



OFFICE OF THE
COMMISSIONER OF RAILROADS
STATE OF WISCONSIN

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Before proceeding with the rough crossing process, the Office of the Commissioner of Railroads (OCR) requires that the municipality report conditions to the railroad. The OCR can provide the municipality contact information to report the issues to the railroad. Reporting the crossing to the railroad can avert the need to go through the formal complaint and hearing process.

Rough crossing repairs. Section 86.12 of state law requires the railroad to maintain all at-grade crossings in good condition for travel. If the railroad fails to do so, the highway authority can enforce this law through the OCR. The statute requires a two-step process.

First, the governing body of the municipality must pass a resolution demanding the repairs and serve it upon the railroad, <https://ocr.wi.gov/Resources/Documents/RegisteredAgents.pdf>. Correspondence including contact name, phone, and email shall be included. The railroad then has 30 days under the statute to repair the crossing. If they fail to do so, the highway authority may file a formal complaint with the OCR. Individuals may not file formal rough crossing complaints directly with the OCR; instead, they should contact the local highway authority regarding the condition of the crossing.

The filing of the formal complaint must also be authorized by the local governing body. The governing body may either pass two separate resolutions or include authorization to the municipal staff to file the complaint in the original resolution if the railroad fails to repair the crossing. A sample resolution for the combined complaint can be found in the FAQ section of the OCR's website.

Formal complaints are to be submitted electronically through the 'Electronic Records Filing' system on the OCR website, <http://ocr.wi.gov/> a minimum of 30 days *after* serving the railroad registered agent. Once the OCR receives the formal complaint and supporting documentation (petition, copy of resolution(s), and proof of service of railroad registered agent), we schedule a hearing to take testimony on the complaint. The hearing will be held in Madison and available by phone in the local municipality. At the hearing, the municipality has to demonstrate that the railroad has not kept the crossing "in good condition and repair for highway travel". This showing is often made using photos of the crossing (sometimes with a ruler/tape measure if there is a difference in elevation between the rail and the roadway surface) and testimony. Testimony could include the number of complaints the city has received about the crossing or that the crossing feels rough when driving over it. The testimony is usually given by the municipal engineer or Director of Public Works, but can also be given by local elected officials and individual residents.

After the hearing, the OCR decides whether the crossing requires repairs and if so, orders the railroad to repair the crossing by a date certain.