



Policies & Procedures

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Policies : Duty of Railroads to Maintain Grade Crossings on all Public Roads

Subject	Duty of Railroads to Maintain Grade Crossings on all Public Roads	Subject No.	6865-10
Section	Railroads	Division	Division of Operations
Office	Office of Utilities	Contact	404-631-1000
Date Last Reviewed	6/10/2011	References	

Details

History

Beginning July 1, 2002, the Department has been charged with investigating, reviewing and issuing orders necessary for purposes of compliance with the maintenance requirements of the [Official Code of Georgia, Annotated \(O.C.G.A.\)](#) Sections 32-6-190, 202 & 203, otherwise known as HB 1382. O.C.G.A only covers grade crossings on public roads. Private grade crossings are not addressed by HB 1382 or this directive.

Cooperation

It is the Railroads' responsibility, as well as the Governing Authorities to work with each other in a cooperative manner and provide

assistance as outlined in this directive.

Application

This directive is to provide guidance in resolving disputes between Railroads and Governing Authorities over matters relating to maintenance of crossing surfaces on all public road / railroad grade crossings now in existence and those which may hereafter be established. "Governing Authority" is considered to be a municipality, county or state agency of Georgia.

O.C.G.A. Section 32-6-190 states "Any railroad whose track or tracks cross a public road at grade shall have a duty to maintain such grade crossings in such condition as to permit the safe and reasonable passage of public traffic. Such duty of maintenance shall include that portion of the public road lying between the track or tracks and for two feet beyond the ends of the crossties on each side and extending four feet beyond the traveled way or flush with the edge of a paved shoulder, whichever is greater, of such crossing."

Thus, under O.C.G.A. Section 32-6-190 for every grade crossing there is a potential to have three scenarios requiring maintenance. One scenario places the maintenance requirements entirely within the limits of the grade crossing and would be the Railroad's responsibility. The second scenario places the maintenance requirements entirely outside the limits of the grade crossing and would be the Governing Authority's responsibility. Finally, the third scenario is where the maintenance work extends across both jurisdictions of the Railroad and the Governing Authority. The responsibility for maintaining the crossing would typically be with both parties.

On future Railroad maintenance, it is reasonable to expect the Railroad's duty to extend beyond the "two feet beyond the crossties" limits as stated in O.C.G.A. Section 32-6-190 in order to provide a safe and reasonable passage for the traveling public. (For example, if a railroad raises their rail, it is reasonable to expect the railroad to extend their work beyond the 2 feet beyond the ends of the crossties.) See Section II under "Guidelines for Evaluating the Maintenance of Grade Crossings" [below](#).

For Department owned railroad tracks, the Department's lessee or operating Railroad Company is considered to be the railroad for the purposes of this directive.

This directive does not apply to the installation and maintenance of traffic control devices that is addressed in Article 3 Part 1 of O.C.G.A. A. [Section 32-6-50](#).

Guidelines for Evaluating the Maintenance of Grade Crossings

1. The following guidelines are intended for use in evaluating the need for maintenance of an existing grade crossing as stated in O.C.G.A. Section 32-6-190 as that portion of the public road lying between the track or tracks and for two feet beyond the ends of the crossties on each side and extending four feet beyond the traveled way or flush with the edge of a paved

shoulder, whichever is greater, of such crossing; and thus, is completely the responsibility of the Railroad.

1. The profile of the crossing surface materials between and including the field side timber guards shall not exceed one (1) inch plus or minus of the rail elevations. (See figure 1). If the field side timber guards are not present refer to dimension "A" in figure 1. All crossing surface material beyond the field side timber guards shall be maintained in such a manner as to provide a safe and reasonable transition for the passage of traffic.
 2. Voids in the crossing's surface materials such as asphalt, timber guards, and concrete shall not exceed a vertical depth of two (2) inches by a length of three (3) inches (the length is measured parallel with the traveled way). Voids in excess of these dimensions shall be repaired. Typically flange-ways are not considered voids; however voids adjacent to the flange-way are considered critical and shall be repaired.
 3. Any exposed fasteners (such as nails, spikes, screws, rods, etc.) that would likely damage a vehicle shall be repaired.
 4. At a grade crossing involving more than 1 track, maintenance by the Railroad shall include that portion of the crossing surface between the tracks not exceeding 15 feet from the center of each track and shall include a safe and reasonable surface transition between the tracks of different elevation. At such crossings where more than one Railroad is responsible for the maintenance of a different track, each Railroad shall share the responsibility for the portion of the crossing surface between the multiple tracks not exceeding 7.5 feet from the center of the track.
 5. The regulation of traffic when it is necessary to perform maintenance shall be in accordance with O.C.G.A. [Section 32-6-201](#). Railroads shall coordinate with the Governing Authority any road closures and re-openings caused by maintenance and repair of the grade crossing.
2. On future railroad maintenance at grade crossings, the Railroad must not raise or lower the rail elevation such that it creates or increases an unsafe or unreasonable crossing for vehicular traffic. At such locations, the Railroad and Governing Authority (with jurisdiction over the roadway) shall enter into a written agreement that clarifies the obligations of each party and reduces the impact of such maintenance activity by minimizing the changes to the rail elevation at the crossing.

Where the parties can not reach an agreement, the Railroad must maintain the existing rail elevations without change or the Railroad shall, at its own expense, extend the approaches beyond the current requirement of "two feet beyond the crossties" as required in [Section 32-6-190](#), O.C.G.A. so that the resulting railroad crossing remains at a safe and reasonable passage for the vehicular traffic.

Procedures for Filing Formal Written Maintenance Requests

It shall be the responsibility of the Governing Authority to make all necessary attempts to resolve issues involving maintenance of grade crossings with the respective Railroad prior to submitting a formal written request to the Department for a review of the matter.

In the event the Governing Authority can not resolve the maintenance issue, the following procedures shall be followed in accordance with O.C.G.A. [Section 32-6-202](#):

1. The Governing Authority filing a formal written request to the Department shall attach a filing fee of \$500.00 per grade crossing and shall include a copy of the order issued by the Governing Authority to the Railroad regarding compliance with the maintenance request. The filing fee shall be a check made payable to the Georgia Department of Transportation.
2. The current address and telephone number where all such maintenance requests and accompanied filing fee checks shall be sent to:

Georgia Department of Transportation

Attn: State Utilities Engineer

One Georgia Center - 10th Floor Utilities Office

600 W. Peachtree Street, NW

Atlanta, GA. 30308 (404) 631-1354

However, the address and telephone number may be subject to change.

3. The Governing Authority shall provide all relevant information regarding the request to obtain maintenance of the grade crossing. At a minimum, the Governing Authority's written request shall contain:
 1. A copy of the original order issued to the involved Railroad.
 2. The highway, street or roadway name and number as identified on a general highway map issued by the Department where the grade crossing is located.
 3. The USDOT crossing inventory number, if assigned and the railroad milepost number for the crossing.
 4. A detailed description of the suspected problem(s) with the grade crossing.
 5. Any correspondence between the Railroad and Governing Authority, and any other relevant information.
4. Within 30 days after receipt of a written request and filing fee from the Governing Authority to review a maintenance request, the Department will have completed an investigation of the matter and issue an order requiring the railroad to perform maintenance or nullifying the order of the Governing Authority.
5. The Department's investigation may include an engineering study of the grade crossing and at a minimum, will include an on-site inspection with appropriate railroad official present at the time of inspection as well as the collection and presentation of data relating to the maintenance of the crossing. The Department shall keep detailed records of its costs of the investigation and review.
6. A written report will be prepared by the Department for use in issuing the Department's Initial Order. Copies of such order shall be served upon the Railroad and the Governing Authority by certified mail or statutory overnight delivery, return receipt

requested.

7. Within 30 days, or said days on the Initial Order of the Department requiring maintenance by the Railroad, the Department will investigate as to whether or not the Railroad complied with such order.
8. Upon failure of the Railroad to comply with such Initial Order, then after notice and opportunity for a hearing, the Railroad shall be subject to a civil penalty in the amount of \$500.00 per day from 30 days after the date of receipt of the Initial Order of the Department until the Railroad has complied with such order. The Department may grant an extension of time for compliance without penalty upon a showing that the Railroad's failure to timely comply was due to force majeure.
9. Within 60 days after issuance of an order requiring the maintenance or nullifying the Governing Authority's order, the Department will assess its costs of investigating and reviewing the matter against the appropriate party. Any filing fee paid to the Department by a Governing Authority shall be applied to any such amount assessed against the Governing Authority, and the balance of such filing fee, if any, shall be refunded to the Governing Authority. See "Guidelines for Tracking Formal Written Maintenance Requests" [below](#).

Guidelines for Tracking Formal Written Maintenance Requests

The State Utilities Office shall be responsible for the administering and managing all formal written maintenance requests as outlined in O.C.G.A. [Section 32-6-202](#).

1. The State Utilities Office shall designate a "Coordinator(s)" to administer and manage the tracking of such formal written requests. The Coordinator(s) will perform the investigation and review of each matter for the purposes of compliance with the maintenance guidelines.
2. After the investigation is completed, the State Utilities Office will issue an order either requiring the railroad to take such action to perform the necessary maintenance or will issue an order nullifying the local governing authority's request.
3. The State Utilities Office will assess all costs of investigating and reviewing the matter and document the costs into an established accounting system. Based on the order issued, the Department will bill the appropriate party for said costs. If the order issued nullifies the local governing authority's request, the Department shall apply the filing fee of \$500.00 toward the actual costs of investigating and review the matter. Based on the Department's total actual costs, the local governing authority will be refunded or assessed the difference between the filing fee and the Department's actual costs. If the Department's actual costs are greater than the filing fee, the State Utilities Office shall request in writing to the local governing authority that an additional payment is required and due by the local governing authority within thirty (30) days.
4. The State Utilities Office shall track formal written requests and shall maintain records in accordance with the Department's Record Retention Policy for Utility Permits. The District Offices shall retain any information with respect to this directive in the same manner.

Procedures for Addressing Complaints

The Department may receive verbal or written complaints involving the maintenance of a grade crossing from various sources. Obviously citizens and the public in general may not understand the process. They may expect the Department to have the authority to intervene upon their request on any grade crossing on-system or off-system. The law does not provide authority to the Department to intervene with off-system grade crossings until the appropriate steps are taken by the Local Governing Authority and Railroad; and a Formal Written Request is sent to the Department by the Local Governing Authority having jurisdiction over the public road or street. Therefore, the following procedures should be adhered to:

- Verbal Complaints are considered phone calls or any type of verbal communication.

The following information needs to be documented on all verbal complaints, no matter what road system it may involve:

- complainant's full name,
- mailing address,
- phone number,
- date,
- time,
- county,
- route number,
- road name,
- approximate location and
- details on the type of complaint.

All verbal complaints, including the required information, shall be forwarded to the District Utilities Engineer within one (1) business day of receipt of the complaint.

Determination of Road System: The District Utilities Engineer needs to determine if the grade crossing is located on-system or off-system.

Off-System Routes (City Streets or County Roads): If the grade crossing is within the jurisdiction of a county or municipality, the District Utilities Engineer shall respond in writing to the complainant, using the [MCR-1 letter](#), within three (3) business days from the date the original complaint was received.

On System Routes (State Routes): If the grade crossing is within the jurisdiction of the Department, the District Utilities

Engineer shall contact the respective Area Engineer to begin the necessary coordination in accordance with [6865-8](#).

- Written Complaints are considered emails, facsimiles and any written correspondence received by standard or express mail. Procedures for handling written complaints shall be handled in the same manner as verbal complaints, stated [above](#).

Note: a written complaint may not be a Formal Written Request unless it contains the required information as outlined in the section on [“Procedures for Filing Formal Written Maintenance Requests”](#).

Distribution of Directive to Railroads and Governing Authorities

This directive can be transmitted to any Railroad or Governing Authority for information purposes.

History

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