



Canadian  
Transportation  
Agency

Office  
des transports  
du Canada

# Transfer and Discontinuance of Railway Line Operations and Railway Track Determinations A Resource Tool



Making Transportation Efficient and Accessible for All

Available in multiple formats

Canada 

This document and other Canadian Transportation Agency publications are available on our Web site at [www.cta.gc.ca](http://www.cta.gc.ca).

For more information about the Agency, please contact:

Canadian Transportation Agency  
Ottawa, Ontario K1A 0N9  
Telephone: 1-888-222-2592  
TTY: 1-800-669-5575  
Facsimile: 819-997-6727  
E-mail: [info@otc-cta.gc.ca](mailto:info@otc-cta.gc.ca)  
Web site: [www.cta.gc.ca](http://www.cta.gc.ca)

© Minister of Public Works and Government Services Canada  
November 2011

# Table of Contents

Introduction.....	1
Railway track determinations.....	1
Transfer and discontinuance process.....	1
Step 1 – The three-year plan .....	1
Step 2 – Advertisement.....	2
Step 3 – Expression of interest and negotiations .....	2
Step 4 – Offer to governments and urban transit authorities.....	3
Step 5 – Notice of discontinuance and compensation .....	3
Return of railway line to former owner .....	3
Agency determinations .....	3
Application.....	4

## Introduction

Under the [Canada Transportation Act](#), the Canadian Transportation Agency is mandated to resolve various issues, including disputes that may arise when railway companies under its jurisdiction implement the process to transfer or discontinue railway lines that affect parties such as municipalities, provincial governments, and shippers.

This resource tool explains the process contained in [Part III, Division V](#) of the Act. Federal railway companies must follow this process when transferring or discontinuing operation over portions of the railway lines. This resource tool also explains the use of railway track determinations within the transfer and discontinuance process.

## Railway track determinations

The railway line transfer and discontinuance process applies to all railway lines held by railway companies that are under the jurisdiction of the Parliament of Canada. Within this process, a railway line excludes yard trackage, sidings, spurs or other track auxiliary to a railway line. If the Agency determines that a particular trackage meets any of these criteria, it is excluded from the transfer and discontinuance process. Conversely, the Agency may determine that a particular trackage constitutes a line of railway and therefore is subject to the statutory transfer or discontinuance process.

If a railway company wishes to dismantle a siding or spur which is located in a metropolitan area or an area served by an urban transit authority, it must follow the transfer and discontinuance process outlined in sections 146.2 to 146.5 of the Act.

## Transfer and discontinuance process

Sections 141 to 146.1 of Part III, Division V of the Act provide the steps that a railway company must take before it may formally transfer or discontinue a line.

### Step 1 – The three-year plan

Every federal railway company must prepare and keep up to date a plan that indicates, for each of its railway lines, whether it intends to continue operating the line or if it plans to discontinue operating the line within the next three years. The railway company must make this three-year plan available for public inspection at designated offices – and notify a number of parties, including the Agency, when changes to the plan are made.

A railway company may sell, lease or otherwise transfer a railway line at any time for continued railway operations. However, if it sells, leases or otherwise transfers only a portion of a grain-dependent branch line (lines listed in [Schedule I](#) of the Act), the railway company must continue to operate the remaining portion of the line for three years unless the Minister of Transport determines that it is not in the public interest for the railway company to do so.

## Step 2 – Advertisement

When the railway company wishes to discontinue operating a line of railway, it must first publicly advertise the availability of the line, or any operating interest that the railway company has in it, for sale, lease, or other transfer for continued operations. This advertisement must include the company's intention to discontinue operating the line if it is not transferred.

A railway company cannot advertise the line until it has indicated its intention to discontinue the line in its three-year plan for at least 12 months. However, if any level of government, or any community-based group endorsed by such a government, expresses an interest in acquiring a grain-dependent branch line, or portion of that line, listed for discontinuance on the three-year plan, for the purpose of continuing the operation, the railway company shall not wait the required 12 months and shall proceed immediately to advertise the line.

The advertisement must include the following:

- a description of the railway line and how it or the operating interest is to be transferred;
- an outline of the steps that must be taken before the operation of the line may be discontinued;
- a statement that the advertisement is directed to parties or railway companies interested in the line for the purpose of continuing railway operations;
- the date by which interested parties must make their interest known in writing to the railway company – a date that must be at least 60 days after the first publication of the advertisement; and
- the existence of any agreement between the railway company and any public passenger service provider.

## Step 3 – Expression of interest and negotiations

Should anyone be interested in acquiring the line, the railway company shall disclose the process it intends to follow for receiving and evaluating offers. In the event that it may assist negotiations, either party can, at any time during negotiations, apply to the Agency for a determination of the net salvage value of the assets offered for transfer. In this step, an applicant must reimburse the Agency's costs associated with the determination. For further information on the determination of net salvage value please see [Determining Net Salvage Value](#).

The railway company has six months from the advertised deadline to reach an agreement with an interested party. If an agreement is not reached within six months, the railway company may decide to continue the operation of the railway line and amend its three-year plan. If no interest is expressed in the line, or if no agreement is reached with an interested party, or a transfer is not completed in accordance with any agreement reached, the railway company may continue to Step 4.

Both the railway company and any interested party must negotiate in good faith. Should the

Agency, upon complaint, find that the railway company is not negotiating in good faith and that the sale, lease, or transfer of the railway line, or the railway's operating interest in the line, would be commercially fair and reasonable, it may order the railway company to enter into an agreement with the interested party to effect the transfer. The Agency may include in any such order the terms and conditions, including considerations, with respect to the operating arrangements for the interchange of traffic. Also, if the Agency finds upon complaint that the interested party is not negotiating in good faith, it may order that the railway company is no longer required to continue negotiations.

## **Step 4 – Offer to governments and urban transit authorities**

The railway company shall offer to transfer all of its interest in the railway line to the applicable federal provincial and municipal governments and urban transit authorities. The railway line may be purchased for any purpose for no more than the net salvage value of the line. If the parties cannot agree on the net salvage value of the line within 90 days of any government's acceptance of the offer, the Agency may, upon application, determine the net salvage value of the line. For further information please see [Determining Net Salvage Value](#).

## **Step 5 – Notice of discontinuance and compensation**

If there has been no agreement on the sale, lease or other transfer of the railway line (see Steps 3 and 4) and if all steps of this process have been complied with, the railway company may discontinue operating the line upon providing notice of that discontinuance to the Agency. The railway company then has no further obligations under the Act with respect to the operation of the railway line, nor does it have any obligations with respect to any operations by any public passenger service provider.

Under the Act, railway companies are required to compensate municipalities or districts that have had their grain-dependent branch line (listed in [Schedule I](#) of the Act) discontinued. A railway company that discontinues a grain-dependent branch line shall make three annual payments to a municipality or district through whose territory the railway line passes in the amount of \$10,000 per mile for each mile of the line within the municipality or district.

A list of [discontinuance notices](#) received from the railway companies is available on the Agency's Web site.

## **Return of railway line to former owner**

A railway line may be returned to a railway company after it has been transferred through the transfer and discontinuance process. Upon return of the railway line, the railway company has 60 days to either resume operations on the line or follow the transfer and discontinuance process as set out in Steps 2 – 5.

## **Agency determinations**

The Agency can help interested parties, railway companies, governments or other parties in

four areas related to the transfer and discontinuance provisions of the Act. Upon application by a party the Agency can assist by:

- ensuring compliance with the transfer and discontinuance process;
- ensuring that the railway company and the interested party negotiate in good faith;
- making net salvage value determinations; and
- making railway track determinations.

## Application

If you wish to apply to the Agency, please submit your written, signed application:

### **By mail**

Secretary  
Canadian Transportation Agency  
Ottawa, Ontario  
K1A 0N9

### **By fax**

819-997-6727

### **By courier**

Secretary  
Canadian Transportation Agency  
15 Eddy Street  
17th Floor, Mailroom  
Gatineau, Quebec  
J8X 4B3

In addition, you should send a copy of the application to each of the parties involved.