



FDM 17-50-1 General

November 16, 2004

1.1 Introduction

Contract administration is a region function; and duties and responsibilities within each region may vary.

The region has the responsibility of prosecuting railroad contracts to completion, inspecting the work for compliance with the plans and special provisions, preparing the contract completion certificate (when needed), and obtaining and submitting final invoices. The region also has the responsibility of monitoring the timeliness of final bills.

Regardless of how these activities are handled, the Region Railroad Coordinator (RRC) should be considered a resource with general familiarity with railroad construction. The RRC is also likely to be familiar with the history and concepts of most railroad related projects in the region and is the link to the Railroad and Harbors Section (RHS) for additional technical expertise or assistance as may be required.

Refer to [CMM 2-10.7](#) (Railroad Agreements) for guidance on railroad agreement administration.

1.2 Cost Principles

The Department uses federal cost principles published in 23 CFR Subpart 1 for all contracts with railroads regardless of funding source. The Department has not elected to reimburse railroads for overhead and indirect construction costs under 23 CFR 140.907.

FDM 17-50-5 Railroad Protective Liability Insurance

February 15, 2023

5.1 Background

23 CFR 646 Subpart A - Railroad-Highway Insurance Protection requires that the contractor purchase Railroad Protective Liability Insurance (RRPL) on behalf of the railroad when the project is located in whole or in part within railroad right of way. The standard specifications state the coverage to be provided; however, where deemed necessary, increased insurance limits or additional coverage may be provided on a project specific basis after consultation with the Railroad and Harbors Section Supervisor of Railroad Engineering and Safety (608) 267-7349. Factors to consider in deciding whether to approve increased insurance limits include the type of construction to take place near railroad tracks, volume and speed of trains, nature of railroad operations such as switching or yard movements and potential consequences of an event. STSP 107-026 or STSP 107-034 are needed to ensure that the contractor furnishes RRPL. Refer also to [FDM 19-15-35](#) and the designer notes of these special provisions for additional information.

RRPL is also required when the project work is within 50-feet of any railroad property or affects any railroad bridge or trestle, tracks, roadbed, tunnel, underpass or crossing.

5.2 When to Provide Insurance

Train operations are not a consideration in determining whether to provide RRPL. RRPL is required because contractors' general liability insurance policies normally have an exclusion for work on railroad right of way or work within 50 feet of railroad property.

Some examples of highway construction activity that would require the contractor to obtain RRPL include:

- Milling, removing or paving any roadway surface or otherwise disturbing the existing roadway surface or ground within 25 feet of the center line of an operating railroad track,
- Grading partly or wholly on railroad property,
- Constructing new public highway at-grade crossings,
- Constructing a highway-railroad overpass or underpass structure,
- Bridge deck replacements or full depth deck repair on highway overpasses,
- Extending or constructing surface or underground drains or sewers on railroad right of way,
- Constructing curb and gutter, sidewalks or pull boxes within 25 feet of the track centerline,
- Construction of a haul road across a railroad track.

- Long line pavement markings within 50 feet of railroad right of way.
- Railroad crossing special marking within 50 feet of railroad right of way.

RRPL is required when a county acts as a contractor on Local Force Account (LFA) contracts if the work is funded in part with federal funds. If the LFA work is funded with 100% state or local funds, RRPL may be omitted if deemed appropriate by the RHS section supervisor.

5.3 Leased Lines

Train operations on some railroad lines are conducted under a lease arrangement with the owner of the line. In such situations, the insurance must provide coverage for both the operating company and the owning company. The coverage may be provided by naming the lessor (owner) as an additional insured under the lessee’s (operator’s) policy, or by providing separate policies for each company. Since naming both companies on one policy dilutes the available limits to each, judgment should be used in deciding whether to name both companies on the same policy, increase the limits or provide separate policies for each company. The level of risk and the amount of potential exposure to claims should be considered in making this decision.

Lease arrangements are known to exist as follows:

| Line | Operator | Owner |
|-------------------|--------------------|-------|
| Norma – Cameron | Wisconsin Northern | UP |
| Cameron-Rice Lake | Wisconsin Northern | WCL |
| Cameron – Barron | Wisconsin Northern | WCL |

The state or DOT does not need to be insured under a RRPL policy where a highway contractor is doing work over a line the state leases to an operator such as WSOR or Wisconsin Great Northern.

5.4 Operating Rights

Some railroads have the right to operate on another railroad’s lines along with the owning company. In such situations, the RRPL insurance only needs to name the owner of the line. RRPL language includes provisions that also extend coverage to companies that operate on another railroad under a trackage rights agreement.

Examples are:

| Line | Operator | Owner |
|--------------------------|----------|----------|
| Chicago – LaCrosse | AMTRAK | Soo Line |
| Tunnel City – La Crosse | UP | Soo Line |
| New Lisbon – Weston | Soo Line | WCL |
| Necedah – Junction City | UP | WCL |
| Junction City – Superior | UP | WCL |
| Twin Cities – Superior | Soo Line | BNSF |
| Green Bay - Cormier | E&LS | WCL |
| I-90 – Beloit | UP | IC&E |

5.5 Special Provisions

See [FDM 19-15-35](#) for more information on railroad special provisions 107-026 and 107-034.