

TITLE 415, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 5

NEBRASKA DEPARTMENT OF TRANSPORTATION
LOCAL ASSISTANCE DIVISION

RULES AND REGULATIONS CONCERNING
ADMINISTRATION OF STATE AND FEDERAL HIGHWAY-RAIL GRADE CROSSING
SAFETY PROJECTS

TITLE 415 – NEBRASKA DEPARTMENT OF TRANSPORTATION – LOCAL ASSISTANCE DIVISION

Chapter 5 – Administration of State and Federal Highway-Rail Grade Crossing Safety Projects

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001 THE STATE GRADE CROSSING PROTECTION FUND AND/OR FEDERAL FUNDS MAY BE USED IN FURNISHING FINANCIAL ASSISTANCE FOR THE FOLLOWING PURPOSES

001.01 Highway-rail grade crossing closures at public crossings.

001.02 Construction, modification, or improvement of active warning devices at public highway-rail grade crossings.

001.03 Construction, rehabilitation, relocation or modification of railroad grade separations at all public roads, streets or highways.

001.04 Other improvements promoting public safety at public highway-rail grade crossings deemed appropriate by the Department.

002 CROSSING CLOSURES

002.01 If the Department and the political subdivision with jurisdiction over the crossing, agree that a grade crossing should be eliminated by closing the street, road, or highway, the political subdivision making such closing, after entering into an agreement with the Department and the railroad involved, shall receive five thousand dollars from the State Grade Crossing Protection Fund, five thousand dollars from the railroad involved, and the actual cost of closure, not to exceed twelve thousand dollars, from the State Grade Crossing Protection Fund.

002.01A The costs of closure that are eligible through agreement with the Department may include, but are not limited to:

002.01A1 The cost to remove the roadway approaches to the crossing.

002.01A2 The cost to reconstruct the roadway at the closed crossing such as placement of barricades or construction of a cul-de-sac.

002.01A3 The reasonable cost to improve the crossing or crossing(s) to which traffic will be diverted because of the closure.

002.01A4 The cost to construct a new roadway to provide access to an adjacent crossing or roadway.

002.01A5 The cost to remove active warning devices and the part of the crossing contained within the area from end of tie to end of tie.

002.01B On non-Federal (i.e. State funded) projects the cost to remove active warning devices and the part of the crossing contained within the area from end of tie to end of tie shall be the responsibility of the railroad.

002.01C The political subdivision may use the \$5,000 received from the Department and the \$5,000 received from the Railroad under 002.01 for any lawful purpose. The political

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subdivision may offer to pledge to the Department any or all of the \$10,000 received to assist in funding improvements at other crossings within the corporate boundaries of the political subdivision. When funds are available, and at the sole discretion of the Department, the Department may assist in the funding of improvements at other crossings through negotiations and execution of agreements between the Department and the political subdivision.

002.01D A request for a crossing closure may be initiated by the Department, the railroad or by the political subdivision with jurisdiction over the road leading to the crossing. The Department must receive a resolution from the political subdivision with jurisdiction over the road leading to the crossing before the Department will begin the process of drafting agreements to close the crossing.

002.01E No payment by the Department to the political subdivision will be made before an agreement between the Department and the political subdivision has been fully executed, the roadway is actually closed by the political subdivision or the railroad, and the Department is notified of the completion of the closure. No payment shall be made for any work performed or for costs incurred by the political subdivision prior to execution of the agreement and notice to proceed by the Department.

002.02 If a public railroad crossing is eliminated by the removal of a rail line by agreement of the Department, the railroad company and/or the railroad track owner and the RTSD which has jurisdiction over the crossing, the RTSD paying for the removal shall receive two thousand dollars or the actual costs of the removal, not to exceed twelve thousand dollars, from the State Grade Crossing Protection Fund.

002.02A The costs of removal that are eligible for reimbursement include the costs to remove the crossing, the costs to reconstruct the roadway through the crossing as well as other related costs deemed appropriate by the Department.

002.02B The same request and payment procedures will be followed as used for roadway closure.

002.03 The political subdivision will not receive crossing closure payments for crossings eliminated or to be eliminated pursuant to an announced plan for the removal or abandonment of a rail line.

003 GRADE CROSSING SAFETY IMPROVEMENTS

003.01 A request for review of a crossing for safety improvements may be received from the railroad company, railroad track owner, political subdivision, or political subdivision on behalf of a citizen, or the Department may in its sole discretion initiate a review. The request should be made in writing and directed to: Nebraska Department of Transportation, Local Assistance Division, Public Transportation Engineer, Box 94759, Lincoln, Nebraska 68509.

003.01A Whenever a request for a review of the crossing is received by the Department from a political subdivision, railroad company or railroad track owner, the Department will review the crossing, determine if a Diagnostic Team Review is warranted, and provide the political subdivision and/or the railroad with a response to such request.

003.02 The Department shall establish and update, as needed, a list of highway-rail grade crossings in Nebraska to be considered for potential grade crossing safety improvement projects.

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A Diagnostic Team Review of the crossings shall then be made in order to select specific locations for safety improvement projects and to determine the safety improvements to be considered at those locations.

003.02A The Diagnostic Review may include, but is not limited to consideration of:

<u>003.02A1</u>	Train data.
<u>003.02A2</u>	Vehicle data.
<u>003.02A3</u>	Crossing data.
<u>003.02A4</u>	Accident history.
<u>003.02A5</u>	Nearby development.
<u>003.02A6</u>	Adjacent crossings.
<u>003.02A7</u>	Sight distance.
<u>003.02A8</u>	School locations and school bus routes.
<u>003.02A9</u>	Hospitals, police and fire stations.
<u>003.02A10</u>	Pedestrian traffic patterns.

003.03 Crossings may be excluded from consideration for active warning devices if one of the following conditions exists:

003.03A The crossing is a sidetrack and is hand flagged by the railroad.

003.03B There are two trains per day or fewer at the crossing.

003.03C The exposure factor at the crossing is less than 3,000.

003.04 The Department may require street or roadway improvements, and the removal of vegetation, trees, limbs, signs or poles that would obstruct the view of warning devices, as a prerequisite to funding the installation of active warning devices. The Department may also require the political subdivision to close one or more crossing(s) as a prerequisite to funding the installation of active warning devices.

003.05 The political subdivision with jurisdiction over the road leading to the crossing must install and maintain advance warning signs, pavement markings and other signs prescribed by the MUTCD.

003.06 The public entity with jurisdiction over the road leading to the crossing shall determine the need for an interconnection between the traffic signals and active warning devices and shall provide for any such interconnection consistent with the provisions of the MUTCD. The railroad company shall cooperate with the public entity in the installation.

003.07 An agreement between the Department, political subdivision and the railroad will be completed detailing the grade crossing safety improvements and the respective cost sharing for each entity.

004 GRADE SEPARATION STRUCTURES

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004.01 A project for construction, rehabilitation, relocation or modification of a highway-rail grade separation structure may be considered by the Department after completion of a Grade Separation Study.

004.02 Grade separation studies may include, but are not limited to the following factors and considerations:

<u>004.02A</u>	Train data.
<u>004.02B</u>	Vehicle data.
<u>004.02C</u>	Crossing data.
<u>004.02D</u>	Accident history.
<u>004.02E</u>	Nearby development.
<u>004.02F</u>	Adjacent crossings.
<u>004.02G</u>	Sight distances.
<u>004.02H</u>	School locations and school bus routes.
<u>004.02I</u>	Hospital locations.
<u>004.02J</u>	Police and fire stations.
<u>004.02K</u>	Project location.
<u>004.02L</u>	Cost/benefits.
<u>004.02M</u>	Pedestrian traffic patterns.
<u>004.02N</u>	Project structure profile showing touchdown to touchdown.
<u>004.02O</u>	Need for any additional right of way and any relocation expenses.
<u>004.02P</u>	Effect of the location of the structure on the community.
<u>004.02Q</u>	Roadway approach speed.
<u>004.02R</u>	Roadway approach angle.
<u>004.02S</u>	Local support and funding.
<u>004.02T</u>	Railroad support and funding.

004.03 Based upon the study and availability of funding, the Department shall determine whether the location is eligible for expenditure of State or Federal grade separation funds.

004.04 Funding of new grade separation structures shall require completion of the following process:

004.04A The Department shall identify potential locations for new grade separation structures based upon exposure factor, crash costs, elimination of vehicular delay and other appropriate factors. A minimum exposure factor of 50,000 for a single crossing shall be required for identification as a potential location. The Department may, in its sole discretion, waive the 50,000 exposure factor requirement when justified based upon the combined exposure factor, crash costs and elimination of vehicular delay at multiple crossings in a corridor.

004.04B The Department shall select locations for a Preliminary New Grade Separation Study to be completed by the Department or the political subdivision. The Preliminary New Grade Separation Study shall include a review of reasonable alternative locations for the grade separation structure, associated closures and other improvements to crossings within the corridor considering the applicable factors from the list set forth in Section 004.02.

004.04B1 If a political subdivision requests a Grade Separation Study for a crossing on the State Highway System, the Department, political subdivision and

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railroad company or railroad track owner or both shall complete an Agreement for Cost Sharing and Closures associated with the construction of the grade separation prior to the study being performed.

004.04B2 When a political subdivision completes a Grade Separation Study of a crossing not located on the State Highway System, to be constructed using state or federal funding, the Department, political subdivision and railroad company or railroad track owner or both shall complete an Agreement for Cost Sharing and Closures associated with the construction of the grade separation, prior to the construction of the grade separation structure. The political subdivision is responsible for the costs of the study and for the cost of preliminary and final design of any grade separation structure to be constructed.

004.04C Locations for which a Preliminary New Grade Separation Study has been completed may be selected by the Department for a Detailed New Grade Separation Study which shall consider the applicable factors from the list set forth in section 004.02 in greater detail.

004.04D Locations for which projects have previously been considered and deemed by the Department to be physically or practically not feasible, or locations that were studied previously and for which a potential project was rejected by the political subdivision, may be eliminated from consideration at any time during this process.

004.05 A new grade separation project will require closing a minimum of two public at-grade crossings: one at or near the location of the structure and one or more others as selected and approved by the Department and the political subdivision.

004.05A Exceptions to the conditions of 004.05 may be granted only upon a finding of unique or unusual circumstances by the Director or Deputy Director-Engineering of the Nebraska Department of Transportation.

004.06 The feasibility of a railroad-pedestrian grade separation structure within the community will be considered based upon need and an agreement between the political subdivision and the Department.

005 OTHER SAFETY IMPROVEMENTS

005.01 The Department of Transportation shall determine whether other safety improvements at railroad crossings are eligible for funding. These safety improvements may include, but are not limited to, the following:

005.01A Sight improvements such as removing trees, fill or other sight obstructions.

005.01B Crossing illumination.

005.01C Advance warning beacons.

005.01D Roadway approach or track work.

005.01E Crossing surface improvements.

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005.02 The construction of any of the safety improvements specified in 005.01 is subject to the availability of funds.

ANNOTATION

**Title 415
Chapter 5**

**Enabling Legislation
§39-699 and 74-1310
through 74-1322
Neb. Rev. Stat.**