

**761—800.4(307,327F) Train speed ordinances.** An ordinance or resolution adopted by a political subdivision that 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:

**800.4(1)** The political subdivision is to submit the ordinance/resolution to the department supported by information or reasons that justify its approval by the department.

**800.4(2)** The department will notify the affected railroads.

**800.4(3)** The political subdivision and the affected railroads will have 30 days in which to submit position papers to the department before the department issues an order approving or disapproving the ordinance/resolution.

**800.4(4)** The department will 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.

*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.

**800.4(5)** The department will 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.

**800.4(6)** If the department issues an order approving the ordinance/resolution, it will go into effect 25 days after the notice is mailed unless the order is contested pursuant to subrule 800.4(7).

**800.4(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 2506 applies.

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

**800.4(8)** A submission to the department under this rule will be deemed timely submitted if it is delivered or postmarked within the time period specified.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 307.26 and 327F.31 and 2001 Iowa Op. Att’y Gen. #01-5-2.

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