

1 19A NCAC 02B .0153 is proposed for reoption with substantive changes as follows:

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3 **19A NCAC 02B .0153 SIGNALIZATION OF NEW-GRADE AT-GRADE CROSSING**

4 ~~(a) For purposes of this Rule, the term "crossing agreement" is a formal written agreement between the N.C.~~
5 ~~Department of Transportation and a railroad company. The railroad company permits the Department of~~
6 ~~Transportation to build a road across the railroad company's tracks. The agreement also lists responsibilities of each~~
7 ~~party with regard to the construction, maintenance, and funding of the new crossing.~~

8 ~~(b) Where the construction of a new road or the relocation of an existing road involves an additional or a new crossing~~
9 ~~and does not involve the elimination of an existing crossing, the railroad will not be required to bear any costs of~~
10 ~~signalization or separation, either at the time of the initial construction or within a 20-year period from the execution~~
11 ~~of the crossing agreement if the Department of Transportation determines during said 20-year period that a~~
12 ~~signalization or a separation structure is required. If a crossing in existence prior to December 3, 1966 is eliminated~~
13 ~~by the relocation of an existing road, the policy stated in Rule .0152 of this Section shall apply.~~

14 (a) It shall be unlawful to construct a railroad track across any portion of the State highway system without the
15 Secretary of Transportation or the Secretary's designee providing a written statement of approval.

16 (b) A crossing agreement shall be required for any construction or relocation of railroad track across the State highway
17 system, and any construction or relocation of the State highway system across already existing railroad track. The
18 crossing agreement lists the construction, maintenance, safety device installation, and funding responsibilities of each
19 party.

20 (c) Where the construction of a new road or the relocation of an existing road involves an additional or a new crossing
21 and does not involve the elimination of an existing crossing, the railroad shall not be required to bear any costs of
22 signalization or separation, either at the time of the initial construction or within a 20-year period from the execution
23 of the Crossing Agreement if the Department determines during that 20-year period that a signalization or a separation
24 structure shall be required.

25 (d) If a crossing in existence prior to December 3, 1966, shall be eliminated by the relocation of an existing road,
26 Rule .0155 of this Section shall apply.

27 (e) The following shall be required for the construction of a new municipal street across an already existing railroad
28 track, or railroad tracks across the municipal street system.

29 (1) If a municipality and railroad seek to enter into an agreement for the construction of a new municipal
30 street, meaning a street forming a part of the municipal street system consisting of those streets or
31 highways that are not a part of the State highway system, across a railroad track, at-grade, the
32 municipality or public authority responsible for the maintenance, construction, reconstruction, and
33 right-of-way acquisition for the municipal street system shall provide the Rail Division Director
34 with 60-days' notice prior to the execution of the agreement. If the municipality anticipates there to
35 be less than 60 days between the negotiations and execution of the agreement, notification shall be
36 immediate.

1 (2) If a municipality and railroad seek to enter into an agreement for the construction of a new railroad
2 track across the municipal street system, at-grade, the municipality or public authority responsible
3 for the maintenance, construction, reconstruction, and right-of-way acquisition for the municipal
4 street system shall provide the Rail Division Director with 60-days' notice prior to the execution of
5 the agreement. If the municipality anticipates there to be less than 60 days between the negotiations
6 and execution of the agreement, notification shall be immediate.

7 (3) If a private developer and a railroad seek to enter into an agreement for the construction of a railroad
8 track across the municipal street system, at-grade, or a new municipal street across a railroad track,
9 at-grade, the private developer shall provide the Rail Division Director with 60-days' notice prior
10 to the execution of the agreement. If the private developer anticipates there to be less than 60 days
11 between the negotiations and execution of the agreement, notification shall be immediate.

12 (4) Notice shall be in writing and shall be effective upon receipt if delivered personally or by email, or
13 sent by overnight courier if signature for the receiving party is obtained, or sent by certified or
14 registered mail, postage prepaid, to the Rail Division Director at 1553 Mail Service Center, Raleigh,
15 NC 27699-1553. The Rail Division Director's email address may be found, free of charge, at
16 <https://apps.ncdot.gov/dot/directory/authenticated/UnitPage.aspx?id=3393>.

17 (5) Notice shall include the following information:

18 (A) the name, address, telephone number, and email address of the entity submitting the notice;

19 (B) a description of the anticipated crossing, including whether the agreement is for the
20 construction of a railroad track across the municipal street system, or the construction of a
21 municipal street across an already existing railroad track;

22 (C) the county, city, or political subdivision where the crossing will be located;

23 (D) the railroad milepost number, if an already existing railroad track; and

24 (D) the State maintained road number and/or name, if an already existing road.

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26 *History Note: Authority G.S. 136-18(5); 136-18(11); 136-20; 136-20.1; 136-66.1; 136-195;*
27 *Eff. July 1, 1978;*
28 *Amended Eff. December 1, 1993.*
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