



## FDM 17-20-1 General

August 25, 2010

### 1.1 Early Notification

Provide the railroad notice of highway construction activities, the notification provides the opportunity for the railroad to inform the Region of any plans they may have regarding track rehabilitation that might affect highway construction. This notification helps avoid the situation where a construction project is completed and the railroad enters the crossing shortly thereafter to make improvements or repairs. By providing a chance for the railroad to perform its crossing work in concert with the highway work, a second closure of the roadway can be avoided, and the road can be paved after crossing work is complete to provide a smooth transition across the track.

### 1.2 The 86:13 Letter/Notification

[Attachment 1.1](#) describes the process to be followed when a highway improvement project anticipates no work involving railroad facilities.

If a highway authority anticipates no work at an at-grade crossing, the RRC or project manager is still required to notify the railroad of the highway project. This notification is required by s86.13 W.S. (often referred to as the "86.13 letter"). When it is determined that no railroad crossing work will be done as part of the project, the RRC must send an 86.13 letter at least 12 months before the start of project construction. Provide the following information in this letter.

- A description of the work to take place near the grade crossing,
- The time period the work will be performed,
- A request for the railroad company's plans for any anticipated track or crossing work, and
- A request for the railroad to arrange to complete any company planned railroad work in concert with the highway improvement project.

[Attachment 1.2](#) is a sample 86.13 letter.

If a highway is being reconstructed, the railroads have an obligation to improve and/or repair crossings. The 86:13 letter should be specific in identifying the crossing location, including the crossing number and the proposed highway work. If it later appears that there may be minor work, that could be accomplished by the WisDOT highway contractor – work that could be covered by a "letter agreement" (see [FDM 17-20-15](#)) then the notification letter should mention this.

See the Railroads and Harbors Section (RHS) Railroad Coordination Handbook for more detailed information.

### **LIST OF ATTACHMENTS**

[Attachment 1.1](#)

Process that is followed for a Highway Improvement Project with a Railroad Crossing but No Railroad Work is Anticipated

[Attachment 1.2](#)

Sample 86.13 Letter

## FDM 17-20-5 Project Scheduling

August 25, 2010

### 5.1 Introduction

There are two major project scheduling reports that are used for railroad-highway projects. These are the MASTER CONTRACT SCHEDULE which is a portion of FIIPS under the direction of the Bureau of State Highway Programs and the RAILROAD NEGOTIATIONS STATUS REPORT under the direction of RHS. The purpose of these schedules is to keep others informed of the target dates when future designated events are expected to occur or the dates that events have been accomplished. The region and RHS are primarily responsible for first setting a reasonable schedule based on project costs and available dollars, and for meeting those established dates. However, the railroads, DTSD Division Administrator, and others may cause a change or otherwise influence project schedules and time requirements.

## 5.2 The Master Contract Schedule

The Master Contract Schedule is extracted from FIIPS. It is made up of the cost and time-line data in FIIPS. The BSHP has the basic responsibility for monitoring the Master Contract Schedule. [Attachment 5.1](#) provides guidance for lead times. While these lead times are generally “worst case” situations they should be used for all projects and exceeded if possible to avoid later delays or project complications.

## 5.3 The Railroad Status Report

The Railroad Status Report is integrated with FIIPS for 3 Data Items – Letting Date, Contract amount, and fund type and is a product of the RHS. It includes all projects that have a railroad involvement or element, regardless of program origin. It is an after-the-fact record of actions completed and thus constitutes a summary of the status of all railroad projects and railroad negotiations. It requires that WisDOT offices, bureaus, and regions report events to the RHS as they occur. It is updated continually, is available to users continually, with all updates passing through the RHS. It is available in several formats to serve the needs of a variety of users. See [FDM 17-5-1](#) for more information.

## 5.4 Scheduling Criteria

The correctness of the initial scheduling of railroad projects is an essential element in implementing the improvement program. This has a direct influence on the credibility of the WisDOT efforts with the railroad companies as well as the management of various other WisDOT resources. [Attachment 5.1](#) contains information on average lead times required for scheduling various projects.

The elements in scheduling projects include:

1. The type of project construction concept and the estimated cost
2. Financing and origin of funds (State, Federal or local; Safety or Improvement.)
3. Time requirements for required activities and setting of completion dates
4. Monitoring the above three elements for any significant changes

In all cases the lead time of railroad negotiations will depend on the following:

1. The timelines of initiating negotiations. Often the responsibility of the project manager
2. The degree of railroad support or objection to the project.
3. The Office of the Commissioner of Railroads hearing requirements and timeline for the OCR Order.
4. Type and amount of railroad force work required.
5. The amount of railroad participation in the project costs.
6. The right of way requirements and their complexity and impact on the railroad operations.
7. Whether the project is isolated or a part of a larger highway improvement project.

Railroad facilities that conflict with the proposed highway construction should be relocated to the extent possible as part of the right of way clearance.

Railroad force work required in conjunction with other highway improvement construction should be coordinated to include the open-to-traffic date. The type of funds applied to improvements and fiscal year constraints are also important considerations.

## LIST OF ATTACHMENTS

[Attachment 5.1](#) Estimated Minimum Lead Times for Railroad Projects

## **FDM 17-20-10 The Agreement**

*August 25, 2010*

### 10.1 Introduction

The agreement (contract) between the state and the railroad covers a specific railroad project and describes the work to be accomplished. It also includes the essential terms and conditions for accomplishing the work. Samples of letter agreements are included in [FDM 17-20-15](#). Other sample agreements are included in most of the procedures in Sections 25, 30, and 40 which follow.

### 10.2 Overview

The agreement process is accomplished as a part of preliminary engineering. The basic steps in the agreement

process are as follows:

1. Region identifies there is a railroad in the vicinity of the project.
2. Region sends a letter notifying the railroad of the scope of the project.
3. Region works with RHS to develop rough cost estimates for scheduling purposes.
4. Region puts together the project submittal packages and sends to RHS. (Plan sheets & RR X-ing Report).
5. RHS drafts proposal/estimate request or petitions the OCR depending on the circumstances.
6. OCR hearing held if appropriate and issues an Order.
7. Railroad performs preliminary (design) engineering, generates an estimate and sends to RHS.
8. RHS prepares agreement.
9. Agreement sent to railroad for approval.
10. May need further RR negotiations or amended agreement based on RR comments.
11. Railroad approves agreement.
12. Agreement to BFS --- Secretary --- Governor.
13. Agreement executed by BFS.
14. Copy of executed agreement sent to the railroad and to the RRC.
15. RRC issues written start notice to railroad and copies RHS. If there was an OCR Order then also send a copy to the OCR.
16. Construction project manager arranges with railroad to attend pre-construction meeting.
17. Railroad notifies RRC of intent to start.
18. Construction by RR and inspection by region.
19. Railroad notifies RRC of the completion date.
20. Region does field inspection for acceptance.

### **10.3 Railroad Project Submittal Package**

To start the agreement process, the region or consultant project manager sends the RHS the following railroad project submittal package:

1. Form [DT1589](#), the Railroad Crossing Report
2. Project title sheet
3. Typical section sheet
4. Plan and profile sheet
5. Drainage plan
6. Right-of-way plat as needed
7. Easement description if required.
8. Adjacent land values that Region Real Estate recommends.

### **10.4 OCR Petition**

On all projects involving alterations, and on most projects involving signal work, it is necessary to petition the OCR and to obtain an OCR order for the proposed work. The RHS typically petitions the OCR by letter, based on project information furnished by the region. For details of OCR procedures, see [FDM 17-10-15](#).

### **10.5 The Proposal Letter**

The RHS drafts a project proposal letter to the railroad with a copy to the RR Division Office. The proposal sets forth the concept of the highway improvement, what work is required, a general statement on the proposed apportionment of costs and a request for a cost estimate from the railroad. The proposal letter may also authorize engineering by the railroad for any required railroad design work. For signal projects additional details are provided in [FDM 17-25-10](#).

## 10.6 The Agreement

If RHS finds the cost estimate submitted by the railroad to be acceptable, RHS prepares an Agreement. Two originals and one copy are sent to the railroad (three originals and one copy if it's a 3 Party Agreement.) If acceptable, the railroad executes and returns the originals to the RHS

If extensive negotiations fail to produce concurrence by the railroad with the proposal or the proposed Agreement, the matter will be brought before the OCR by petition (letter). The OCR will schedule and hold a public hearing under Sections 195.28, 195.285 and 195.29, W.S., investigate the matter, and issue an order binding upon all parties. The order sets forth the terms of construction and will apportion the costs on the basis of benefits received. For details on the activities in preparation for a hearing before OCR, see [FDM 17-10-15](#).

The Agreement is developed by RHS on the basis of the railroad cost estimate, final railroad work plans and final roadway plans. If there is shared responsibility for the required crossing work, an equitable percentage of the total project costs for the work by the railroad may be agreed upon for purposes of contract administration. If the Agreement is acceptable to the railroad, the contract development process prescribed in TAM 005-1 is followed to conclusion. Materials procurement is usually authorized by the RHS letter at the time the Agreement is prepared and sent to the railroad for signature. Responsibility for contract administration is primarily with the region staff following approval of the Agreement.

## 10.7 Contents of the Agreement

The Agreement states the essential terms and conditions between the parties. These include the following:

1. Regulatory provisions of the federal government. (federal-aid projects).
2. A detailed statement of the work to be done by each party.
3. The extent to which the railroad is obligated to move or adjust its facilities at its own expense.
4. The railroad's share of project costs.
5. The method of payment (lump sum or force account).
6. An itemized estimate of the work to be done by the railroad which details the material to be installed and salvage to be credited.
7. The method of performing the work, either with railroad forces or by private contractor.
8. Responsibility for maintenance.
9. Required insurance
10. Applicable plans and special provisions.
11. Requirement for third-party insurance
12. Traffic control measures and railroad crossing warning devices as required.
13. Provisions for inspection of recovered materials by reference to 23 CFR 140.908 (2).
14. Necessary coordination with highway contractor's work.
15. Description of highway appurtenances to be constructed or installed on or removed from railroad property.
16. Provisions for contractor use of railroad flag person when required other than as provided in the Standard Specifications for Highway and Structure Construction.

The region should be aware of the above items in the agreement when reviewing the work progress and final bill from the railroad.

## 10.8 Distribution of the Agreement

RHS forwards the agreement to BFS with the contract routing sheet for a comparison to the program authorizing the project and to see that scope and cost are consistent with earlier discussions. BFS forwards for final project approvals, Administrator's signature, and the Governor's signature if the agreement amount is \$5,000 or more.

Following the return of the approved agreement to RHS, RHS then distributes the agreement as follows:

1. The railroad original is sent to the railroad.
2. The WisDOT original is forwarded to Central Office Files.
3. One copy goes to the region plus an original for any third party to the agreement.

4. One copy is retained by RHS.

### **FDM 17-20-15 Letter Agreements**

August 25, 2010

An exchange of letters and preferably a single letter is often used to document agreement on minor or routine item of work. Examples are provided in this procedure's attachments.

The inclusion of any railroad force work requires an estimate of cost. The amount, if reasonable and representative of the actual costs, can be paid upon completion of the work as a lump sum.

The sample letter agreements included here cover a variety of situations:

- [Attachment 15.1](#) covers the relocation of railroad facilities, with a lump sum reimbursement.
- [Attachment 15.2](#) seeks railroad approval for the attachment of beam guard to the piers of a railroad structure.
- [Attachment 15.3](#) seeks railroad approval for a WisDOT contractor extending the highway surface material back to new curb and gutter.
- [Attachment 15.4](#) covers the WisDOT replacing surfacing in the track zone and for sidewalks, in exchange for the railroad providing flagging protection.
- [Attachment 15.5](#) covers WisDOT's proposal to remove and restore a little-used track crossing the highway improvement.

In all cases the letter should fully describe the project location including the crossing number if a crossing is involved;

- what is required;
- when the work is to be accomplished
- why the work is necessary
- who will participate in cost sharing.

If the work is performed by the railroad, the agreement is to include the cost and how it is to be paid. This letter is signed by the Chief, Railroads and Harbors Section, with a place for the railroad to indicate their acceptance.

### **LIST OF ATTACHMENTS**

<a href="#">Attachment 15.1</a>	Sample Of Letter Agreement With Railroad (Lump Sum)
<a href="#">Attachment 15.2</a>	Sample Of Letter Agreement With Railroad (Design Approval)
<a href="#">Attachment 15.3</a>	Sample Of Letter Seeking Railroad Approval of Contractor Work
<a href="#">Attachment 15.4</a>	Sample Of Letter Proposing WisDOT Work in Track Zone in Exchange for Railroad Providing Flagging Protection
<a href="#">Attachment 15.5</a>	Sample Of Letter Proposing WisDOT Remove and Restore a Little-Used Track Crossing

### **FDM 17-20-20 Detours and Haul Roads**

August 25, 2010

#### **20.1 General**

There are two situations addressed here:

- detours at isolated railroad crossing safety projects to permit crossing construction
- detours or haul roads on highway improvement projects that involve crossings off the project site, and the responsibility for damage to these crossings.

#### **20.2 Detour Options**

There are three options for getting detour work accomplished. The following is a summary of advantages for each:

1. Region arranges and funds with region funds:
  - No paperwork to document and bill the railroad
  - No hassle about quantities and costs with the railroad
  - Complete quality control on material/workmanship/adequacy

If this option is selected, the costs can be handled in one of the following three ways;

- Routine region maintenance and traffic funds
  - Part of a roadway improvement project in the vicinity
  - A specially set up improvement project for this purpose (could include several locations).
2. Region arranges and bills the railroad
    - Leaves a larger balance in budget for other DOT work
    - Provides some degree of accountability on the railroad
  3. Railroad arranges and bills the project
    - No initial work by DOT. DOT would however review and approve any detour or traffic control plan.
    - No coordination by DOT

There are disadvantages and risks if option 3 is selected:

- Railroad will do the bare minimum.
- Railroad will get by as cheaply as possible.

Each project needs to be evaluated on the individual circumstances. When the project plans are submitted, it should include any paving/detour costs that are to be charged to the railroad as a part of the project. It is necessary to inform the railroad before the fact. The proposal is drafted specifying how this will be funded and the estimated cost to the railroad.

### **20.3 Isolated Crossings on Safety Projects**

The implementation of the detour in the field must follow MUTCD (see Section 6C.09 and figures 6H-8, 6H-9, 6H-19 and 6H-20) and FDM requirements. See [SDD 15-C2](#) as far as signing (size, height, visibility frequency, etc.) is concerned.

Most often the detours for an isolated safety project will use Option 1, with either the region or the local unit handling the cost with routine maintenance or traffic funds. Contact the region traffic staff to ensure that resources are available to accomplish the detour work.

Safety projects at railroad crossings are typically isolated (not associated with roadway construction projects) and often will require roadway detours during construction. Most region traffic sections have established a process for implementing detours on the STH system and the project manager or RRC should work through them. If the project or detour is on a local road, contact the local roadway authority and obtain their concurrence.

Lead times for establishing detours vary, so make initial contact and at least begin discussions well in advance, well before it is possible to identify specific dates for detour beginning and ending. This will help identify conflicting work or local events that might limit detour options and thus help in early coordination.

Regions and many local units will have a detour application form that initiates the process. Included are many detailed conditions that must be met. The application may ask for a proposed detour, tentative dates and duration, and any anticipated problems, etc. The detour schedule needs to be finalized 3 to 4 weeks prior to construction in order to implement the detour.

An important aspect of detour preparation is notifying those agencies and individuals likely to be affected, as well as the media. A summary memo should be drafted, listing the detour particulars, as well as a list of "who is to contact whom." From this memo a more generalized press release can be drafted for wider distribution. Again the region traffic section can be an excellent resource.

The detour will typically be established in the field one day ahead of actual work to permit the final inspection and acceptance of all details of detour adequacy.

### **20.4 Highway Improvement Projects**

The issue here is responsibility for damage to crossings off the project site that are used for haul roads or detours. If a STH highway is involved, there should be reference to this item in the bidding documents.

Occasionally a railroad crossing exists within the limits of a haul road or a detour route for a highway improvement project on local street or highway. Since Section 86.12 of the Wisconsin Statutes requires a railroad company to maintain local road crossings at its own expense, the same philosophy is employed as is used for repair of Connecting Highway crossings which are within the limits of a highway improvement project funded with state money. Repairs to crossings on local roads being used as haul roads or detour routes for local street or highway improvement projects are not eligible for reimbursement.

#### **20.4.1 Haul Roads**

The use of the haul road for construction equipment and trucks causes damage beyond “normal use” damage. Reimbursement to a railroad company for repair of a haul road crossing using project improvement dollars may be possible under the following situations:

1. Federal highway funds are being used on the improvement project requiring the haul road.
2. There is a bid item in the contract for “Maintenance and Repair of Haul Road.”
3. The haul road log includes “before” and “after” analysis of the condition of the crossing.
4. The Project Engineer certifies that damage to the crossing was a result of the road being used as a haul road.
5. The region notifies the RHS to begin railroad coordination.

#### **20.4.2 Detour Routes**

A marginally satisfactory crossing may be sufficient for light-vehicle use and low traffic volumes, but is not solid enough for high volumes of traffic which includes heavy trucks and busses. Reimbursement to a railroad company for repair of a detour route crossing using project improvement dollars may be possible under the following situations:

1. Federal highway funds are being used on the improvement project requiring the detour route.
2. There is a bid item in the contract for “Maintenance and Repair of Detour Route.”
3. Project funds are available early enough to complete the crossing work prior to the detour initiation.
4. The region notifies the RHS to begin negotiations.