the vicinity of a grade crossing:

(a) two or more fatal collisions in a five-year period between railway equipment operated on a track and a vehicle, a pedestrian, a person using an assistive device or a cyclist; or

(b) a significant change referred to in section 6.

Periodic Detailed Safety Assessments

10. (1) Before [5 years after CIF] and at least every five years after that date, every responsible authority shall conduct a detailed safety assessment of its unrestricted grade crossings jointly with the other responsible authorities.

(2) Despite subsection (1), responsible authorities may agree at the time of a detailed safety assessment to extend the deadline for the next detailed safety assessment to more than five years but not more than 10 years, if they have reason to conclude that the conditions at and in the vicinity of the grade crossing that could affect its safety will remain stable.

(3) If a responsible authority identifies a developing condition or situation that could affect safety at or in the vicinity of the unrestricted grade crossing, such as a rapidly developing area, it shall notify the other responsible authorities, specifying a shorter deadline for the next detailed safety assessments to be conducted, and that deadline shall apply despite subsections (1) and (2).

Qualified Persons

11. (1) A detailed safety assessment shall be conducted by a qualified person.

(2) If a detailed safety assessment is conducted jointly by two or more responsible authorities, they shall each designate a qualified person to conduct the assessment.

(3) The responsible authorities may designate the same person to be the qualified person.

Consultation

12. (1) A responsible authority shall conduct a detailed safety assessment of a public grade crossing by

(a) requesting information from the other responsible authority in respect of its operations at the grade crossing; and

(b) reviewing safety issues in respect of the grade crossing with the other responsible authority.

(2) A responsible authority shall conduct a detailed safety assessment of a private grade crossing by

(a) requesting information from the road owner in respect of their use of the private grade crossing; and

(b) reviewing safety issues in respect of the private grade crossing with the road owner.

Factors to Take into Account

13. A detailed safety assessment shall take into account all the factors that could have an impact on the safety of the grade crossing, as set out in section 3 of RTD 10.

Records

14. (1) A responsible authority that conduct a detailed safety assessment shall provide a copy of it to the other responsible authority.

(2) Every responsible authority shall keep the two most recent detailed safety assessments in respect of grade crossings available for inspection at the request of a railway safety inspector.

SAFETY REVIEWS

When to Conduct a Safety Review

15. A responsible authority shall conduct a safety review within a reasonable time after it becomes aware of any of the following circumstances at or in the vicinity of a grade crossing:

- (a) drivers of vehicles recurrently enter the grade crossing in an unsafe manner when the lights of a grade crossing warning system are flashing;
- (b) vehicles recurrently block the grade crossing, in the case of a grade crossing where trains or engines are not required to stop and measures to clear vehicles from the grade crossing before the arrival of the trains or engines are not in place;
- (c) the gates of a grade crossing warning system recurrently strike or are struck by vehicles, or signs, signals or supporting structures of signals or systems are recurrently struck by vehicles; or
- (d) collisions occur between railway equipment and a vehicle, a pedestrian, a person using an assistive device or a cyclist.

Qualified Persons

16. (1) A safety review shall be conducted by a qualified person.

(2) If a safety review is conducted jointly by responsible authorities, they shall each designate a qualified person to conduct the review.

(3) The responsible authorities may designate the same person to be the qualified person.

Records

17. A responsible authority that conducts a safety review shall keep it for at least five years readily available for inspection at the request of a railway safety inspector.

EXCHANGE OF INFORMATION

18. (1) A responsible authority that is asked by another responsible authority for information respecting their operations on a road or line of railway that is required for a detailed safety assessment or a safety review of a public grade crossing shall provide the information, even if the responsible authority has to develop it.

(2) A private road owner that is asked by a railway company for information respecting the owner's use of the road that is required for a detailed safety assessment or a safety review of a private grade crossing shall provide the information, even if the private road owner has to develop it.

[19 reserved]

GRADE CROSSING STANDARDS

Removal of Threats

20. If a threat to safe operations at a grade crossing is identified in a detailed safety assessment or a safety review or by any other means, the responsible authority shall, in addition to fulfilling the requirements of sections 22 to 26, as applicable, take the measures necessary to remove the threat.

Construction

21. No person shall construct a grade crossing if

- (a) train speeds on the line of railway exceed 80 mph; or
- (b) the road is a freeway as classified in the Geometric Design Guide.

22. (1) A responsible authority that undertakes the construction of a grade crossing shall ensure that it is constructed in accordance with the standards set out in Parts B and C of RTD 10, as it reads on the day the construction begins.

(2) In applying the standards, the responsible authority shall take into account how the grade crossing is intended to be used in the first five years after construction, including the peak forecast cross-product for those years.

Changes Necessitating Alterations

23. (1) A responsible authority that causes, authorizes or is notified of any of the changes set out in section 6 shall alter the grade crossing to accommodate the changes and ensure that the grade crossing meets the standards set out in Part B of RTD 10 and that the warning times of the grade crossing warning system meet the standards set out in Part C of RTD 10, as RTD 10 reads on the day the alterations begin, except that the crossing angle, location and maximum gradient need to be altered to meet those standards only insofar as is practicable given the constraints of the grade crossing location.

(2) In applying the standards, the responsible authority shall take into account how the grade crossing is intended to be used in the first five years after alteration, including the peak forecast cross-product for those years.

Installation and Alteration of Signs, Signals, Systems, Components and Equipment

24. (1) A responsible authority that undertakes to install or alter signs, signals, systems, components or equipment at or in the vicinity of a grade crossing shall ensure that the installed or altered part meets the standards set out in Parts B and C of RTD 10, as it reads on the day the installation or alteration begins.

(2) In applying the standards, the responsible authority shall take into account how the grade crossing is intended to be used in the first five years after the installation or alteration, including the peak forecast cross-product for those years.

Alteration of Grade Crossing Geometry

25. A responsible authority that undertakes the alteration of the geometry of a grade crossing or the road approaches or line of railway in the vicinity of a grade crossing to improve safety at the grade crossing shall, in determining the scope of the work to be done to effect the improvements and the standards to be achieved, take into account the standards set out in Part B of RTD 10, as it reads on the day the work begins, but it is not required to meet these standards.

Basic Standards for Grade Crossings Constructed Before [CIF] That Are Not Undergoing Alteration

26. (1) This section applies in respect of a grade crossing constructed before [CIF], except insofar as sections 23 to 25 may apply to alterations made to it.

(2) Subject to subsection (3), a responsible authority shall ensure that

(a) its grade crossings and the road approaches to them are constructed and equipped in accordance with the standards applicable to them on [the day before CIF], taking into

account any approvals granted under section 10 of the Act and any exemptions granted under section 22 or 22.1 of the Act, or any predecessors of these provisions in respect of them; and

(b) the signs, signals, systems, components and equipment at its grade crossings or on its road approaches meet the standards applicable to them on [the day before CIF], taking into account any approvals granted under section 10 of the Act and any exemptions granted under section 22 or 22.1 of the Act, or any predecessors of these provisions in respect of them.

(3) A responsible authority shall ensure that the following requirements and standards are met:

(a) in respect of the crossing surface of the road of a public grade crossing,

(i) until its first renewal after [the day before CIF], sections 6.2 and 6.2.1 of RTD 10, and

(ii) when it is renewed after [the day before CIF] and after the renewal, sections 6.1 and 6.2.2 of RTD 10;

(b) in respect of the gradient of the road of a grade crossing or its road approaches, section 7.3 of RTD 10;

(c) beginning one year after the first detailed safety assessment after [CIF], in respect of sightlines, section 28 of these Regulations;

(d) in respect of railway crossing signs and number of track signs, section 9.1 of RTD 10,

(i) immediately if the grade crossing is a public grade crossing, and

(ii) beginning [2 years after CIF] if the grade crossing is any other unrestricted grade crossing;

(e) beginning [3 years after CIF], in respect of retroreflective material on railway crossing signs and sign posts, section 9.1.3 of RTD 10;

(f) beginning two years after the first detailed safety assessment after [CIF], in respect of railway advance warning signs, advisory speed signs, do not stop on the track signs, pavement markings and stop signs, sections 9.3 to 9.6 and paragraphs 9.8(a), (b) and (c) of RTD 10;

(g) beginning two years after the first detailed safety assessment after [CIF], in respect of additional flashing lights for grade crossing warning systems, paragraph 13.2(b) and sections 13.4 to 13.7 of RTD 10;

(h) beginning two years after the first detailed safety assessment after [CIF], in respect of prepare to stop at railway crossing signs, section 14.1 of RTD 10;

(i) beginning one year after the first detailed safety assessment after [CIF], in respect of the preemption sequence of traffic lights interconnected with grade crossing warning systems, section 15.3 of RTD 10;

(j) beginning one year after the first detailed safety assessment after [CIF], in respect of the alignment of light units of grade crossing warning systems, sections 19.4 to 19.9 of RTD 10;

(k) beginning two years after the first detailed safety assessment after [CIF], in respect of clearance times of the operating control circuits of grade crossing warning systems, paragraphs 20.1(b) and (b.1) and 20.4(b) and section 20.5 of RTD 10; and

(l) beginning two years after [CIF], in respect of directional stick circuits and operating control circuits of grade crossing warning systems, section 20.6 of RTD 10.

TRAIN WHISTLING

27. (1) For the purposes of section 23.1 of the Act in respect of the use of the whistle on railway equipment, the following requirements for the area are prescribed:

(a) the grade crossings in the area and their road approaches shall meet the requirements of section 16 of RTD 10;

(b) whistling in the area is not required for a grade crossing that is outside the area;

(c) there is no recurrent failure by pedestrians, persons using assistive devices, cyclists or drivers to observe the grade crossing warning systems in the area; and

(d) there is no recurrent unauthorized access to the line of railway in the area.

(2) At a grade crossing where a resolution of the government of a municipality has declared that it agrees that the whistle should not be used on railway equipment in that area, the railway company and the road authority are jointly responsible for ensuring that the area meets the prescribed standards

(a) at the time at which the railway company ceases to use the whistle in response to the resolution; and

(b) during the period in which the whistle is not used.

SIGHTLINES

28. (1) The requirements and standards to be met in respect of sightlines for a grade crossing are

(a) to provide and maintain sightlines in accordance with the requirements set out in section 8 of RTD 10;

(b) to remove any tree, brush or other thing that might, by obscuring clear vision of the road, the line of railway or traffic control devices, constitute a threat to safe operations;

(c) when the accumulation of snow along the side of the travelled way of the road obscures sightlines, to clear the snow; and

(d) to notify landowners in the following manner when the safety plan for the grade crossing provides for sightlines over their property, including informing them as to the area of the property the sightlines are over and the requirements of section 29:

- (i) in the case of an individual, by personal service, or by mailing it by registered mail to the person's last known address, or
- (ii) in the case of a body other than an individual, by sending the notification by registered mail to the head office.

(2) If there is a permanent obstruction of sightlines of drivers, pedestrians, persons using assistive devices or cyclists at a grade crossing that does not have a grade crossing warning system, the railway company and the road authority or private road owner may enter into a written agreement to restrict road access to the grade crossing by means of a locked gate and to establish the following measures instead of the requirements and standards required under subsection (1):

- (a) ensure that a sufficient number of persons with appropriate training and equipment are stationed there when the gate is not locked to advise drivers, pedestrians, persons using assistive devices and cyclists intending to cross the tracks whether it is safe to do so; or
- (b) consult each other in respect of the movement of trains, engines, drivers, pedestrians, persons using assistive devices and cyclists over the grade crossing and control the use of the road of the grade crossing to agreed periods of time when it is safe to use it.

SAFETY MEASURES FOR ACTIVITIES

29. (1) Before a person conducts or authorizes an activity on land in the vicinity of a grade crossing or on the road or line of railway of the grade crossing that might obscure clear vision between the road and the line of railway or the traffic control devices, as required under paragraph 28(a), the person shall consult with the road authority or, if there is none, the railway company.

(2) The activities include

- (a) the construction or alteration of a building, fence or other structure;
- (b) the placing of any material, equipment, vehicle or other thing; and
- (c) the planting of any tree, bush or other vegetation.

(3) The person shall not conduct or authorize the activity until the earlier of

- (a) the day on which they are informed by the road authority or the railway company that adequate safety measures have been implemented, and
- (b) 30 days after the day of the consultation.

RESPONSIBILITIES

General

30. Subsection 27(2) and sections 31 and 32 set out the responsibilities, in respect of grade crossings, of railway companies, road authorities, private road owners and governments of municipalities for the purposes of sections 20, 22 to 26, 28 and 34 to 36.

➔ Note: Subsection 30(1) moved to become subsection 1(2).

Private Grade Crossings

31. (1) This section sets out the responsibilities in respect of a private grade crossing other than a private grade crossing that is temporarily closed.

(2) The railway company is responsible for

(a) all aspects of the grade crossing within the railway right-of-way limits and for the sightlines from the part of the road that is within the railway right-of-way limits where the sightlines are over private land because of the curvature of the line of railway, but not for the part for which the private road owner is responsible under paragraph (4)(b); and

(b) the standard of construction for that portion of a road approach outside the railway right-of-way limits, from the point where the gradient of the road approach begins to rise above or fall below the natural ground to reach the elevation of the tracks in a cut or fill.

(3) The private road owner at a grade crossing and the road authority for any public road adjacent to the railway right of way at the grade crossing are each responsible for

(a) the standard of construction for their road approaches outside the railway right-of-way limits or, if the railway company is responsible under paragraph (2)(b) for any part of the road approach outside the railway right-of-way limits, up to that part;

(b) maintenance of their road approaches outside the railway right-of-way limits;

(c) drainage along their road approaches; and

(d) traffic control devices on their road approaches.

(4) The private road owner at a grade crossing is responsible for

(a) removing snow from the grade crossing for the safe passage of road traffic over the grade crossing; and

(b) removing obstructions and maintaining sightlines from the road approaches up to the railway right-of-way limits.

Public Grade Crossings

32. (1) This section sets out the responsibilities in respect of a public grade crossing.

(2) The railway company is responsible for

(a) the part of the road surface of the grade crossing that lies between the rails of each track, the part that lies outside the rails, up to the ends of the railway ties, and the elevation of the railway tracks in relation to the road;

(b) sightlines along the railway right of way;

(c) drainage along the railway right of way;

(d) railway crossing signs; and

(e) grade crossing warning systems.

(3) The road authority is responsible for

(a) the road approaches and those parts of the surface of the road up to the ends of the railway ties, including the elevation of the road in relation to the railway track;

(b) sightlines along the road right of way;

(c) the notification of owners with respect to sightlines over their land in accordance with paragraph 28(d);

(d) drainage along the road right of way;

(e) traffic control devices on road approaches and stop signs at grade crossings, including devices that interconnect with grade crossing warning systems;

(f) lighting devices to illuminate trains, engines and other railway equipment occupying grade crossings to ensure that they are clearly visible to pedestrians and drivers of vehicles; and

(g) the removal of snow from the road for the safe passage of vehicles, bicycles, pedestrians and persons using assistive devices over the grade crossing.

(4) The railway company and the road authority are jointly responsible for

(a) determining the warning and traffic control systems required for the safe operation of their grade crossings;

(b) co-ordinating movements of trains, engines and other railway equipment and road traffic for the purpose of safe operations at their grade crossings; and

(c) removing obstructions and maintaining the sightlines over land outside the limits of the railway right of way and the road right of way.

Exchange of Information

33. (1) A responsible authority that is asked by another responsible authority or a private road owner for information respecting its operations on a road or line of railway that is required to carry out the responsibilities set out in sections 31 and 32 shall provide the information, even if the responsible authority has to develop it.

(2) A private road owner that is asked by a responsible authority for information respecting the owner's use of the road that is required to carry out the responsibilities set out in sections 31 and 32 shall provide the information, even if the owner has to develop it.

MAINTENANCE, TEST AND INSPECTION STANDARDS

Maintenance

34. A responsible authority and a private road owner shall ensure that their grade crossings, road approaches, grade crossing warning systems and their components and traffic control devices and their components are maintained in accordance with the standards applicable to them, as determined under sections 22 to 26, as the case may be.

Testing and Inspection

35. (1) A railway company shall ensure that the components of its grade crossing warning systems are tested and inspected in accordance with Part D of RTD 10.

(2) Every responsible authority shall, jointly with the other responsible authorities, ensure that prepare to stop at railway crossing signs and traffic signal preemption systems interconnected with grade crossing warning systems are tested and inspected in accordance with Part D of RTD 10.

(3) The testing and inspection required by this section shall be conducted by a qualified person.

Plans and Forms

36. Responsible authorities shall ensure that legible, up-to-date plans and forms required for the maintenance, inspection and testing of grade crossing warning systems, prepare to stop at railway crossing signs and traffic signal preemption systems are kept at the grade crossing or installation to which they relate.

RECORDS OF MAINTENANCE, INSPECTIONS AND TESTS

37. A railway company shall ensure that a record of each maintenance, inspection and test of a grade crossing warning system is made and kept in accordance with Part D of RTD 10.

38. A road authority shall ensure that a record of each maintenance, inspection and test of a prepare to stop at railway crossing sign, a traffic signal preemption system and a traffic signal installed at a grade crossing in lieu of a grade crossing warning system is made and kept in accordance with Part D of RTD 10.

INSTRUCTIONS

39. (1) A railway company shall establish and implement instructions in respect of the maintenance, testing, and inspection of its grade crossing warning systems to be followed by persons responsible for the maintenance, testing and inspection of the systems.

(2) The railway company shall provide to the Minister a copy of the instructions and any amendments to them within 30 days after implementing them.

40. A road authority shall establish and implement instructions in respect of the maintenance, testing, and inspection of its prepare to stop at railway crossing signs, traffic signal preemption systems and traffic signals installed at grade crossings in lieu of grade crossing warning systems to be followed by persons responsible for the maintenance, testing and inspection of the signs, systems and signals.

TEMPORARY PROTECTION MEASURES

Work on Grade Crossings

41. When work is carried out within the limits of a grade crossing or an activity related to work on the line of railway is carried out within the limits of a grade crossing, the responsible authority shall follow the technical requirements in respect of the control of traffic in a work zone that are

- (a) set out in Part D of the Manual of Uniform Traffic Control Devices for Canada;
- (b) established by the department of transportation of the province in which the grade crossing is situated; or
- (c) established by the government of the municipality in which the grade crossing is situated.

Work on Lines of Railway

42. When work is carried out on a line of railway within the activating limits of a grade crossing warning system and the work might result in the operation of the system or the failure of the system to operate when a train or engine is approaching, the railway company shall ensure that a sufficient number of persons with appropriate training and equipment are stationed at the grade crossing to advise drivers, pedestrians, persons using assistive devices and cyclists intending to cross the tracks whether it is safe to do so.

43. (1) When a railway company carries out work on a line of railway within the activating limits of a grade crossing warning system interconnected with a traffic signal or prepare to stop at railway crossing sign, and the work might result in the operation of the system or the failure of the system to operate when a train or engine is approaching, the railway company shall, before carrying out that work,

(a) notify the road authority; and

(b) reach an agreement with the road authority in respect of controlling traffic at the grade crossing when a train or engine is approaching.

(2) The railway company shall restore normal operations of the system as soon as possible.

44. When work is carried out on a line of railway and causes the obstruction of sightlines for drivers approaching or stopped at a grade crossing that does not have a grade crossing warning system at any time when a train or engine might operate over that part of the line of railway, the railway company shall ensure that a sufficient number of persons with appropriate training and equipment are stationed at the grade crossing to advise drivers, pedestrians, persons using assistive devices and cyclists intending to cross the tracks whether it is safe to do so.

Test, Inspection and Maintenance Work on Grade Crossing Warning Systems

45. (1) When a grade crossing warning system is operated for test, inspection or maintenance purposes, the railway company shall ensure that the measures necessary for the safe and orderly flow of vehicles, pedestrians, persons using assistive devices, cyclists, trains and engines in the vicinity of the grade crossing are taken.

(2) When the testing causes the activation of the flashing light units at the same time that trains, engines or other railway equipment might enter onto the operating control circuits of the grade crossing warning system, the railway company shall ensure that

(a) a sufficient number of persons with appropriate training and equipment are stationed at the grade crossing to advise drivers, pedestrians, persons using assistive devices and cyclists intending to cross the tracks whether it is safe to do so; and

(b) the period of operation of the flashing light units is kept as short as possible.

Failure or Malfunction of Grade Crossing Warning Systems — Railway Companies

46. (1) A railway company that becomes aware that a condition exists that might cause a grade crossing warning system to fail in operating mode, to malfunction during operation or to fail to operate shall immediately take action to ensure that normal operation is restored as soon as possible.

(2) A railway company that becomes aware that a traffic signal preemption or a prepare to stop at railway crossing sign is activated by a failure of a grade crossing warning system or by work on the line of railway or that a grade crossing warning system fails to operate or malfunctions during operation, the railway company shall immediately

(a) notify the road authority; and

(b) take action to ensure that normal operation is restored as soon as possible.

(3) When a railway company is aware that the flashing light units of a grade crossing warning system might fail to operate while a train or engine occupies the grade crossing, it shall ensure that, if the train or engine occupies the grade crossing during inclement weather that restricts visibility of it or during hours of darkness, a sufficient number of persons with appropriate training and equipment are stationed at the grade crossing to advise drivers, pedestrians, persons using assistive devices and cyclists intending to cross the tracks that it is unsafe to do so.

Failure or Malfunction of Traffic Signal Preemptions or Prepare to Stop at Railway Crossing Signs — Road Authorities

47. (1) A road authority that becomes aware that a condition exists that might cause a failure to operate or malfunction during operation of a traffic signal preemption or a prepare to stop at railway crossing sign shall immediately

(a) notify the railway company; and

(b) take action to ensure that normal operation is restored as soon as possible.

(2) A road authority that becomes aware of a condition such as a power failure that would cause a traffic signal preemption to fail to operate or to malfunction during operation shall ensure that a sufficient number of persons with appropriate training and equipment are stationed at the grade crossing to advise drivers, pedestrians, persons using assistive devices and cyclists intending to cross the tracks whether it is safe to do so.

(3) A road authority that becomes aware that a condition exists that would cause a prepare to stop at railway crossing sign to fail to operate or to malfunction during operation shall ensure that a sufficient number of persons with appropriate training and equipment are stationed on the road approaches to the grade crossing to control the approach of drivers to the grade crossing.

Work on Road Approaches and Intersecting Roads

48. (1) A road authority, a private road owner, a railway company or any other person in charge of work, testing, storage of material or any other activity that is carried out with respect to any of the following locations shall consult with the other railway companies in respect of the operation of trains or engines over the grade crossing:

(a) the road approaches to the grade crossing, if the work, testing or other activity might cause or result in

(i) the obstruction of sightlines in respect of the grade crossing warning system or other traffic control devices or of a train or engine approaching or occupying the grade crossing, or

(ii) the interruption, control or blockage of road traffic over the grade crossing;

(b) traffic signals on the road approaches, if the work, testing or other activity might cause or result in the failure of the preemption of traffic signals by the grade crossing warning system; and

(c) a road that intersects the road approaches to another grade crossing, if the work, testing or other activity might cause or result in the interruption, control or blockage of road traffic over the grade crossing.

(2) If it is possible that a train or engine will operate over the grade crossing during the work, testing or other activity, the road authority, the private road owner, the railway company or the other person in charge of the work, testing or activity shall ensure that a sufficient number of persons with appropriate training and equipment are stationed at the grade crossing to advise drivers, pedestrians, persons using assistive devices and cyclists intending to cross the tracks whether it is safe to do so.

REMOVAL AND COVERING OF TRACKS AND SIGNS

No Demand for Railway Operations — Unrestricted Grade Crossings

49. (1) Within 30 days after a railway company ceases all operation of railway equipment over an unrestricted grade crossing or becomes aware that there is no demand, and there is unlikely to be a demand, for railway operations over an unrestricted grade crossing within the following 12 months, it shall

(a) notify the road authority or private road owner as soon as is reasonably practicable that railway equipment no longer operates over the unrestricted grade crossing;

(b) remove or cover the tracks or arrange with the road authority or the private road owner to erect a sign to advise persons on the road approaches that railway equipment does not operate on the grade crossing; and

(c) remove or cover its signs and grade crossing warning system lights and gate arms.

(2) If the railway company does not remove the tracks, it shall maintain the covered tracks or the grade crossing surface in good condition.

(3) The road authority or private road owner shall remove or cover its signs and road markings relating to the grade crossing within 30 days after receiving the notification.

[50 reserved]

Resumption of Use — Unrestricted Grade Crossings

51. (1) This section applies to a railway company that, having taken the steps set out in section 49, starts to operate trains, engines or other railway equipment over an unrestricted grade crossing.

(2) Despite subsection (1), this section does not apply in respect of the operation of railway equipment over an unrestricted grade crossing referred to in section 49 to pick up rails if the railway equipment is stopped before it occupies the crossing and does not proceed until a sufficient number of persons with appropriate training and equipment are stationed at the crossing to advise drivers, pedestrians, persons using assistive devices and cyclists intending to cross the tracks whether it is safe to do so.

(3) If the unrestricted grade crossing has not been in use for a period of three years or more, the railway company shall, before it starts to operate trains, engines or other railway equipment over it,

(a) conduct a detailed safety assessment that is in accordance with sections 11 to 14;

(b) ensure that the unrestricted grade crossing meets the standards set out in Parts B and C of RTD 10, except that the crossing angle, location and maximum gradient need not be altered to meet those standards; and

(c) in applying the standards, take into account how the grade crossing is intended to be used in the first five years after resumption of operation, including the peak forecast cross-product for those years.

(4) If the unrestricted grade crossing has not been in use for a period of less than three years, the railway company shall, before it starts to operate trains, engines or other railway equipment over it, ensure that the unrestricted grade crossing meets the standards that would be applicable to it if it had remained in use, including any improvements that would apply because some of the changes referred to in section 6 or the circumstances referred to in section 9 have occurred during the period when the grade crossing was not in use.

(5) The railway company shall, before it starts to operate trains, engines or other railway equipment over the unrestricted grade crossing,

(a) conduct the maintenance, testing and inspection required under sections 34 and 35;

(b) replace or uncover its railway crossing signs and signals;

(c) at least 30 days before it starts operations, notify the road authority or the private road owner in writing of the proposed starting date; and

(d) at least 30 days before it starts operations, post a notice of the start at the advance warning sign on each road approach or, if there is no advance warning sign, at the grade crossing and maintain it there for at least 30 days after the start of operations.

(6) Despite paragraph (5)(c), the railway company may start to operate railway equipment over the unrestricted grade crossing less than 30 days after it notifies the road authority or private road owner if the railway company receives notification from the road authority or private road owner that it has completed the requirements of subsection (7).

(7) On receipt of a notification under paragraph (5)(c), the road authority or private road owner shall

(a) replace or uncover its grade crossing signs and traffic signals before the proposed date set out in the notification;

(b) apply the required road markings as soon as is practicable after the proposed date set out in the notification; and

(c) notify the railway company if any of the changes referred to in section 6 was made during the period in which the grade crossing was not in use.

Resumption of Use — Grade Crossings Other Than Unrestricted Grade Crossings

52. (1) Before a railway company starts to operate trains, engines or other railway equipment over a grade crossing that is not an unrestricted grade crossing where there have been no operations for a period of more than 12 months, it shall notify the private road owner in writing of the proposed date of the resumption of the operation of trains, engines and other railway equipment.

(2) Subsection (1) does not apply in respect of the operation of railway equipment over a grade crossing that is not an unrestricted grade crossing to pick up rails if the railway equipment is stopped before it occupies the crossing and does not proceed until a person with appropriate training determines that it is safe to do so.

COMING INTO FORCE

53. These Regulations come into force on [CIF].

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