



Kansas LTAP Fact Sheet

A Service of The University of Kansas Transportation Center for Road & Bridge Agencies

Railroad Crossing Maintenance: Who's Responsible for What?

By Matthew Barnett and Norm Bowers

Local governments maintain roads, railroad companies maintain railbeds, but who maintains the crossings in the railroad's right-of-way? The railroad and local government agency usually each have some responsibility for that. It depends on what type of maintenance needs to be done and any agreement your agency has made with the railroad. This article contains information you need to know to avoid safety and liability problems for your city, county or township.

Types of maintenance and who is responsible

Paving/surfacing. When rails cross a local road in Kansas, the railroad is responsible for surfacing the roadway within 24 inches of the outside rail, according to Kansas Statute K.S.A. 66-227. If the railroad crosses a paved road, the railroad must pave their portion of the crossing as well.

The law is silent, however, on who is responsible for the approach-road surface from the railroad right of way (ROW) line to 2 ft from the rail. Railroads have generally taken the position that the surface of the road is the responsibility of the local agency that maintains the road. By tradition, local road authorities usually do maintain the roadway surface approaching the tracks even though the road is located on railroad right-of-way.

Drainage. K.S.A. 66-227 states that the railroad is responsible for grading, bridges, ditches and culverts within their ROW that may be necessary to make a safe crossing.

Vegetation management. Mitch Sothers, coordinating engineer with KDOT's Bureau of Design, says sight obstructions within the railroad's ROW are the railroad's responsibility. For example, if vegetation in the railroad ROW is blocking a crossbuck sign, the railroad would be responsible for controlling that vegetation.

Clearing debris and snow. If something falls on the roadway at the rail crossing, Sothers said there is a mutual responsibility to clear the tracks while taking care not to foul or damage the track. "Think about snow removal," he said.



New Federal Rule: Regulatory Sign on the Crossbuck

The 2009 MUTCD has a new rule that requires a YIELD or STOP sign to be added to the crossbuck on all public crossings without active warning signals. The MUTCD established a target compliance date of December 31, 2019 or when adjustments are made to the individual grade crossing and/or corridor, whichever occurs first, for implementing the new rule.

The YIELD sign is the default sign. A STOP sign should only be used where an engineering study indicates it is warranted based on such conditions as poor site distance, approach roadway grades and speed of the trains.

The MUTCD does not state whether the railroad or public agency is responsible for installation and maintenance of the YIELD or STOP sign on a crossbuck. Norm Bowers, Local Road Engineer with the Kansas Association of Counties (KAC), says that most counties consider these signs as part of the crossbuck assembly and believes it is the railroad's responsibility to install and maintain these YIELD or STOP signs.

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“The road authority doesn’t just clear the snow up to the railroad right-of-way.”

Signing and signals. State law (K.S.A. 66-2,121) and the federal MUTCD (*Manual on Uniform Traffic Control Devices*) require the railroad to install and maintain, at minimum, a crossbuck. Active warning signals are also property of the railroad and are maintained by the railroad.

A new federal regulation requires a YIELD or STOP sign to be installed onto a crossbuck. See the sidebar on page 1.

At active signals, most railroads have an emergency notification sign, which is their responsibility to install and maintain. The sign has the emergency phone number as well as the crossing number. This emergency number can be used when the signals are malfunctioning or there is some other type of emergency.

Advance pavement markings and signing are almost always the responsibility of the local road agency. Usually the signing consists of an railroad advance warning sign (W10 series), and pavement markings on paved roads. When a YIELD or STOP sign is installed on the crossbuck, a YIELD AHEAD or STOP AHEAD sign may be needed if there is poor sight distance approaching the crossing. Details about advance warning signs and pavement markings are in Part 8 of the MUTCD: Section 8B.27 for signs and Section 8B.06 for pavement markings.

The local roadway authority should contact the railroad before doing any approach work on railroad property.

A few more thoughts

Federal Railroad Administration (FRA) Regulations:

FRA regulations require safety training for workers that work within 25 feet of a live track. That is a safety regulation that is enforced by federal regulators on railroad companies, and may not apply to road workers. To comply with FRA regulations, the railroad will normally want to provide a trained flagger when road work is within 25 ft of a track.

Trespass: There is a state railroad trespass law (K.S.A. 21-5809) that applies to railroad property. The law exempts public and private crossings, but could apply to work done by a local agency away from the crossing, i.e. trimming trees along the tracks.

Notice prior to doing maintenance: The local roadway authority should contact the railroad before doing any approach work on railroad property. While it may not be a violation of laws or regulations when working on the approach, the railroad is rightfully concerned about any work on their right-of-way. With or without flagging, it is a good policy to move workers and equipment off the railroad

Sources:

- “Workin’ on the Railroad.” Maine Department of Transportation. www.maine.gov/mdot/community-programs/csd/railroad.php
- Mitch Sothers. Interview. March 8, 2010.
- Manual on Uniform Traffic Control Devices (MUTCD) with Revisions 1 and 2. 2009 edition. http://mutcd.fhwa.dot.gov/kno_2009r1r2.htm.
- Kansas Statutes Annotated 66-227. http://www.kslegislature.org/li/b2013_14/statute/

Coordination With the Railroads

Coordination with the railroad does not have to be burdensome, said KDOT’s Mitch Sothers. “Both parties are going to have to be willing to communicate, coordinate and compromise,” he said.

These partnerships are part of providing good service to your community. Sothers said he’s seen situations where the personalities of individuals can either promote effective partnerships or cause them to falter. “It is going to take working together on successful projects and acknowledging each other’s contributions,” Sothers said. He recommends taking time to meet in person with rail company representatives periodically to establish and maintain good working relationships.

KAC’s Norm Bowers said that sometimes it is difficult to find the right person at the railroad to notify about maintenance work. To assist with this, he has posted contact names for the Union Pacific and the Burlington Northern on the Kansas County Highway Association website at <http://www.kansascountyhighway.org/DocumentCenterii.aspx>.

right-of-way when a train approaches. Ultimately, it is in everyone’s interest to cooperate while working on railroad property. An injury, fatality, or causing a train to stop is something that no one wants.

Short tracks. Most railways are owned and maintained by a railroad company, but some municipalities own short tracks, in which case those municipalities are responsible for every crossing along the short track, and its components.

In sum

It’s important that counties, cities and townships work with the railroad companies to keep all crossings well maintained throughout the year. Well maintained crossings and railways help limit the possibility of crashes and liability. See the sidebar on this page for advice on working together with railroad companies.

For more information, contact Mitch Sothers at KDOT at (785) 296-3529 and visit the KCHA webpage mentioned in the sidebar above. ■

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