

RAIL COMMUNICATION HANDBOOK

Colorado Department of Transportation

August 2012

The Division of Transit and Rail is committed to building lasting partnerships with all members of the freight rail industry and the communities they serve. The Rail Communication Handbook is intended to be a helpful resource for CDOT personnel, our rail partners from private industry, concerned parties, and public entities when addressing activities near freight rail operations. This handbook identifies rail related resources within CDOT and rail partners, outlining the roles, responsibilities, and expectations of each party; creates channels to disseminate rail information quickly and efficiently; ensures consistency of information throughout the organization; and encourages early dialog, partnerships, and cooperation for all freight rail activities.

Additional information, guidance, and assistance is also available from the Colorado Public Utilities Commission (PUC), as well as the Federal Railroad Administration (FRA), the Surface Transportation Board (STB), and the Transportation Security Administration (TSA).

This handbook is designed to be a guide and outlines the general practice for each activity. Occasionally, there may be a situation requiring deviation from what is outlined in this handbook. Such deviations are encouraged, when intended to produce a better outcome than what would ordinarily be achieved, if the spirit of cooperation is maintained. In some cases, the information documented here may be representative of a process yet the details may be different from region to region or railroad to railroad.

This handbook is intended to be a practical document which promotes greater efficiency in our processes, and will be updated as needs change and better methods are identified. Any effort to improve the efficiency of rail activities should be considered for inclusion. Please send updates or corrections to:

Jason Wallis
303.757.9425
jason.wallis@dot.state.co.us

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RAILROAD HISTORY

America's railroad history begins 180 years ago with the completion of the first railroad in 1830. By 1850 more than 9,000 miles of railroad were in operation. Railroads were seen as a means to develop previously inaccessible areas and transport goods those areas had to offer (minerals, timber, etc.) to market. In 1887, the Interstate Commerce Act created the Interstate Commerce Commission (ICC) making railroads subject to comprehensive federal regulation. By the early 1900s approximately 254,000 miles of rail were in operation by 1,500 U.S. railroads. Like many industries, the Great Depression hit the railroads hard with nearly 30% of rail miles in receivership. With increased competition from the truck and barge industries in the 1950s and 1960s and losses incurred from running passenger services, railroads continued to struggle. The ICC regulation of rail shipment rates made it even more difficult for the railroads to be competitive with moving freight. The Rail Passenger Service Act of 1970 created Amtrak and relieved freight railroads from operating passenger service. In 1980, Congress passed the Staggers Rail Act, eliminating many of the regulations impacting freight rail service. This allowed railroads to provide services at market driven prices and turn a profit. Today, the railroads are still subject to federal regulation.

REGULATORY AGENCIES

Several federal and state agencies regulate the various activities and operations of the railroad industry. The following is a brief summary of each agency. Please note: Policy and regulatory guidelines may or may not change when *Moving Ahead for Progress in the 21st Century Act (MAP-21)* goes into effect on October 1, 2012.

Surface Transportation Board

"The Surface Transportation Board (STB) was created in the Interstate Commerce Commission Termination Act of 1995 and is the successor agency to the Interstate Commerce Commission. The STB is an economic regulatory agency that Congress charged with the fundamental missions of resolving railroad rate and service disputes and reviewing proposed railroad mergers. The STB is decisionally [sic] independent, although it is administratively affiliated with the Department of Transportation."

www.stb.dot.gov

Areas of Oversight

Rates and Service Issues: The Staggers Rail Act (1980) removed most government controls over the pricing structure of rail services, allowing railroads to use markets to determine pricing. STB acts as a mediator when rate or service disputes arise.

Rail Restructuring Transactions: Line restructuring includes mergers, line sales, line construction and abandonments (more below). Guidelines are provided in the Interstate Commerce Act. In many cases the project is also subject to the National Environmental Policy Act (NEPA).

Line Abandonment: Abandonment is an STB process by which a railroad may forfeit its right-of-way. All abandonments must be approved by the STB and meet specific requirements. To be considered for abandonment a line must be unused for two or more years. Or have so little traffic that making a profit from its operation is not possible. An alternative to abandoning the line is the Rails-to-Trails program. Under Rails-to-Trails, "STB is given an administrative role in assisting carriers who wish to rail-bank their corridors as an alternative to a complete abandonment of the line, thus preserving the rail corridor for possible future use. The railroad may form an agreement with any person, public or private, who would like to use the banked rail line as a trail or linear park until it is again needed for rail use."

<http://www.stb.dot.gov/stb/docs/Resources/AB%20Book%20Final%20June%202008%20with%20Appendices.pdf>

http://www.stb.dot.gov/stb/public/resources_railstrails.html

Federal Railroad Administration

"The Federal Railroad Administration (FRA) was created by the Department of Transportation Act of 1966 (49 U.S.C. 103, Section 3(e)(1)). The purpose of FRA is to: promulgate and enforce rail safety regulations; administer railroad assistance programs; conduct research and development in support of improved railroad safety and national rail transportation policy; provide for the rehabilitation of Northeast Corridor rail passenger service; and consolidate government support of rail transportation activities. Today, the FRA is one of ten agencies within the U.S. Department of Transportation concerned with intermodal transportation. It operates through seven divisions under the offices of the Administrator and Deputy Administrator."

www.fra.dot.gov

Areas of Oversight

Operational Safety: As part of its mandate to ensure a safe national rail system FRA researched positive train control, regulates remote control locomotive operations, enforces the Railway Labor Act and administers programs such as the Railroad Rehabilitation and Improvement Financing Program.

Blocked Crossings: “The Federal Railroad Administration (FRA) does not regulate the length of time a train may block a grade crossing. A federal law or regulation limiting the amount of time a grade crossing may be blocked could have the undesirable effect of causing a railroad to violate other federal safety rules such as when a train must be stopped in order to comply with regulations requiring that air brake tests be performed.

However, FRA rail safety rules do address standing (idling) trains that unnecessarily activate grade crossing warning devices such as flashing lights and gate arms. The federal rule specifically prohibits standing trains, locomotives, or other rail equipment from activating warning devices unless it is part of normal train movements or switching operations. As such, the rule makes clear that the reality of railroad operations sometimes require that trains stop in the approach circuits that activate warning devices even though the train is not occupying the crossing itself.”

“FRA encourages railroads to be responsible corporate citizens. In order to maintain good community and customer relations, FRA recommends that railroads work cooperatively with state and local officials to eliminate or minimize the impact of blocked crossings wherever possible.”

Individual states may enact traffic safety laws which regulate blocked crossings. Colorado currently does not have a law addressing this issue. However, the issue of a state's authority to legislate or regulate blocked crossings is highly contentious and still being defined in the courts. Railroads have on occasion mounted "pre-emption" defenses, citing FRA regulations and other federal requirements which they believe take precedence over state laws or local ordinances. Where there is a conflict between the state law and federal rail safety requirements, the courts have found the state law to be pre-empted and, thus, unenforceable.

http://www.fra.dot.gov/downloads/PubAffairs/FRA_Blocked_Highway_Rail_Grade_Crossing_Fact_Sheet.pdf

Highway-Rail Crossing: Crossing design and signage is prescribed in the Manual of Uniform Traffic Control Devices (MUTCD). Construction and maintenance of crossings is the shared responsibility of the railroad and the public roadway authority. The FRA maintains a crossing inventory and accident history in an effort to improve safety at railroad crossings.

Horn Rule: “FRA has issued a Final Rule on the Use of Locomotive Horns at Highway-Rail Grade Crossings. This final rule, which requires that locomotive horns be sounded as a warning to highway users at public highway-rail crossings, took effect on June 24, 2005. The final rule provides an opportunity, not available until now, for thousands of localities nationwide to mitigate the effects of train horn noise by establishing new ‘quiet zones.’[sic]” The *Municipal Guide For Creating New Quiet Zones* (2005) has become the unofficial guidelines in assisting communities in requesting a quiet zone designation

<http://www.fra.dot.gov/Pages/95.shtml>

<http://www.willcountylanduse.com/CN/DMMC%20Municipal%20Guide%20to%20Creating%20New%20Quiet%20Zones.pdf>

Transportation Security Administration (TSA)

“The rail security final rule requires freight and passenger rail carriers to designate rail security coordinators and report significant security concerns to TSA. The rule also will codify TSA's broad inspection authority. For freight rail, the rule ensures the positive handoff of security-sensitive materials as well as establishes security protocols for custody transfers of security-sensitive material rail cars between receivers of these materials that are located in high threat urban areas, shippers of these materials, and rail carriers.”

http://www.tsa.gov/what_we_do/tsnm/freight_rail/standards.shtm

Colorado Public Utility Commission

“State jurisdiction over railroad safety is extremely broad, however most areas have been preempted by the federal government. The PUC retains primary jurisdiction over all public highway-rail crossings, including opening, closing, upgrading, overpasses or underpasses, and the allocation of costs.”

<http://www.dora.state.co.us/puc/railmain.htm>

CRS 43-1-801 “The Department of Transportation and the executive director thereof are designated and authorized to: (a) Take all steps and adopt all proceedings necessary ... implementation of section 803 of the federal "Railroad Revitalization and Regulatory Reform Act of 1976", 49 U.S.C. sec. 1654, and amendments thereto, which are designated for local rail service assistance, including administration and updating of the state rail plan; (b) Receive and accept grants, gifts, or contributions ... from the federal or state government, any other public agency, or from any other source.”

CRS 43-1-1301 establishes and endorses “policies to encourage the continued use of existing rail lines, preserve lines and rights-of-way, and promote the future use of railroad rights-of-way for transportation and interim recreational purposes.”

<http://www.coloradodot.info/programs/transitandrail>

COLORADO STATUTES

Eminent Domain

C.R.S.38-2-101. Who may condemn real estate, rights-of-way, or other rights - additional requirements for private toll roads and toll highways.

(1) If any corporation formed for the purpose of constructing a road, ditch, reservoir, pipeline, bridge, ferry, tunnel, telegraph line, railroad line, electric line, electric plant, telephone line, or telephone plant is unable to agree with the owner for the purchase of any real estate or right-of-way or easement or other right necessary or required for the purpose of any such corporation for transacting its business or for any lawful purpose connected with the operations of the company, the corporation may acquire title to such real estate or right-of-way or easement or other right in the manner provided by law for the condemnation of real estate or right-of-way. Any ditch, reservoir, or pipeline company, in the same manner, may condemn and acquire the right to take and use any water not previously appropriated.

Noxious Weeds

C.R.S. 35-5.5-108.5 outlines responsibilities of local governing bodies and landowners related to noxious weed control. The statute includes a process for local governments to approach a landowner whose property is suspected of a noxious weed infestation (C.R.S. 35-5.5-108.5 (4)).

Local Rail Service Assistance

CRS 43-1, Part 8 “The Department of Transportation and the executive director thereof are designated and authorized to: (a) Take all steps and adopt all proceedings necessary ... implementation of section 803 of the federal "Railroad Revitalization and Regulatory Reform Act of 1976", 49 U.S.C. sec. 1654, and amendments thereto, which are designated for local rail service assistance, including administration and updating of the state rail

plan; (b) Receive and accept grants, gifts, or contributions ... from the federal or state government, any other public agency, or from any other source.”

Acquisition of Abandoned Railroad Rights-of-way

CRS 43-1, Part 13 establishes and endorses “policies to encourage the continued use of existing rail lines, preserve lines and rights-of-way, and promote the future use of railroad rights-of-way for transportation and interim recreational purposes.”

Miscellaneous Resources

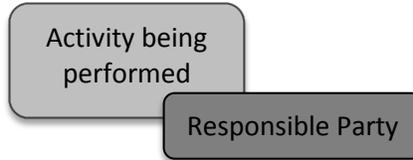
Rails to Trails

“Rails-to-Trails Conservancy is a nonprofit organization based in Washington, D.C., whose mission it is to create a nationwide network of trails from former rail lines and connecting corridors to build healthier places for healthier people.”

www.railstotrails.org

ACTIVITY DIAGRAMS

To better demonstrate the relationship between participants and their related activities flow charts were created. Flow charts represent the general activities during a process. Each box represents one activity. The party who performs that activity is identified in the box in the lower, right corner.



Each activity box is color coded to distinguish rail partners into six categories. These categories are described in detail on the next page.

The table below identifies who has a role in each activity at a glance.

	CDOT - Central	CDOT- Local	Railroad	Local Agency	Regulatory Agency	Interested Party
FRA CROSSING INVENTORY						
CDOT Crossing Inventory Maintenance	◇		◇		◇	
Railroad Crossing Inventory Maintenance	◇		◇		◇	
Crossing Status Change	◇		◇		◇	
SECTION 130						
Class I	◇	◇	◇	◇	◇	
Shortline	◇	◇	◇	◇	◇	
COMMUNICATION						
General	◇					
Incident Response	◇					
Rail Projects	◇					
Rail Abandonment	◇	◇	◇	◇	◇	◇

Each category is not mutually exclusive and there may be times a particular party may have different roles. The examples given are not intended to be comprehensive.

CDOT – CENTRAL

Primary activities will be administered by the Division of Transit and Rail (DTR) with assistance from the Office of Policy and Government Relations, and other offices. Policy issues will involve the Transportation Commission (TC) and Transit and Rail Advisory Committee (TRAC).

CDOT – LOCAL

Traffic Engineers, Utilities Engineers, Maintenance Superintendents, and all local planning, construction, and maintenance activities

RAILROAD

Class 1, Short Line, RTD, or any entity operating rail service.

LOCAL AGENCY

City, County, Metropolitan Planning Organization (MPO), Transportation Planning Region (TPR), Transportation District, Colorado Municipal League (CML), Colorado Counties, Inc. (CCI) or any other quasi-governmental transportation organization

REGULATORY AGENCY

Colorado Public Utilities Commission (PUC)
Surface Transportation Board (STB)
Federal Railroad Administration (FRA)
Transportation Security administration (TSA)

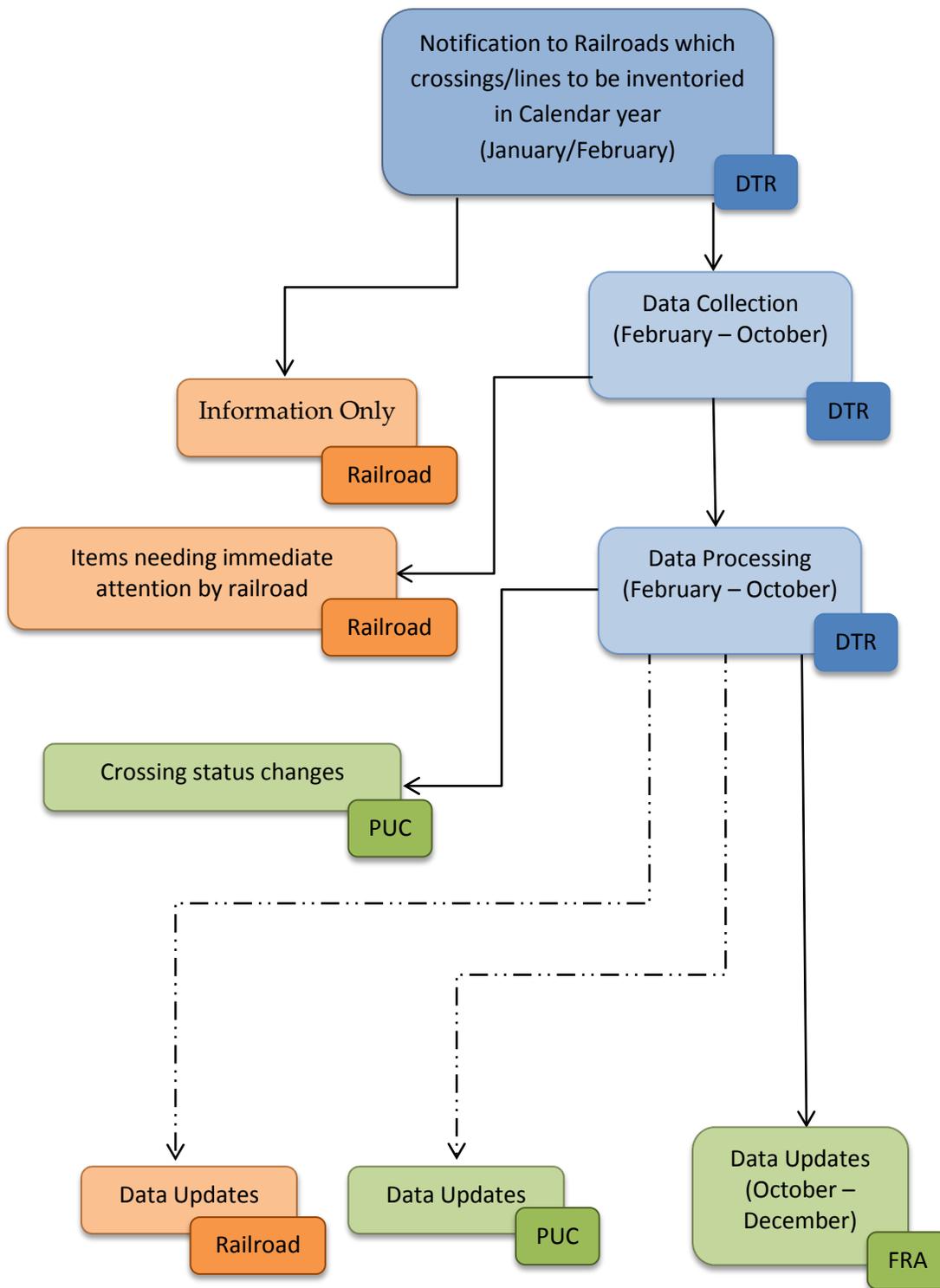
INTERESTED PARTY

Citizens
Any person or organization not specifically identified

FRA CROSSING INVENTORY

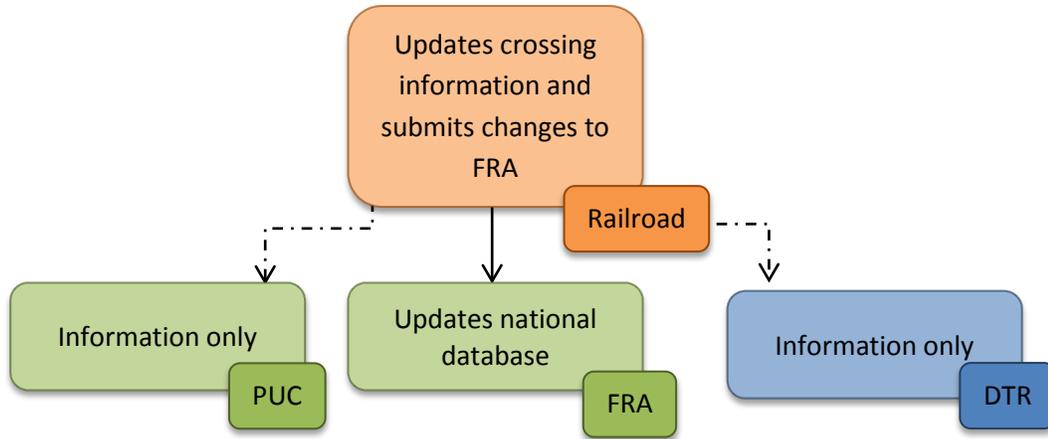
CDOT Crossing Inventory Maintenance

The Federal Railroad Administration maintains a national database of railroad crossings containing information about the physical and operational characteristics of all crossings. CDOT collects information on its portion of the inventory on a staggered annual basis.



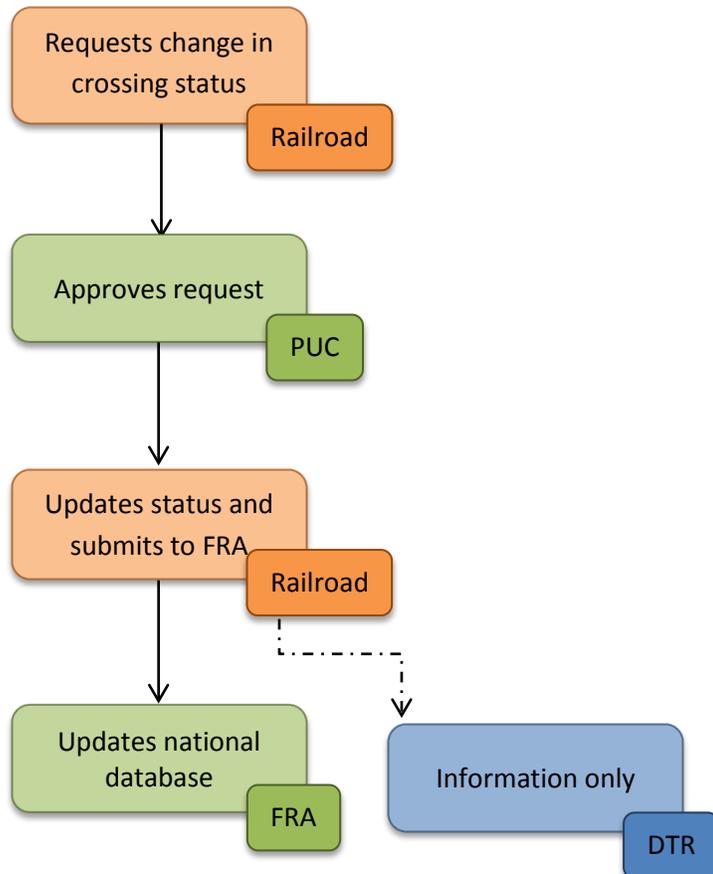
Railroad Crossing Inventory Maintenance

Any change in the crossing information, except for the crossing status, is submitted to FRA directly by the railroad. Information is submitted PUC and CDOT as a courtesy.



Crossing Status Change

When a crossing is opened or closed or changed from public to private ownership it must first obtain approval from the Colorado Public Utilities Commission.



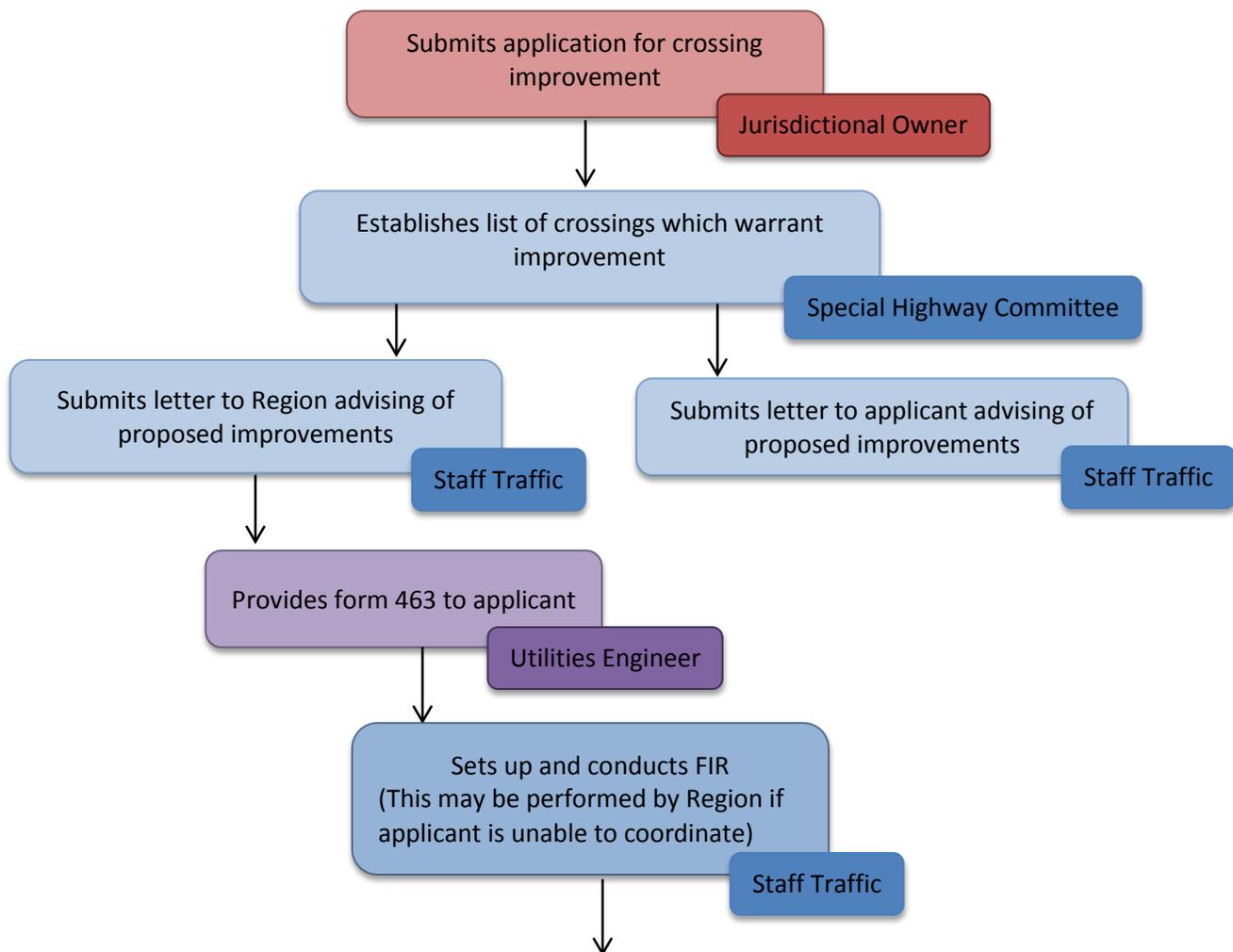
SECTION 130

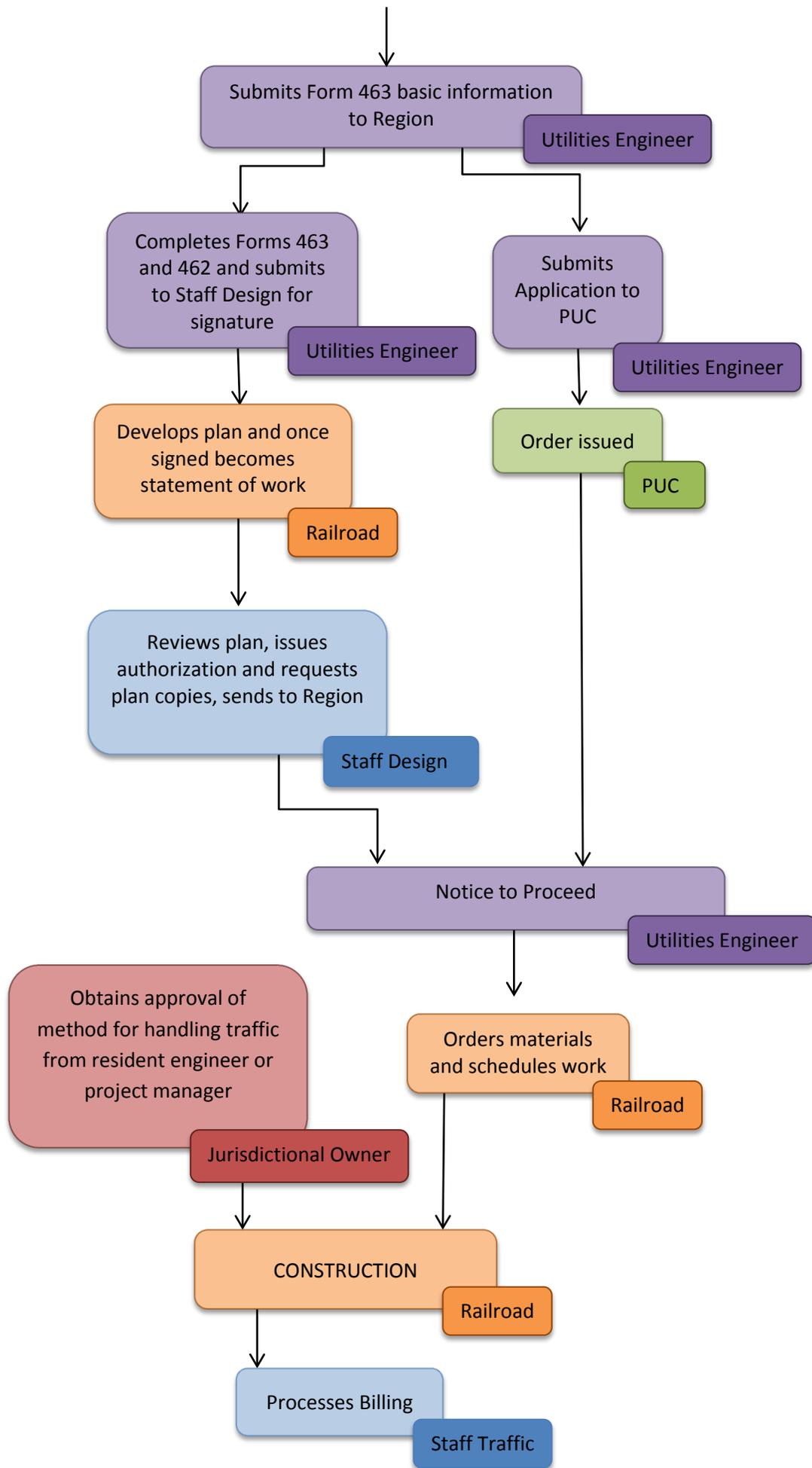
Crossing Selection

A statewide priority list of grade crossing improvements is developed every year based upon the accident prediction number generated by the data in the FRA database called WBAPS (Web Based Accident Prediction System). Since the accident prediction ranking is computed using other factors in addition to the presence or absence of active warning devices, it is quite possible to have a crossing that still ranks highly in terms of accident probability even after improvements are made. Conversely, there are crossings that rank much lower than others even though active warning devices are not present.

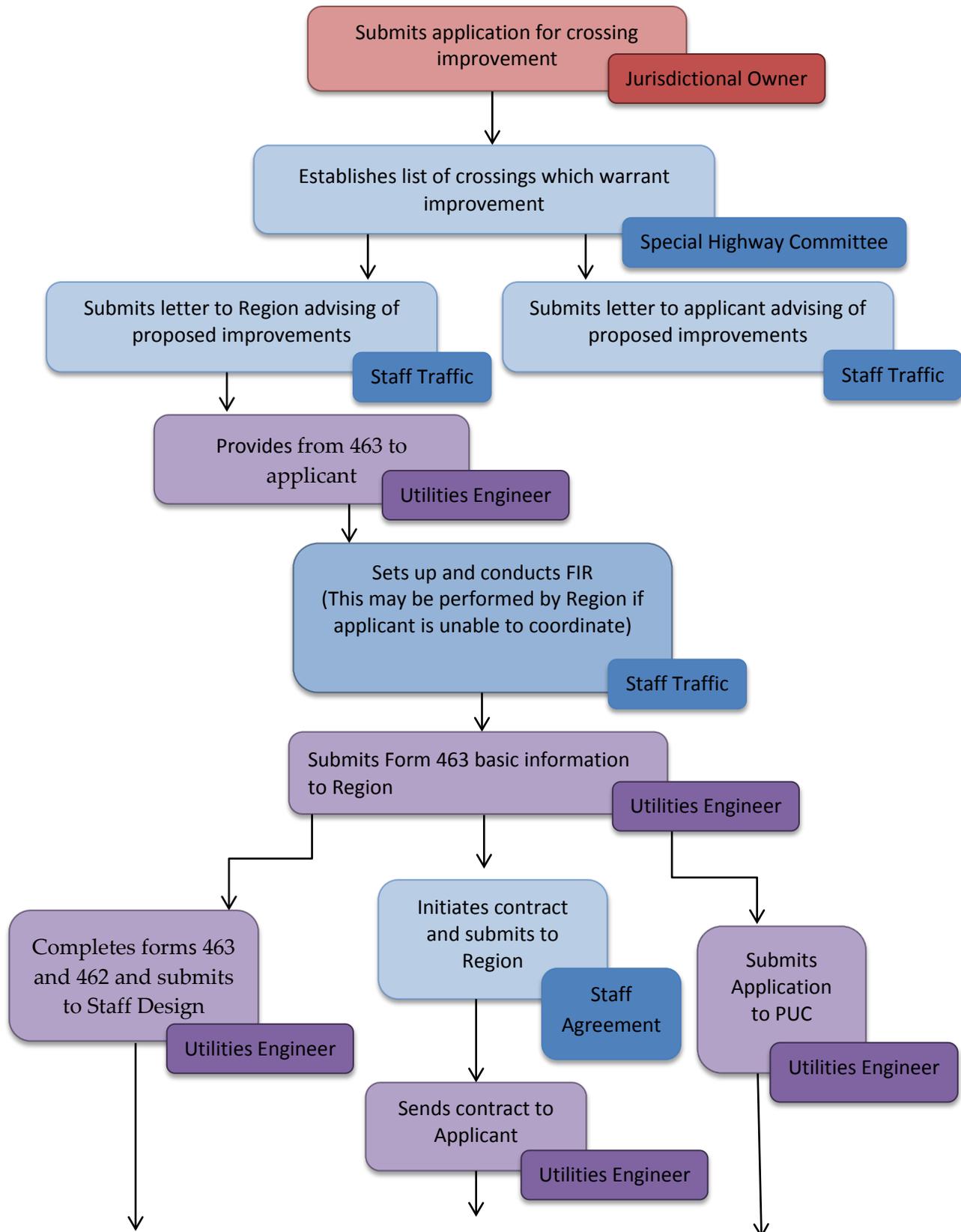
Regardless of the ranking of a particular crossing, a recent fatal accident or an accident involving a school bus or hazardous chemicals will move that crossing to the top of that year's list for consideration of improvements. This avoids CDOT being placed in the untenable position of denying improvements based solely upon statistical data.

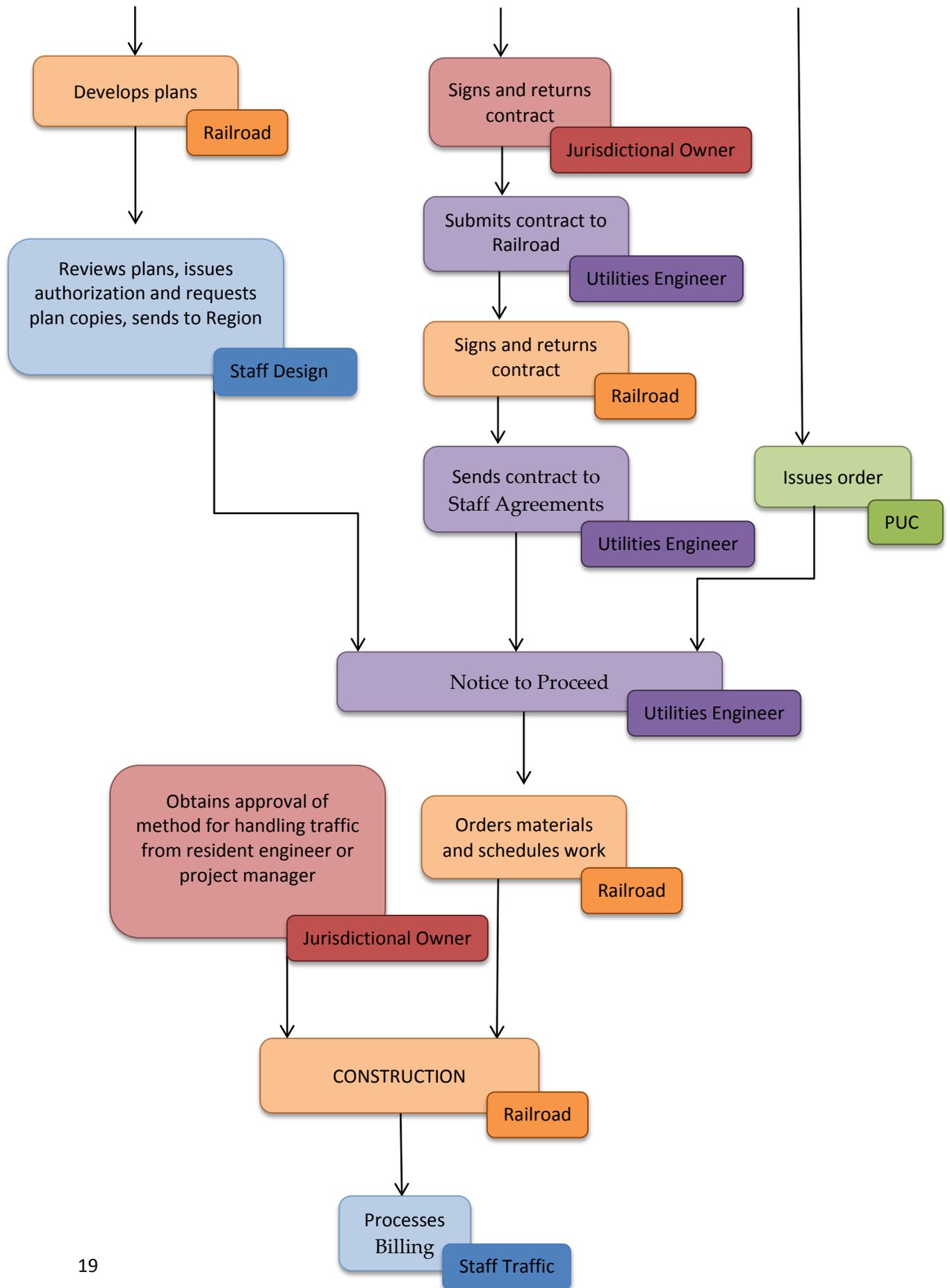
Class I Project Planning and Implementation





Short Line Project Planning and Implementation





COMMUNICATION

General Communication

DTR will develop and maintain a database of all parties who have an interest in freight rail activities in the state. This list will be used to communicate and keep participants informed with the latest information. From this list, other lists will be developed, as needs arise, to address more specific topics. Participants will be able to opt in or out of these mailings depending on their level of interest.

Incident Response

CDOT's primary concern is the safety of the traveling public. If there is an incident that affects a public roadway, CDOT will take the necessary steps to address the situation and inform the public of any pertinent information.

Rail Projects

DTR will be conducting rail related projects of various magnitudes in its efforts to improve rail transportation in Colorado. A one-size-fits-all communication plan will not be developed to use during those activities. However, as part of each project, DTR will develop a system to ensure all stakeholders are included in the process and necessary information is disseminated.

Rail Abandonment Notification

According to CRS 43-1-1304- Notice of rail line or right-of-way availability, when a railroad decides it no longer has a need for a line and chooses to abandon the line it must first notify CDOT of its intentions. CDOT will then inform all interested parties the line is available for purchase from the railroad. This diagram only represents the activities performed by CDOT as required by law. The Surface Transportation Board has jurisdiction over rail abandonment. That process is not outlined below.

