

761—800.15(327F) Train speed ordinances. An ordinance or resolution adopted by a political subdivision which relates to the speed of a train in an area within the jurisdiction of the political subdivision is subject to department approval according to the following procedure:

800.15(1) The political subdivision shall submit the ordinance/resolution to the department supported by information or reasons that justify its approval by the department.

800.15(2) The department shall notify the affected railroads.

800.15(3) The political subdivision and the affected railroads shall have 30 days in which to submit position papers to the department before the department issues an order approving or disapproving the ordinance/resolution.

800.15(4) The department shall issue an order approving or disapproving the ordinance/resolution in accordance with the following:

a. The department may approve the proposed ordinance/resolution only if the proposal satisfies the requirements of 49 U.S.C. 20106 as amended to August 3, 2007: (1) it is necessary to eliminate or reduce an essentially local safety or security hazard; (2) it is not incompatible with a federal law, regulation or order of the United States government; and (3) it does not unreasonably burden interstate commerce.

b. Generally, the department does not consider highway-railroad grade crossings or rail lines located near schools, residences, or commercial activities to be local safety hazards that can be remedied by train speed restrictions.

c. In making its decision, the department may also consider the following factors:

- (1) Traffic density and speed.
- (2) Accident frequency.
- (3) Causes of accidents.
- (4) Obstructions to visibility.
- (5) Traffic controls at crossings.
- (6) Population density.
- (7) Resulting burden on the rail transportation system.
- (8) Resulting benefit to residents of the political subdivision.

800.15(5) The department shall mail notice of its order approving or disapproving the ordinance/resolution by certified mail, return receipt requested, to the political subdivision and the affected railroads.

800.15(6) If the department issues an order approving the ordinance/resolution, it shall go into effect 25 days after the notice is mailed unless the order is contested pursuant to subrule 800.15(7).

800.15(7) Within 20 days after the notice is mailed, the political subdivision or an affected railroad may submit to the department a written statement contesting the department's order approving or disapproving the ordinance/resolution.

a. If the order is contested, 761—Chapter 13 applies.

b. If an order approving an ordinance/resolution is contested, the order shall be stayed pending the outcome of the contested case.

800.15(8) A submission to the department under this rule shall be deemed timely submitted if it is delivered or postmarked within the time period specified.

This rule is intended to implement Iowa Code section 327F.31 and 2001 Iowa Op. Att'y Gen. #01-5-2.

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