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**TITLE 105 INDIANA DEPARTMENT OF
TRANSPORTATION**

Proposed Rule
LSA Document #01-390

DIGEST

Amends 105 IAC 5-10-1 and 105 IAC 5-10-2 concerning the criteria for a petition for the opening and the abolishing of a railroad crossing. Effective 30 days after filing with the secretary of state.

105 IAC 5-10-1

105 IAC 5-10-2

SECTION 1. 105 IAC 5-10-1, AS READOPTED AT 25 IR 899, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

105 IAC 5-10-1 Criteria for opening a crossing

Authority: IC 8-6-7.7-3.1; IC 8-23-2-6

Affected: IC 8-6-1-7; IC 8-6-7.7

Sec. 1. Subject to the provisions of IC 8-6-1-7 and IC 8-6-7.7, the department may approve a petition to open a crossing after making findings and conclusions which reflect consideration of all the following factors, to the extent that same are relevant to the crossing decision under consideration:

(1) Passenger trains do not operate in excess of sixty (60) m.p.h. at the location of the proposed crossing (Class 3 FRA track classification or higher). In cases where passenger service does not operate, this criteria is not applicable.

(2) An alternate public crossing is not located within one (1) mile of the proposed crossing.

(3) No crossings within two (2) miles of the proposed crossing have had at least three (3) accidents in the preceding five (5) years, with the expected characteristics of the proposed crossing being similar to the nearby crossings. Characteristics for all crossings within two (2) miles of the proposed crossing must be submitted with the petition.

(4) The proposed crossing will have expected average annual daily traffic (AADT) of five hundred (500) or greater in rural areas or one thousand (1,000) or greater in urbanized areas, where the traffic collection procedure is completed in accordance with the Federal Highway Administration's (FHWA) Traffic Monitoring Guide, Third Edition, February 1995. This requirement shall not be applicable where a nonmotorized public grade crossing has been petitioned to the department for opening.

(5) Consideration shall be given to the overall design speed of the roadway approaches involving the proposed grade crossing. This requirement shall not be applicable where a nonmotorized public grade crossing has been petitioned to the department for opening.

(6) There are not more than ten (10) train movements per day at the proposed crossing.

(7) Freight trains do not operate in excess of twenty-five (25) m.p.h. at the location of the proposed crossing (Class 2 FRA track classification or higher).

(8) The proposed crossing has, at a minimum, standard crossbucks, pavement markings, and flashing lights. Any proposed crossing must also meet all standards for a rail-highway ~~intersections~~ **intersection** as provided in the Indiana Manual on Uniform Traffic Control Devices, which is incorporated by reference at ~~105 IC 9-2-1~~. **105 IAC 9-2-1**. The requirement for flashing lights may be waived if the petitioner can demonstrate that such devices are not essential for safety at the proposed crossing. ~~If the petitioner can demonstrate that flashing lights are not essential for safety at the proposed crossing, the petitioner must bear the cost of installing flashing lights at the passive crossing having the highest accident prediction rate, as determined by the Federal Railroad Administration's (FRA) accident prediction formula (as set forth in the Rail-Highway Crossing Resource Allocation Procedure, Third Edition, August 1987),~~

located within the county of the proposed crossing.

(9) The proposed crossing is not within two hundred (200) feet of a roadway intersection. Adjustment of this criteria will consider the maximum queue expected for the design hour.

(10) The proposed crossing does not have, at a minimum, an eighty (80) degree intersection alignment.

(11) The proposed crossing will not provide access for trucks carrying hazardous materials unless the utilization of the crossing by such traffic is incidental.

(12) The proposed crossing will not provide access for vehicles carrying passenger for hire unless the utilization of the crossing by such traffic is incidental.

(13) The proposed crossing will not provide access for school buses unless the use of the crossing by the school bus traffic provides enhanced safety over other transportation routes, as documented by the highest school transportation official.

(14) The proposed crossing will provide improved safety access for emergency vehicles. The department requires documentation from the highest emergency response official whose jurisdiction is located where the crossing is proposed for opening.

(15) While a new crossing may satisfy the ~~above~~ conditions **listed in this section**, if it can be shown by evidence that there are extenuating circumstances which, in the opinion of **the** department, a new crossing would still constitute a hazard, it would be denied.

(16) While a new crossing may not satisfy the ~~above~~ conditions **listed in this section**, if it can be shown by evidence that there are extenuating circumstances which, in the opinion of **the** department, a new crossing would still be justified, it would be approved.

(Indiana Department of Transportation; 105 IAC 5-10-1; filed Jun 17, 1998, 9:00 a.m.: 21 IR 4190; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899)

SECTION 2. 105 IAC 5-10-2, AS READOPTED AT 25 IR 899, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

105 IAC 5-10-2 Criteria for abolishing a crossing

Authority: IC 8-6-7.7-3.1; IC 8-23-2-6

Affected: IC 8-6-7.7

Sec. 2. Subject to the provisions of IC 8-6-7.7, a crossing may be closed after making findings and conclusions which reflect consideration of all the following factors, to the extent that same are relevant to the crossing decision under consideration:

(1) The crossing is located where passenger train service operates at greater than ten (10) m.p.h. (FRA Accepted Track Classification). In cases where passenger service does not operate, this criteria is not applicable.

(2) The crossing is located in a rail line section with at least four (4) crossings within an urban area and three (3) at grade crossing within a rural area within a one (1) mile segment along the railroad corridor.

(3) The crossing has an accident prediction rate of two-hundredths (.02) or higher, as determined by the Federal Railroad Administration's (FRA) Accident Prediction methodology, as set forth in the Rail-Highway Crossing Resource Allocation Procedure, Third Edition, August 1987.

(4) The crossing has an average annual daily traffic (AADT) of five hundred (500) or less within rural areas or one thousand (1,000) or less within urbanized areas, where the traffic collection procedure is completed by guidance provided in the Federal Highway Administration's (FHWA) Traffic Monitoring Guide, Third Edition, February 1995. This requirement shall not be applicable when it refers to a nonmotorized public grade crossing.

(5) The posted or established speed limit on the road through the crossing exceeds ten (10) m.p.h. within one thousand (1,000) feet of the crossing. This requirement shall not be applicable when it refers to a nonmotorized public grade crossing.

(6) The crossing has more than ten (10) ~~trains~~ **train** movements per day which utilize the crossing.

(7) The crossing is located where freight train service operates at greater than twenty-five (25) m.p.h. (Class 2 FRA track classification or higher).

(8) The crossing has, at a minimum, a standard crossbuck or a standard crossbuck with flasher or other activated warning device.

(9) The roadway approach to the crossing is skewed or the physical characteristics of the crossing otherwise limit the ability to traverse the crossing in a safe manner.

(10) If the crossing is utilized by the following types of vehicles, then the use by such vehicles should be considered in determining whether a crossing stays open or is closed. The presence or lack of presence of any of the following types of vehicles may not solely be responsible for closure or nonclosure of a crossing:

- (A) Trucks carrying hazardous materials.
- (B) Vehicles carrying passengers for hire.
- (C) School buses.
- (D) Emergency vehicles.

(Indiana Department of Transportation; 105 IAC 5-10-2; filed Jun 17, 1998, 9:00 a.m.: 21 IR 4191; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on March 4, 2002 at 9:00 a.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room 730, Indianapolis, Indiana the Indiana Department of Transportation will hold a public hearing on proposed amendments concerning the criteria for a petition for the opening and the abolishing of a railroad crossing. Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 730 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

J. Bryan Nicol
Commissioner
Indiana Department of Transportation