WEST VIRGINIA CODE: §17-4-10

§17-4-10. Same -- Commissioner's order to eliminate, etc., crossing; amendment to order.

(a) Whenever, in the judgment of the state road commissioner, it is necessary for the safety of the traveling public, or to comply with the safety, design or construction standards for a federal-aid highway project, that a railway-highway crossing at grade be eliminated on an existing highway or avoided on a new highway, relocated highway or extension of an existing highway by separating the grades or relocating an existing highway, the state road commissioner shall make an order to that effect and furnish a copy thereof by registered mail to the State Auditor or attorney of record of the railroad affected by the order.

(b) The commissioner's order shall include at least the following:

(1) A statement describing and locating the railway-highway crossing at grade to be eliminated or avoided; and

(2) A statement of the general plan to be followed in effecting the elimination or avoidance of the specified railway-highway crossing at grade, including general details concerning the following matters:

(A) Whether a new, relocated or extended highway shall pass over or under the railroad right-of-way or tracks; and

(B) The location, grade and width of the grade separation structure or crossing to be constructed and the angle at which the structure or crossing shall meet and converge into the highway bed on either side of the railroad tracks or right-of-way.

(c) Whenever a railroad company affected by the order specified in subsection (a) refuses to enter into a written agreement with the state road commissioner respecting a federal-aid railway-highway project for elimination or avoidance of railway-highway crossings at grade, the commissioner may amend the order made under subsection (a) to incorporate therein insofar as practicable all the details required by the regulations, policies and procedures of the Bureau of Public Roads, United States Department of Commerce, to be included in written agreements between a railroad and a state respecting federal-aid railway-highway projects. The amended order shall be furnished by registered mail to the State Auditor or attorney of record of the railroad affected thereby.

WV Legislature