

# Provincial Industrial Railway Certification Process



Working Together for Railway Safety in British Columbia

# **Certification Processes for Industrial Railways Operating or Intending to Operate in British Columbia**

## **Introduction**

The Canadian rail system includes both federal and provincial railways. Railways which cross provincial boundaries are governed by federal legislation and railways which operate strictly within the province are governed by provincial legislation.

The following information about certification pertains only to those industrial railways which operate entirely within British Columbia and is designed for use by railway companies intending to apply for certification.

## **The *Railway Act* of BC**

Section 3 of the British Columbia *Railway Act* defines a railway, in part, as “a railway or tramway, subject to the legislative authority of the Legislature”. The Minister of Transportation is responsible for administering the legislative requirements to provincial industrial railways. The minister may use discretion, when issuing a certificate, to determine which sections of the *Act* are applicable to individual provincial railways.

## **Process for Obtaining a Minister’s Certificate**

### **Certification Applications – Industrial Railways**

#### **Required Documentation**

Supporting documentation for industrial railways must consist of the following:

1. proof of the company’s registered name;
2. a description of the scope of the intended railway’s operations, including, if applicable, any rolling stock owned or leased and the type(s) of commodities being moved;
3. a list of the company’s principals, addresses and means of contact;
4. a copy of the company’s ownership of the land over which the proposed railway intends to operate, or

a copy of any agreement(s) with the owner(s) of the land over which the railway intends to operate, or

if the railway intends to operate on land under an agreement with the owner(s) of the land, proof of the ownership of the land, or

if the railway company will move rolling stock under an agreement with an industrial company, a copy of any agreements with these industrial companies\*; and

5. the application must be signed and dated by a senior principal of the company.

**\*Note:**

If an industrial company intends to have rolling stock moved on its property by another company (under agreement), the company moving the stock and the company having the stock moved must each make application for a Minister's Certificate to become an industrial railway.

### **Initial Submission Process**

Applications should be made in the format provided in Appendix C of this document.

### **Submission Method**

To expedite the approval process, the documentation should, whenever possible, be submitted electronically to:

[bcsa.railway@safetyauthority.ca](mailto:bcsa.railway@safetyauthority.ca).

If the submission cannot be electronically submitted, the documentation should be mailed or delivered to:

The Railway Safety Manager  
Railway Safety Program  
British Columbia Safety Authority  
#200 - 505 Sixth Street,  
New Westminster, BC V3L 0E1

### **Costs of Submission**

The costs associated with the review of the documentation and the issuing of the Minister's Certificate shall be invoiced to applicant on the completion of the process.

### **Ministerial Requirements**

The railway company must promptly publish in the BC Gazette that they have received a Minister's Certificate for operating a railway in BC.

### **Construction Requirements**

If the company is constructing a new industrial railway, the company must follow those sections of Part 3 of the *Railway Act* identified in Appendix D

### **Assistance in Completing the Application**

For further assistance in completing their application for railway certification, railways can contact the Railway Safety Branch at:

Phone: 1.866.566.7233, or  
Fax: 778-396-2035

## Appendix C

### Format for Application for a Minister's Certificate – Industrial Railways

#### Railway Company's Letterhead

To: Registrar of Railway Safety  
Ministry of Transportation  
PO Box 9850 Stn. Prov. Govt.  
Victoria BC V8W 9T5

Re: Application for a Minister's Certificate under the *Railway Act*.

Under section 3, Chapter 395, *Railway Act* (BC) application is hereby made for a Minister's Certificate as an industrial railway.

In support of this application the following documents are attached:

1. proof of the company's registered name;
2. a description of the scope of the intended railway's operations, including, if applicable, any rolling stock owned or leased and the type(s) of commodities being moved;
3. a list of the company's principals, addresses and means of contact;
4. a copy of the company's ownership of the land over which the proposed railway intends to operate, **and/or**

a copy of any agreement(s) with the owner(s) of the land over which the railway intends to operate, **and/or**

if the railway intends to operate on land under an agreement with the owner(s) of the land, proof of the ownership of the land, **and/or**

if the railway company will move rolling stock under an agreement with an industrial company, a copy of any agreements with these industrial companies.

Signed by a company principal

Date signed

Principal's name

Principal's company title

cc Railway Safety Manager  
BCSA

**Appendix D:  
Applicable Sections of the *Railway Act* & *Railway Safety Act* –  
Industrial Railways**

***Railway Act*  
Part 3 — Location of Line**

**Map**

**14** (1) A company must:

- (a) prepare and submit to the minister, in duplicate, a map showing
  - (i) the general location of the proposed line of the railway,
  - (ii) the railways, navigable streams and tidewaters, if any, to be crossed by the railway, and
  - (iii) generally the physical features over which the railway is to be constructed, and
- (b) give further or other information the minister may require.

(2) The map must be prepared on a scale of not less than 6 miles to the inch, or other appropriate scale as the minister may determine.

**Plan, profile and book of reference**

**15** (1) On compliance with section 14, a company must make a plan, profile and book of reference of the railway.

(2) The plan must show the following:

- (a) the length of the right of way, in miles;
- (b) the property lines and owners' names;
- (c) the bearings;
- (d) all open drains, watercourses, highways and railways proposed to be crossed or affected.

(3) The profile must show the grades, curves, highway and railway crossings, open drains and watercourses.

(4) The minister may require any additional information for the proper understanding of the plan and profile.

## **Commencement of works**

**25** (1) A company must not begin the construction of the railway or any section or portion of it until

(a) the plan, profile and book of reference has been submitted to and approved by the minister as provided,

(b) the plan, profile and book of reference approved has been deposited in the ministry, and

## **Mines to be protected**

**26** Unless it has the approval of the minister, a company must not locate the line of its proposed railway, or construct the line or any portion of it, so as to obstruct or interfere with, or injuriously affect the working of or the access or adit to, any mine then open, or for the opening of which preparations are at the time of the location being lawfully and openly made.

## **Company not entitled to minerals**

**27** (1) A company is not, unless they have been expressly purchased, entitled to any mines, ores, metals, coal, slate, mineral oils or other minerals in or under any land purchased by it, or taken by it under any compulsory powers given it by this Act.

(2) Subsection (1) does not except from a company's entitlement those parts of the mines, ores, metals, coal, slate, mineral oils or other minerals that are necessary to be dug, carried away or used in the construction of the works.

(3) Unless acquired under subsection (2), expressly purchased or expressly named and conveyed, all mines and minerals are deemed to be excepted from the conveyance of the land.

In addition to the requirements of the Minister, the following sections of the adopted *Railway Safety Act* (Canada) apply:

# ***Railway Safety Act (Canada)***

## **PART I**

### **CONSTRUCTION OR ALTERATION OF RAILWAY WORKS**

#### **Standards**

#### **7. Railway company required to formulate standards**

(2) The Minister may, by order, require a railway company

(a) to formulate engineering standards in respect of the construction or alteration of railway works, and such engineering standards may embrace both physical specifications and performance standards or to revise its engineering standards governing those matters; and

(b) within a period specified in the order, to file the formulated or revised standards with the Minister for approval.

#### **Formulation or revision of standards**

(2.1) A railway company shall file with the Minister for approval any engineering standards in respect of any matter referred to in subsection (2) that it proposes to formulate or revise on its own initiative.

#### **Application of certain provisions**

(3) Subsections 19(4) to (11) apply in relation to standards referred to in subsection (2) or (2.1), with any modifications that the circumstances require and without regard to the references to relevant associations or organizations.

### **Undertaking of Proposed Railway Works**

#### **Railway works for which Ministerial approval required**

**10.** Where a proposed railway work departs from any applicable engineering standards.

#### **Material to accompany request for Minister's approval**

(2) A request to the Minister for approval of a proposed railway work pursuant to subsection (1) must be accompanied

(a) in all cases, by a plan of the work to which the request relates, which plan must include such drawings, specifications and other particulars as are prescribed;

(b) where paragraph (1) (a) applies, by a statement setting out the manner in which the work departs from the applicable engineering standards and the reasons for such departure; and

(c) where paragraph (1) (b) applies, by the response of the proponent to the outstanding objections.

### **Consideration of requests for approval**

(3) On receipt of a request for approval of a proposed railway work under this section, the Minister shall, having regard to the material referred to in subsection (2) and any other factors that the Minister deems relevant, consider whether the proposed railway is consistent with safe railway operations and shall, before the expiration of the assessment period,

(a) if satisfied that the work is consistent with the safe railway operations, notify the proponent and any objecting party that the Minister approves the work, either absolutely or on such terms as area specified in the notice; or

(b) if not satisfied that the work is consistent with safe railway operations, by notice

(i) inform the proponent and any objecting party that the Minister refuses to approve the work and of the reasons why the Minister is not so satisfied, or

(ii) direct the proponent to file with the Minister and any objecting party, within the period specified in the notice, such further particulars relating to the work as are specified in the notice.

### **Late approval**

(4) Where a railway work has been undertaken without the required approval of the Minister having first been given, the Minister may nevertheless approve the work in accordance with this section.

### **Minister may seek advice**

(5) The Minister may, in deciding whether to approve a proposed railway work, engage any person or organization having expertise in matters of safe railway operations to furnish advice to the Minister in relation to the matter.

### **Further particulars**

(6) Where the proponent is directed to file further particulars pursuant to subparagraph (3) (b) (ii) and

(a) fails to file the further particulars within the period referred to in that subparagraph, it shall be deemed to have withdrawn its request to the Minister for approval of the work; or

(b) files the further particulars within the period referred to in that subparagraph, this Act shall thereupon have effect as if the request that the Minister approve the work had been filed only at the time when the further particulars were filed.

### **Period for which approval in force**

(7) The Minister's approval of a proposed railway work under this section does not authorize the commencement of that work after the expiration of

(a) the period specified in the approval; or

(b) if the approval does not specify a period, one year after the approval is given.

### **Definition of "assessment period"**

(8) In this section, "assessment period", in relation to a request that the Minister approve a proposed railway work, means

(a) the period of sixty days commencing on the day on which the request is filed; or

(b) if, before the expiration of the period referred to in paragraph (a), the Minister determines that, by reason of the complexity of the work to which the request relates, the number of requests filed or any other reason, it is not feasible to consider the request before the expiration of that period, and so notifies the proponent and any objecting party, such period in excess of that period of sixty days as the Minister specifies in the notices.

### **Period of inquiry not part of assessment period**

(9) Where, pursuant to section 40, the Minister directs a person to conduct an inquiry respecting a proposed railway work, the period commencing on the day when the Minister so directs and ending on the day when the person reports back to the Minister pursuant to section 40 shall be disregarded in computing the assessment period.

### **Engineering work**

11. All the engineering work relating to railway works, including design, construction, evaluation or alteration, shall be done in accordance with sound engineering principles. A professional engineer shall take responsibility for the engineering work.

### **Reference to Minister**

16. (1) The proponent of a railway work, and each beneficiary of the work, may refer the apportionment of liability for the construction, alteration, operational or maintenance costs of the work to the minister for a determination if they cannot agree on the apportionment and if no recourse is available under Part III of the *Canada Transportation Act*. The referral may be made either before or after construction or alteration of the work begins.

### **Manner of reference**

(2) A reference to the minister under subsection (1) shall be made by notice in a form prescribed by the regulations made under subsection (5), and that notice shall be accompanied by such information relating to the proposed railway work as is prescribed by those regulations.

### **Further information**

(3) The minister may, in its discretion, by notice sent to the person referring a matter or to any person who might have referred a matter, require that person to give the minister, within such period as it specifies in the notice, such further information relating to actual or anticipated construction, alteration, operational and maintenance costs in respect of the railway work, or benefits arising from the completion of the work, as the minister specifies in the notice.

### **Agency to apportion expenditure**

(4) Where a matter is referred to the minister under subsection (1), the minister shall, having regard to the relative benefits that each person who has, or who might have, referred the matter stands to gain from the work, and to any other factor that it considers relevant, determine the proportion of the liability for construction, alteration, operational and maintenance costs to be borne by each person, and that liability shall be apportioned accordingly.

### **Extended meaning of "railway work"**

(6) In this section, "railway work" includes the relocation of any portion of a public road.

### **Interpretation**

(7) Notwithstanding this section, this Act is not be deemed to be administered in whole or in part by the minister for the purpose of section 37 of the *Canada Transportation Act*.