



## FDM 17-10-1 Role of the Region Railroad Coordinator

June 19, 2013

The level of activity of the Region Railroad Coordinators varies significantly from region to region. In some regions, the involvement of the Railroad Coordinator varies depending upon whether the railroad project is a part of a larger, roadway improvement project, or whether it is an isolated stand-alone safety project.

As is the case with most region technical area coordinators and with the Railroad and Harbors Section (RHS) staff, the railroad coordinator must be involved in and advise consultant project managers as well as in-house staff. Only then can it be assured that consultant projects properly address rail issues in an appropriate as well as timely way, and thus avoid problems and delays late in the project development process.

### 1.1 Position Summary

While the specific list of tasks and responsibilities will vary, the basic function of the rail coordinators is essentially the same.

1. Serve as a point of contact for general railroad-related information for region project managers.
2. Be the primary liaison between the region and RHS on railroad related matters.
3. Be familiar with this chapter and the statutes and procedures that are documented therein.
4. Raise the general awareness of railroad coordination among project managers in the region.
5. Assist in the identification of candidate railroad related projects when these are solicited by RHS, DTIM, OCR, etc.
6. Provide notices to railroads when field reviews are to be conducted on railroad property.
7. Issue statutory notices in accordance with Section 86.13 W.S.
8. Monitor projects that are under development in the Six Year Program, and alert project managers of probable needed actions and lead times.
9. Recognize the need of specialized expertise on railroad related matters and seek that expertise on behalf of region project managers.
10. Arrange for joint reviews of improvement project plans in the field, as appropriate. (Railroads generally require their personnel to be actively involved in projects where their facilities are to be adjusted or altered, or where new signals or crossing surfaces are to be installed)
11. Monitor the contents of the Railroad Project Submittal Package including the Railroad Crossing Report and associated plans and documents to the RHS.
12. Review specific project documents related to railroad coordination and negotiation and alert region and RHS staff as to questions, omissions, conflicts, deadlines, etc.
13. Review PS&E's for inclusion of complete and accurate "Relations with the Railroad" item in the special provisions and arrange for additions or corrections.
14. Be aware of opportunities for:
  - closing or consolidating crossings in the region.
  - Identifying crossings for "exempt" status.
  - Improving railroad crossing safety in general.
15. Exercise delegated sign-off authority for PS&E Submittals (See [FDM 19-10-15](#)) from RHS.

## FDM 17-10-5 Role of Project Managers

December 20, 2013

### 5.1 Overview

It is essential that project managers hold early discussions (during life cycle 10 -and- at least 24 to 36 months prior to PS&E date) with the Region Railroad Coordinator. It is also necessary to conduct early joint field reviews with the Region Railroad Coordinator and a representative of the RHS. By initiating these actions early, the

project managers will help avoid later project delays and assure a timely and satisfactory agreement (contract) as needed with the involved railroad.

Talk to the Region Railroad Coordinator (RRC). When a project has a railroad on/over/under/ adjacent to it, the project manager should first talk to the RRC. The Region Railroad Coordinator is the best source of information about what to do. It is necessary for the Railroads and Harbors Section (RHS) to negotiate all agreements with Railroads, including any local projects that have federal or state funding.

At least 24-36 months before the construction PS&E date, project staff should schedule a meeting at the project site with someone from RHS and the RRC. If a plan is available, bring it to the meeting – (if not, discussing what will be done would be okay). Signal and crossing options, along with funding will be discussed at the meeting.

At this meeting, attendees will decide what railroad coordination is necessary. If something is to be done with the railroad as part of the improvement project, a more detailed schedule of coordination with the railroad should be resolved.

The Railroad Project Submittal Package (See [FDM 17-20-10](#)) should be forwarded to the RRC and will be sent to RHS as a “Submittal package.” This enables RHS to negotiate a project- specific agreement with the railroad to do the required work (and for the railroad to be reimbursed). Lead times vary but usually the whole process starts a minimum of 24 months before PS&E date.

Some cases will require a hearing before the Office of the Commissioner of Railroads (OCR) which will increase needed lead times. This will be decided by RHS and additional information will be provided by the RRC to assist the project manager in preparing testimony for the OCR hearing. Holding a pre-hearing conference with RHS is sometimes needed.

The following summarizes the role of the project manager and others in the railroad coordination process when work is involved:

1. Meet with RHS (and perhaps the OCR), and later with the railroad, RRC, and others as needed, including a field meeting at the site if appropriate.
2. Assemble the project information and send to RHS (generally within a month of meeting with RHS)
3. Review the proposal letter that RHS writes and sends to the railroad that requests a cost estimate.
4. Railroad engineers react and send an estimate back to RHS. OCR involvement may be appropriate if agreement cannot be reached.
5. RHS agrees to estimate, writes a formal agreement (contract) and sends to Railroad
6. Railroad signs agreement and sends to RHS
7. Agreement sent to Governor to sign
8. Agreement sent back to region
9. Region Railroad Coordinator or project manager sends Start Notice to railroad.
10. Invite Railroad to pre-construction meeting to coordinate installation schedule

For grade crossings, if nothing is done with the crossing as part of the project, it is still necessary to fulfill WisDOT’s statutory requirement to notify the railroad of the impending project in accordance with Section 86.13 W.S. Details of the notification process and a sample letter can be found in [FDM 17-20-1](#).

Where there is uncertainty as to the railroad involvement in the project, please consult the Region Railroad Coordinator.

## **FDM 17-10-7 Role of Local Program Management Consultant**

*June 19, 2013*

### **7.1 Introduction**

The general railroad coordination responsibilities of the Management Consultant (MC), the Design Consultant (DC), and the Construction Consultant (CC) are discussed below. The MC is to ensure that the DC and the CC fulfill their responsibilities.

The MC function is similar to that of a DOT design project manager; however there is a distinction. The MC must ensure continuity of DC and CC consultant involvement with the Region Railroad Coordinator (RRC) for railroad coordination from pre-design through construction.

Except for information gathering, neither the MC nor the DC is to contact a railroad unless authorized by the Railroads and Harbors Section (RHS) of DTIM. The MC or DC is to contact the RRC regarding railroad

coordination matters and questions.

## 7.2 Pre-Design Contract Activities

The MC is to:

1. Review the project application and SMA to ensure that the cost of railroad force work is included in the project application, including provision for adequate warning devices at grade crossings. Contact the RRC for assistance with determining what RR work is necessary and estimating costs.
2. Discuss railroad impacts and initiate railroad coordination with the RRC for all projects, including Local Force Account (LFA) projects and projects with traffic control that are within 1000 feet in any direction of a railroad corridor, whether it is an active railroad line or not, including Rails To Trails corridors; and for detour routes that cross railroads;
3. Review railroad impacts from the Project Scoping Checklist with the RRC and discuss railroad coordination requirements;
4. Ensure the following information is transmitted to the RRC:
  - Project application or Concept Definition Report (CDR) with location map showing project
  - Completed project scope ([FDM 3-1-10](#))
5. Work with the RRC and RHS to determine whether railroad force work will be required or whether the statutory requirements of s. 86.13 apply. (If railroad force work will be required, the RRC arranges with the region FIIPS coordinator to set up a railroad force work project(s). If s. 86.13 applies, the RRC will draft the letter. Refer to [FDM 17-20-1](#)).

## 7.3 Design Contract Activities

During the design phase, the MC is to:

1. Ensure the DC has a copy of the project scoping checklist and discuss with the DC railroad coordination actions that have previously taken place;
2. Discuss with DC to ensure that project scheduling is accomplished in accordance with the FDM. [FDM 17-10-5](#) discusses the role of the project manager and [FDM 17-20-5](#) discusses scheduling of projects with a railroad component.
3. Ensure that the DC supplies the RRC all information needed for negotiation of railroad agreements, including a complete and accurate railroad project submittal package (RPSP) in accordance with [FDM 17-20-10](#) for grade crossings and [FDM 17-40-20](#) for grade separations. Ensure that the DC furnishes the RPSP to the RRC not less than the time frames shown in [FDM 17-20-5](#). (The RRC reviews the information, discusses with the DC as necessary and forwards to RHS for railroad coordination and preparation of a stipulation or agreement(s). RHS begins coordination with railroad for a stipulation or agreement(s).
4. Ensure that the DC obtains a list of railroad contact people from the RRC to place on the construction plan.
5. Ensure that the DC submits OCR hearing testimony to the RRC and RHS not less than two weeks prior to the hearing date. If requested by RHS, arrange for the DC to attend a pre-hearing conference arranged by the RRC. The MC will only attend pre-hearings or hearings on an "as needed basis" and only as requested by the RRC and approved by DOT.
6. Ensure that the DC contacts or meets with RHS and the RRC as needed when railroad force work is involved.
7. Ensure that the DC contacts the RRC for guidance in the preparation of special provisions related to railroad coordination, flagging and insurance. (The RRC puts the STSP together and gives to MC to forward to DC).
8. Review the draft PSE plans and special provisions to assure their completeness and forward a copy along with MC concurrence or comments to the RRC not less than 30 days prior to the PS&E date. (The RRC may review and comment on the plans and special provisions).
9. Review railroad related special provisions, including prosecution and progress requirements and "Railroad Insurance and Coordination" or "Railroad Requirements and Coordination" not less than 30 days prior to the PS&E date to ensure that they are correct and advise the RRC that they are satisfactory for advertising. (Prior to the advertising date, RHS advises the Proposal Management Section in the Bureau of Project Development whether needed railroad agreements have been

executed and property interests acquired and if not, whether railroad coordination has progressed to the point that the project can be advertised for letting. RHS provides the RRC a fully executed copy of the force work agreement(s), RRC provides the MC a copy of the executed force work agreement(s), RRC sends "86.13" letter to railroad).

#### 7.4 Post Design Activities

After the design phase has been completed, the MC is to ensure the RRC receives the following:

1. An electronic copy of the final construction plans, special provisions, and bidding documents, and the:
  - Letting date and anticipated construction start date
  - Name, address, and telephone number of the MC Area Construction Supervisor (ACS) who will monitor the CC
  - Name, address, and telephone number of the CC who will be responsible for construction engineering and management of the project.
2. A copy of the force work agreement transmittal message to the ACS and the CC (RRC sends a start notice to the railroad authorizing force work to begin and copies the MC)
3. A copy of the start notice transmittal message to the ACS and the CC

In addition, the MC ACS is to ensure that the CC:

1. Invites the railroad company public works representative and RRC to the pre-construction conference via letter or email
2. Coordinates railroad force work scheduling with the railroad and keeps the RRC informed
3. Does not allow the contractor to begin work on railroad right of way until the insurance requirements of standard specification 107.17.3(5) have been fulfilled
4. Complies with 2.58 of the Construction and Materials Manual and furnishes a copy of the field notes referred to in 2.58.3.5.5 to the RRC
5. Contacts the RRC early for guidance if disputes or problems arise during construction
6. Informs the RRC when the work has been completed and is ready for final inspection (RRC performs final inspection and reviews and approves bills when submitted by the railroad).

#### 10.1 Railroads and Harbors Section

The Railroads and Harbors Section (RHS) is the lead office responsible for making arrangements and agreements with railroad companies when state and federal funds are to be used. The following is a list of activities of the RHS related to roadway involvement with railroad property:

1. Formulate policies, standards, and project procedures in the areas of railroad adjustments, relocations, grade crossings, grade separations, warning systems and lateral encroachments.
2. Develop and maintain Chapter 17 of the Facilities Development Manual, and provide training in its use.
3. Administer approved policies, standards, procedures and guides.
4. Review existing and proposed legislation affecting highway-railroad improvement programs and prepare recommendations and fiscal notes for the Division Administrator. Report the results of existing programs and recommend changes in biennial budgets or legislation as appropriate.
5. Review region selections or recommendations for candidate projects for inclusion in highway rail program, and serve on the Highway Rail Projects Review Committee.
6. Develop and prepare agreements, obtain cost estimates and conveyances required for railroad crossings, lateral encroachments and for the rearrangement of railroad facilities.
7. Monitor the status of current project negotiations with railroads.
8. Offer comments and recommendations on proposed plans for railroad crossing improvements and rearrangements of railroad facilities.
9. Conduct field inspections of railroad crossings with representatives of the transportation regions,

railroad companies, FHWA, OCR, engineering consultants, local governmental officials, and other interested parties.

10. Review and comment on proposals and recommend change orders affecting railroad agreements.
11. Respond to public inquiries concerning rail-highway crossings (also a region function).
12. Represent WisDOT before hearings of the OCR on matters requiring approval and authorization of the OCR. The region may also be requested to provide testimony before the OCR on specific projects. See [FDM 17-10 Attachment 15.2](#).
13. Confer with the region on matters relating to crossing improvements, in identifying the use or involvement of railroad property, the need of lateral encroachments and similar matters affecting railroad lands.
14. Review and recommend action on documents prepared by the railroad or by the region, such as contract special provisions, appraisals of railroad right-of-way, conveyances of interests in land, project estimates, reports, construction plans, contested invoices and insurance policies that are not in compliance with general and accepted policies, procedures and regulations.
15. Coordinate the development of crossing project agreements with companion highway improvements (also a region function).
16. Maintain files on both WisDOT-sponsored projects and those ordered by the OCR which are financed with state or federal funds.
17. Assure that all railroad negotiations are completed and that all required permits, agreements, and conveyances are executed or arrangements completed prior to the award of an associated highway construction project.
18. Analyze and review, when requested, audit reports and findings for compliance with approved agreements, construction plans and special provisions. This activity includes investigating audit citations requiring administrative review, preparing reports on findings, and recommending payment or adjustment of the disputed claim for reimbursement.
19. Attend regional and national conferences on highway rail crossing safety and report information to appropriate WisDOT employees.

## **10.2 Transportation Regions**

The region staff are primarily responsible for:

1. The selection and recommendation of projects for highway programs.
2. The collection of project data and the preparation and development of plans, special provisions, and estimates for highway construction projects.
3. The review and approval of railroad liability insurance provided by contractors, the administration of construction contracts, including final inspection and acceptance of projects, preparation of contract change orders (after consultation with RHS), and the review and acceptance of project invoices.
4. Timely closing of projects.

The regions' activities relating to highway maintenance and improvement projects at railroad crossings and to highway encroachments on railroad rights of way include the following:

1. Collecting and recording railroad crossing data for developing the crossing report. Some of this information can be obtained from the railroad companies or from the FRA Grade Crossing Inventory.
2. Recommending specific projects for improvement programs including railroad grade crossings, rail-highway structures, railroad crossing warning devices and railroad crossing repairs on state trunk highways.
3. Developing highway plans, specifications and estimates for highway improvement projects affecting railroad facilities and property. This may include preparing railroad plans for the construction of detour tracks (shoo-fly) required to maintain train traffic at separation-of-grade structure projects.
4. Preparing and certifying PS & E's per [FDM 19-10-15](#) and providing various exhibits required in connection with an Agreement for Railroad Force Work.
5. Determining the need for the relocation or adjustments of railroad facilities required as a result of proposed highway projects.

6. Preparing highway right of way plats, showing highway land interests required from railroad companies and description of right of way parcels. Preparing appraisals for railroad parcels estimated to exceed \$5,000 in just compensation. For parcels valued at less than \$5,000, an estimate of fair market value of railroad lands is to be determined and furnished to the RHS. See [FDM 17-55-10](#).
7. Determining construction schedules including dates for starting and completing railroad work required for effective coordination with highway projects.
8. Coordinating railroad construction operations with highway contract work. Making field reviews and inspections of railroad work completed under Agreement with the WisDOT for compliance with the provisions of the Agreement, plans, specifications and cost estimate.
9. Analyzing railroad invoices for materials purchased, hours of labor and equipment usage for completed railroad force work as required by the Agreement, and recommending the amount for final or progress payments.
10. Reviewing and commenting on the engineering plans prepared by the railroad on all crossing projects in which the WisDOT has a financial interest whether with state or federal funds.
11. Maintaining liaison with the local railroad representatives to provide them with construction schedules of future highway improvements, to exchange information necessary for the preparation and development of highway plans, to coordinate construction of highway improvement and maintenance projects affecting railroad facilities and property, and to obtain railroad plans and proposals of railroad improvements, maintenance projects and track abandonments affecting highway facilities and property.
12. Certifying projects with railroad involvement in accordance with the RHS delegation directive ([FDM 19-5-10](#) and [FDM 19-10-15](#)).

### **10.3 Engineering Consultants**

Engineering consultants are often hired by state and local governments to prepare highway construction plans, special provisions and cost estimates. Such engineering contracts may require the consultant to correspond and discuss the project with railroad officials. The consultant may also be involved with the development of a right-of-way plat including acquisition of right of way parcels required from railroad companies.

When the WisDOT has a financial interest in such projects, the region, Railroads and Harbors Section, Bureau of Structures, and Bureau of Highway Real Estate should be apprised of the consultant activities for compliance with WisDOT and FHWA policies, procedures, rules and regulations. When an agreement is required with the railroad for work in which WisDOT has a financial interest, WisDOT shall be a party to such construction agreement. The RHS represents WisDOT interests at public hearings before the Office of the Commissioner of Railroads and will generally prepare and negotiate agreements with the railroad based upon information and recommendations furnished by the consultant or local governmental agency.

The specific extent and description of the consultant activities relating to railroads is to be included in the contract for engineering services. Generally the consultant performs the same activities as are performed by the transportation region in plan development including meeting with railroad officials and testifying at hearings before the OCR. When the activities with railroad companies are not fully defined in the contract, the consultant is to confer with the DRC for clarification.

### **10.4 Local Officials**

Local governments which have the capacity to prepare their own highway construction plans, special provisions and cost estimates in which a railroad facility is within the project limits may proceed to do so under the same restrictions and allowances described in the subheading Engineering Consultants.

### **10.5 Summary Note**

Only the Railroads and Harbors Section may negotiate railroad force work and cost-sharing arrangements on state and federal-aid projects. It is inappropriate for local governments, a transportation region or consultants to negotiate arrangements with a railroad company when state or federal funding is used to reimburse the railroad.

See [Attachment 10.1](#) for an overview of WisDOT offices typically involved in projects that include railroads within their termini.

## **LIST OF ATTACHMENTS**

[Attachment 10.1](#) Principal Offices Involved With Railroad-Highway Projects

### 15.1 Background

The WisDOT has authority under Section (S) 84.05 Wisconsin Statutes (W.S.) to proceed in making arrangements with railroad companies for additions to or changes in their facilities required for highway improvements. However, there are occasions when a highway crossing of a railroad requires an action by the Office of the Commissioner of Railroads (OCR). In highway-railroad conflicts involving crossing warning devices brought before the OCR, a hearing is generally required unless waived under provisions of S 195.28(1) W.S. Arrangements which cannot be made under S84.05 are brought before the OCR for hearing.

### 15.2 Office of the Commissioner of Railroads (OCR)

The RHS will represent the WisDOT at all hearings and meetings with the OCR for local road projects funded with state or federal dollars. A region representative is expected to attend also, as is a local government official. (See [FDM 17-1-10](#).)

At the request of the transportation region, RHS may be a participant or “coach” at an OCR function when only local funds are involved. It is normal for local government and its consultant to represent themselves on locally funded crossing issues on local roads.

Local governments should follow the law explained in Section 86.12 W.S. for rough crossing problems on local roads.

The OCR has broad discretionary powers. When a petition is filed, if it is to rule on an existing crossing (exemption, warning, etc.) it has the authority to include the subject of closure. Any order of the OCR is final and becomes an act of law that only the courts can overturn. If the petition is for establishment of a new crossing, the OCR may require a grade separation, or crossing warning devices, or at-grade crossing, or deny the petition. If the petition is for alteration of an existing crossing, the OCR may require widening, changing the manner of crossing, closure, the installation of crossing warning devices or deny the petition. Engineering and planning expertise presented at the OCR hearing has strong influence on OCR decisions.

### 15.3 WisDOT Role

The WisDOT role at OCR hearings for locally funded projects is determined by the region

There are five levels of involvement (or intensities of involvement) available to the WisDOT (See [Attachment 15.1](#)).

The appropriate level of involvement would usually be either 2, 3, or 4 above, with active RHS involvement required for 3, 4 or 5. Regions should typically handle level 2 and should later involve the RHS in brief preparation or review. Level 2 allows region planning staff to receive information on future rail traffic and highway traffic generating improvements that might affect a future state trunk highway project.

Section 195.04(1) W.S. allows the OCR to require the WisDOT to investigate a complaint. Contact the Office of General Counsel when this request is made.

### 15.4 OCR Hearings

The OCR has promulgated rules, procedures and practices which are included in the Administrative Code as (Chapter RR 1). These administrative rules have the force of law and include rules and procedures for public hearing on highway matters placed before the OCR.

[Attachment 15.1](#) of this procedure covers “Preparation for Hearing” and [Attachment 15.2](#) is example testimony for use at OCR hearings.

Conducting public hearings for railroad-highway crossing projects may be necessary under the provisions of Sections 195.28, 195.285 and 195.29, Wisconsin Statutes. These hearings are held by the OCR.

The RHS mission is to obtain acceptance and concurrence of proposed highway projects crossing railroad property under Section 84.05 before petitioning for a hearing by the OCR. When an agreement is obtained, a hearing is not necessary unless a new crossing is being established or an existing crossing is to receive exempt status. When acceptance of a project plan cannot be obtained from the railroad within reasonable time constraints or when there are unresolved differences, the matter is placed before the OCR for resolution and order. Hearings may be scheduled in Madison or in the area near the project location.

Projects for which a hearing may be required are:

- railroad-highway grade separation structures,
- new highway crossings at grade,

- exempt crossings, and
- highway locations where WisDOT and the railroad cannot agree on the design of a crossing or the apportionment of costs for the work proposed.

A RHS staff person will usually represent the WisDOT at such hearings when state or federal funds are to be used. The authority to represent the WisDOT before the OCR for routine and non-controversial crossing matters has been delegated to the RHS by the Secretary. A region person responsible for the project design may also be requested to attend and present testimony in support for a specific project. Local officials would appear and testify in support of a local road project. Arrangements for this local support should be made by the region and coordinated with the RHS, if state or federal funds are to be used.

For controversial or contested projects on the state trunk highway system, the assistance of an attorney may be advisable. The RHS will make such recommendation to the DTID Administrator, who, in turn, will determine the need and request such assistance from the Office of General Counsel. The RHS will assist the legal counsel on project matters and may provide direct testimony at the hearing as deemed necessary. Local government would decide when its corporate counsel is needed.

On crossing projects which have unresolved differences with the railroad, it is necessary to provide plans and testimony to fully support the highway project, not just any unresolved matters. The requirements and reasons for the project are to be clearly stated. This includes general highway and railroad information, method of crossing, clearances, who is to undertake the work, how the project is to be financed and responsibility for future maintenance. The signature page of the environmental impact statement, the screening work sheet, or the Design Study Report for the project are to be available and a copy may be submitted for the hearing record.

### **LIST OF ATTACHMENTS**

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|---------------------------------|--------------------------|
| <a href="#">Attachment 15.1</a> | Preparation for Hearings |
| <a href="#">Attachment 15.2</a> | Example Testimony        |

## **FDM 17-10-20 Railroads**

*June 19, 2013*

### **20.1 Personnel**

[Attachment 20.1](#) is a list of railroad companies operating in Wisconsin. A partial list of railroad officials with addresses and telephone numbers is maintained by the Railroads and Harbors Section and is available on request. This list is furnished to each Regional Rail Coordinator (RRC) periodically.

### **20.2 Maps**

The Division of Transportation Investment Management maintains a map showing the railroad companies and lines operating in Wisconsin. The map is titled Wisconsin Railroads and is published periodically and available from the Bureau of Planning.

### **20.3 Background**

The railroad company's primary business is the transportation of goods and passengers. Railroads are private companies subject to governmental regulations and as such, have an obligation to the public for certain improvements and maintenance of rail-highway crossings. The railroads are also responsible for promoting safety of railroad operations.

Due to the expansion and extension of the street and highway systems, there are continuing negotiations required with the railroads to obtain their acceptance and assistance in changing their railroad tracks and other facilities and for placing new and expanded highway facilities on and across railroad rights of way.

### **20.4 Work Arrangements**

It is WisDOT's expectation that railroads will promptly provide;

- Comments on preliminary and final highway plans.
- Plans and estimates for railroad force work.
- Review and approval of force work agreements and right-of-way conveyances.
- Coordination of work schedules.
- Prompt submittal of invoices for completed work.

These expectations are best realized when the railroads are provided adequate lead time, clear communications and complete highway plans. Surprise projects and special requests can be avoided by advising the railroad of



the public's current and long-range improvement programs which affect railroad facilities.

Changes in railroad facilities required for a highway project are generally performed with railroad forces at their actual costs and without profit. Work required of the railroad, for which railroad forces are not properly equipped or available, may be let to private contractors by either the railroad or the WisDOT, or may be accomplished by a Continuing Contractor for the railroad if approved by the WisDOT. Examples of this include:

- grading work for track construction
- furnishing and placing subbase material
- furnishing and placing ballast, railroad track construction
- installation, relocation, and upgrade of crossing warning devices.

## 20.5 Maintenance

Railroad maintenance responsibilities at rail-highway crossings include the following:

### 1. Grade Crossings.

Railroads are to maintain highway grade crossings of their track within the crossing area inside lines located 4 feet outside of the outside rails. Crossing material is to cover shoulders and sidewalks. Reimbursement for crossing work may be arranged under qualifying conditions. These are explained in Section 17-30. Railroads are also to clear trees and brush from their right of way at rail-highway crossings to provide motorists with an unobstructed view of approaching trains for a distance of not less than 330 feet from the center of the crossing. (Section 195.29(6)).

### 2. Railroad Crossing Warning Devices. (Also see [FDM 17-25](#)).

Railroads are to maintain cross bucks and the train-activated warning devices that have been installed at rail-highway crossings.

Reimbursement for maintenance of the train activated warning devices may be authorized for up to 50 percent of a railroad's costs. These regulations and procedures are administered by the Office of the Commissioner of Railroads and are explained further in [FDM 17-25-15](#).

### 3. Advance Warning Signs (Also see [FDM 17-60-15](#))

Advance railroad crossing warning signs are to be furnished by the railroads, at railroad expense, to counties for town and county road railroad crossings as required for their needs. The advance warning signs are to be installed by the respective town or county highway authority at its expense.

Advance warning signs required for village, city and state highways and streets are to be furnished, installed and maintained by the respective highway authority as required by order of the Commissioner of Railroads, or as required in Chapter VIII of the MUTCD and the Wisconsin Supplement.

### 4. Grade Separation Structures (Also see [FDM 17-40](#)).

The maintenance of highway rail grade separation structures is included as a provision of the stipulation between the highway authority and the railroad if one is negotiated and approved. The maintenance requirements are also included in the Findings of Fact and Order of the Office of the Commissioner of Railroads for a specific structure when OCR involvement is requested under either Sections 84.05 or 195.29 Wisconsin Statutes. At the present and for the past 20-30 years, railroads have been assigned the responsibility for the routine maintenance for the preservation of structures carrying trains over highways and the public highway authorities have the same responsibility for grade separation structures carrying highway traffic over railroads. Responsibility for the replacement of structures is left for future determination.

Older stipulations and orders issued by the former Railroad Commission, the Office of the Commissioner of Transportation (OCT) or the Public Service Commission may have required the railroads to maintain all grade separation structures except for the roadway surface. Courts have held, however, that in many of these cases, the railroads are not expected to be responsible for replacement of grade separation structures necessitated by the ravages of nature and the deteriorating effects of winter highway maintenance.

### 5. Track Raises (See [FDM 17-60-5](#))

Where a railroad raises its track, it may be required to run off the grade change. [FDM 17-60 Attachment 5.1](#) and [FDM 17-60 Attachment 5.2](#), require a flat roadway surface within 2.5 feet of the rails, and only a 3 -inch change from the plane of the rails within 30 feet of the track.

**LIST OF ATTACHMENTS**[Attachment 20.1](#) Legal Names of Railroad Companies Operating In Wisconsin**FDM 17-10-25 Federal Agencies**

May 2, 2003

**25.1 FHWA (Federal Highway Administration)**

The FHWA's goal for roadway/railway crossings is to reduce the number and severity of crashes at crossings. To accomplish this, FHWA focuses on policy development and technical assistance. The FHWA administers all federal-aid funds for highways, various portions of which are available for improvements at railroad crossings. These improvements include warning devices, hazard elimination, the replacement of existing deteriorated structures, as well as the construction of needed new structures.

**25.2 FRA (Federal Railroad Administration)**

FRA is a branch of USDOT and is the lead federal agency concerned with rail safety, which is its primary mission. To accomplish this, FRA issues and enforces railroad safety regulations, sponsors research in many areas including grade crossing technologies, and works to educate the public on the dangers at railroad crossings. The FRA also assists the NTSB in investigating major train crashes.

**25.3 STB (Surface Transportation Board)**

The STB is responsible for the economic regulation of interstate surface transportation, primarily railroads, within the United States. The STB's primary goal is to ensure that competitive, efficient, safe transportation services are provided to meet the needs of shippers, receivers and customers. To accomplish this, the STB is the sole authority for resolving railroad construction and abandonment applications, and is responsible for the processes, timelines, and criteria that guide railroad construction and abandonment issues.

**25.4 NTSB (National Transportation Safety Board)**

The NTSB investigates major crashes in all modes of transportation, including railroads. It also conducts special investigations and safety studies, and issues safety recommendations to prevent future crashes. The NTSB publishes reports on major railroad collisions, derailments, and crossing crashes.

**FDM 17-10-30 Local Government**

February 10, 2006

**30.1 Introduction**

Highway rail crossing improvements on streets and highways off the state trunk highway system are generally eligible for expenditures of Federal-aid Safety funds. The adjustment or changes in railroad facilities required by the highway construction may also be eligible for participating Federal-aid Highway improvement funds. In the case of railroad crossing signals, state funds for railroad crossing warning devices may be used if the signals are ordered by the Office of the Commissioner of Railroads (OCR) and included in the OCR's program.

The 23 CFR Code of Federal Regulations Part 646 requires that the construction plans as well as all pre-contract activities conform to federal policies and procedures. The WisDOT, as the administrator of all federal-aid highway funds is an interested party in all such projects and responsible for local compliance with these federal regulations.

**30.2 Negotiations and Agreements**

Negotiations with the railroads are often complicated and especially difficult for the person only occasionally involved. For this reason, local agencies and their engineering consultants are to discuss their proposed railroad construction requirements with the region. The WisDOT shall be a party to all agreements<sup>1</sup>, OCR hearings and contract arrangements for work to be performed by a railroad which is to be funded with federal-aid or state highway funds. When state or federal funds are involved, the RHS will attend OCR hearings, draft the agreements and negotiate for the project acceptance and approval by the railroad. The conditions and provisions for the agreement are made in cooperation with the region and local agency involved. For projects funded entirely with local funds, the WisDOT would not be involved unless the local highway authority requests assistance. If local government deviates from this procedure, federal or state aid could be jeopardized.

In the administration of Federal-aid highway safety funds, it is the WisDOT policy to maintain liaison with local highway officials and to consider their project requests, recommendations and comments to help identify

<sup>1</sup> **EXCEPTION** – A current Administration directive allows that if the OCR rules that a highway overhead structure is to be repaired (rather than replaced), and the cost to the railroad for the repair would exceed 15% of the cost to replace the structure, the railroad and local government may develop a side agreement for cost sharing to replace the structure.

highway rail crossing hazards and potential problem crossings for improvement programs.

### **30.3 Local Costs**

Funding local projects through WisDOT will usually require some local funds for preliminary engineering, right of way and construction. The amount of local funds will depend on the type of state or federal funds used to finance the project. Federal-aid Safety funds finance 90 percent of the costs for such projects with matching funds provided by the local community or the railroad.

There is an exception to the 10% matching requirement for the installation of railroad crossing signals when the signals are ordered by the OCR. In such cases, the 10 percent match is provided by the Office of the Commissioner of Railroads from a state appropriation for that purpose.

In order to recover WisDOT costs for engineering, construction or other items for a local project, an agreement between the WisDOT and the community is required. That Municipal Agreement is negotiated by the region and must be signed prior to RHS securing the needed railroad agreement.