

COMMISSIONERS
Kevin Thompson- Chairman
Nick Myers - Vice Chairman
Lea Márquez Peterson
Rachel Walden
Rene Lopez



Douglas R. Clark
Executive Director

Chris B. Watson
Safety Division Director

ARIZONA CORPORATION COMMISSION

PROCEDURES FOR ESTABLISHING EXEMPT STATUS AT AN EXISTING CROSSING

1. Applicant (Sponsor) of the project must set up an on-sight meeting with all parties involved (Railroad, ACC Rail Safety Section, local government agency and law enforcement having jurisdiction over the roadway, school transportation departments i.e. city, state or county and any other party having interest in the proposed project).

Key information discussed at the on-sight meeting:

- Criteria for Exempt Crossing Eligibility
 - Protection—The crossing shall be equipped with active signals.
 - Traffic Control Signals—Grade crossings where the railroad traverses through an intersection of two or more roadways and traffic is controlled by a traffic control signal may be considered under the same criteria as a crossing equipped with automatic gate-type signals.
 - Number of Tracks—The crossing shall not have more than one track in service.
 - Sight Distance—There shall be a clear and unobstructed view of the grade crossing from any point on the highway for a distance equal to the minimum stopping sight distance for the posted speed limit.
 - Warning Devices—The railroad crossing warning devices shall remain properly located and maintained except that warning devices located at a crossing where the track is out of service need not be maintained.
 - Train Speed—The maximum allowable train speed at the grade crossing shall be not greater than 20 miles per hour.
 - Accident History—The grade crossing shall not have had more than two vehicle-train accidents in the last five years. If the automatic gates have not been in service for five years, only that period covered by the automatic gates shall be applicable.
 - FRA Inventory for the crossing must indicate “No Train Traffic”.
- Current and ongoing maintenance – surface, signing and striping
- Any issues in elevation – track or road
- Sight visibility issues
- Current or future development
- Project schedule
- ACC process

2. Public Notice

- The party making application for the change in status must post signs on each roadway approach to the crossing notifying the public of the proposed Exempt Status. The signs must meet the specifications described below and read as follows:

NOTICE
AN APPLICATION HAS BEEN FILED WITH THE ARIZONA CORPORATION COMMISSION
TO CAUSE THIS CROSSING TO BECOME EXEMPT. NO TRAIN TRAFFIC (ARS 28-853).
PUBLIC CONCERNS CAN BE MADE IN WRITING TO THE RAILROAD SAFETY SECTION AT
1300 WEST WASHINGTON PHOENIX, ARIZONA 85007

Sign specifications: A metal sign with 1.5 inch black letters on a white background.

- A notice, stated in general terms, shall be given by mail to the operators of the vehicles affected by the exemption request. However, in those cases where notice by mail would be impractical because the operators involved cannot be reasonably ascertained or because the class of operators is so large that notice by mail would be costly, a notice by publication is sufficient. In such cases, notice should be placed in trade publications and newspapers of general circulation reasonably calculated to apprise the operators involved of the exemption request.
3. Making an Application to the Commission:
- Required and begins the official ACC process
 - See **Appendix A: Sample Application Contents**. Answer all relevant questions.
 - ACC Rail Safety Staff may request additional data in preparation of the Staff Report. Staff will notify the Applicant within 15 days of receipt of the application of any deficiencies in the Application and may terminate the application if those deficiencies are not remedied within 10 days of notice. Filing of a Staff Report on the Docket is considered acceptance of the application.
 - Applicant should efile the application through <https://efiling.azcc.gov/>. Alternatively, one original and thirteen hard-copies of the application may be filed with Arizona Corporation Commission, Docket Control, 1200 W. Washington St. Phoenix, AZ 85007.
 - Docketed application will be scheduled for hearing by an Administrative Law Judge (ALJ)
 - A Procedural Order with instructions to be followed will be issued by the ALJ.
 - The Procedural Order will direct the applicant to provide public notice of the scheduled hearing. The applicant must file with the Commission Docket certification of the required public notice.
- Failure to follow the Procedural Order may result in delaying the hearing process.**
4. Public Hearing
- Applicant and legal counsel must attend the scheduled hearing.
 - Approximately 30 days after the hearing, a recommended Opinion and Order from the ALJ will be issued.
5. Opinion and Order
- The executed Opinion and Order of all applications is obtained by a majority 'yes' vote by the Commissioners at the next scheduled Open Meeting.
 - Applicant and legal counsel should plan on attending.
6. The process from Application to Opinion and Order generally takes about 120 days, depending on hearing and open meeting calendars.

Division Director Chris Watson
Railroad Safety Program Manager Joe Pinkerman
Railroad Safety Supervisor Timothy Good
1300 W. Washington Street, suite 220, Phoenix, AZ 85007 | 602-262-5601 | azcc.gov

7. Periodic Review.
 - Grade Crossings declared exempt will be subject to periodic review and changes in conditions may warrant removal of exempt status from the grade crossing.
8. If you have questions on the application process please call our office at (602-262-5601)

Appendix A: Sample Application Contents

Applicant name

Address

Project name, location DOT#, project number

Vicinity Map

Existing conditions photos

Executed crossing agreement with Railroad

1. Project Location and Description

Location: *geographic location, road name, road authority, railroad involved and US Department of Transportation Number (DOT#) of the crossing.*

Existing Roadway Conditions: *Number of lanes, directions of travel, posted speed limit. If equipped with traffic pre-emption, simultaneous/advanced? Blank out signs? Raised medians? Any other warnings related to the train? What is the Average Daily Traffic Count and the year taken? No older than 2 years is preferred. Please describe the current Level of Service (LOS) at each intersection and Functional Classification of the road.*

Existing Railroad Conditions: *Warning devices currently installed type and location? i.e. gates or crossbucks at the outside edge of roadway? Train detection type? Total number of day/night thru train movements through the crossing, Max speed of the trains, any switching movements being made? Any passenger service?*

2. Evidence that the crossing meets the Criteria for Exempt Crossing Eligibility

3. Maintenance of the crossing

Outline the maintenance responsibilities for the completed project including surface, signing and striping.

4. Agreement

Memo of Understanding between Road Authority and Railroad stating that there is no train traffic at that crossing and that Exempt Status will be allowed.

5. Law Enforcement Concurrence

A letter of concurrence from the State, County or Local Police Agency.

6. Public Notice

A copy of the notice given to the public of the proposed Exempt Status effort.

7. Supplemental Information

- *Copy of current FRA Inventory Form*

<https://safetydata.fra.dot.gov/OfficeofSafety/PublicSite/Crossing/Crossing.aspx>

- *Provide the **population** of the City the crossing is located in.*
- *Provide distances in miles to the **next public crossing** on either side of the proposed project location. Are any of these grade separations?*

- Describe what the **surrounding areas are zoned for** near this intersection. i.e. Are there going to be new housing developments, industrial parks etc.
- Provide the names and locations of all **schools** (elementary, junior high and high school) within the area of the crossing.
- Provide **school bus** route information concerning the crossing, including the number of times a day a school bus crosses this crossing and the school district(s) involved.
- Provide location of any **hospitals** in the area and whether the crossing is used extensively by emergency service vehicles.
- Provide any information as to whether vehicles carrying **hazardous materials** utilize this crossing and the number of times a day they might cross it. Is the crossing listed on the National Hazardous Materials Route Registry?
- Do any **buses (other than school buses)** utilize the crossing, and how many times a day do they cross the crossing?

PROCEDURES FOR RESUMING TRAIN OPERATIONS AND REMOVING EXEMPT STATUS

1. Applicant (Sponsor) of the project must set up an on-sight meeting with all parties involved (Railroad, ACC Rail Safety Section, local government agency and law enforcement having jurisdiction over the roadway, school transportation departments i.e. city, state or county and any other party having interest in the proposed project).

Key information discussed at the on-sight meeting:

- Public notice
 - Joint inspection of signals and track
 - Maintenance concerns – surface, signing and striping
 - Any issues in elevation – track or road
 - Sight visibility issues
 - Current or future development
 - Project schedule
 - ACC process
2. Public Notice
 - The party making application for the change in status must post signs on each roadway approach to the crossing notifying the public of the proposed Exempt Status. The signs must meet the specifications described below and read as follows:

NOTICE

**AN APPLICATION HAS BEEN FILED WITH THE ARIZONA CORPORATION COMMISSION TO CAUSE THIS CROSSING TO REMOVE EXEMPT STATUS (ARS 28-853) AND RESUME TRAIN OPERATIONS. PUBLIC CONCERNS CAN BE MADE IN WRITING TO THE RAILROAD SAFETY SECTION AT 1300 WEST WASHINGTON
PHOENIX, ARIZONA 85007**

Sign specifications: A metal sign with 1.5 inch black letters on a white background.

- A notice, stated in general terms, shall be given by mail to the operators of the vehicles affected by the exemption request. However, in those cases where notice by mail would be impractical because the operators involved cannot be reasonably ascertained or because the class of operators is so large that notice by mail would be costly, a notice by publication is sufficient. In such cases, notice should be placed in trade publications and newspapers of general circulation reasonably calculated to apprise the operators involved of the exemption request.
3. Making an Application to the Commission:
 - Required and begins the official ACC process
 - See **Appendix B: Sample Application Contents**. Answer all relevant questions.
 - ACC Rail Safety Staff may request additional data in preparation of the Staff Report. Staff will notify the Applicant within 15 days of receipt of the application of any deficiencies in the Application and may terminate the application if those deficiencies are not remedied within 10 days of notice. Filing of a Staff Report on the Docket is considered acceptance of the application.

- Applicant should efile the application through <https://efiling.azcc.gov/>. Alternatively, one original and thirteen hard-copies of the application may be filed with Arizona Corporation Commission, Docket Control, 1200 W. Washington St. Phoenix, AZ 85007.
 - Docketed application will be scheduled for hearing by an Administrative Law Judge (ALJ)
 - A Procedural Order with instructions to be followed will be issued by the ALJ.
 - The Procedural Order will direct the applicant to provide public notice of the scheduled hearing. The applicant must file with the Commission Docket certification of the required public notice.

Failure to follow the Procedural Order may result in delaying the hearing process.

4. Public Hearing
 - a. Applicant and legal counsel must attend the scheduled hearing.
 - b. Approximately 30 days after the hearing, a recommended Opinion and Order from the ALJ will be issued.
5. Opinion and Order
 - a. The executed Opinion and Order of all applications is obtained by a majority 'yes' vote by the Commissioners at the next scheduled Open Meeting.
 - b. Applicant and legal counsel should plan on attending.
6. The process from Application to Opinion and Order generally takes about 120 days, depending on hearing and open meeting calendars.
7. If you have questions on the application process please call our office at (602-262-5601)

Appendix B: Sample Application Contents

Applicant name

Address

Project name, location DOT#, project number

Vicinity Map

Existing conditions photos

1. Location and Description

Location: *geographic location, road name, road authority, railroad involved and US Department of Transportation Number (DOT#) of the crossing.*

Existing Roadway Conditions: *Number of lanes, directions of travel, posted speed limit. If equipped with traffic pre-emption, simultaneous/advanced? Blank out signs? Raised medians? Any other warnings related to the train? What is the Average Daily Traffic Count and the year taken? No older than 2 years is preferred. Please describe the current Level of Service (LOS) at each intersection and Functional Classification of the road.*

Existing Railroad Conditions: *Warning devices currently installed type and location? i.e. gates or crossbucks at the outside edge of roadway? Train detection type? Total number of day/night thru train movements through the crossing, Max speed of the trains, any switching movements being made? Any passenger service?*

2. Maintenance of the crossing

Outline the maintenance responsibilities for the completed project including surface, signing and striping.

3. Agreement

A notice voiding the previous Memo of Understanding between Road Authority and Railroad stating that train operations will resume.

4. Letter from Railroad

Letter from Railroad stating that Train Detection and Railroad Signals are operational and have been joint tested with ACC and FRA personnel.

5. Law Enforcement

A copy of the notice given to the State, County or Local Police Agency.

6. Public Notice

A copy of the notice given to the public of the proposed Exempt Status effort

7. Supplemental Information

- *Copy of current FRA Inventory Form*

<https://safetydata.fra.dot.gov/OfficeofSafety/PublicSite/Crossing/Crossing.aspx>

- *Provide the **population** of the City the crossing is located in.*
- *Provide distances in miles to the **next public crossing** on either side of the proposed project location. Are any of these grade separations?*

- Describe what the **surrounding areas are zoned for** near this intersection. i.e. Are there going to be new housing developments, industrial parks etc.
- Provide the names and locations of all **schools** (elementary, junior high and high school) within the area of the crossing.
- Provide **school bus** route information concerning the crossing, including the number of times a day a school bus crosses this crossing and the school district(s) involved.
- Provide location of any **hospitals** in the area and whether the crossing is used extensively by emergency service vehicles.
- Provide any information as to whether vehicles carrying **hazardous materials** utilize this crossing and the number of times a day they might cross it. Is the crossing listed on the National Hazardous Materials Route Registry?
- Do any **buses (other than school buses)** utilize the crossing, and how many times a day do they cross the crossing?