

**177.150 Final hearing -- Notice -- Final order -- Waiver of proceedings -- Appeal.**

- (1) After receipt of the plans, specifications, and estimates of cost from the railroad company, the department shall give at least ten (10) days' notice by certified mail, return receipt requested, to the railroad company of a time and place for a conference with respect to the grade separation or change. If the department elects to prepare plans, specifications, and estimates of cost, it shall furnish copies thereof to the railroad company prior to or at the time it gives notice of the conference. At the conference, the department shall approve or modify the plans and specifications and shall consider and determine the method of doing the work, whether by the railroad company or by the department, or partly by one and partly by the other, and whether by contract or by the employees of the department or the railroad company, or both, or by any combination of these methods, and if by contract, the method and manner of advertising for bids, the time and place of opening the bids, the time when work shall be begun and completed, and all similar matters of an administrative nature. The department shall embody its conclusions in an order, a copy of which shall be sent by certified mail, return receipt requested, to the railroad company.
- (2) The department and any railroad company may agree by contract as to the method of eliminating any grade crossing or changing any existing overhead or underpass structure. In event of an agreement, all notices, hearings, and proceedings shall be deemed to have been waived, and the work of eliminating the grade crossing or making the change shall be performed in accordance with the terms of the contract, with the same effect as though the work was being performed pursuant to a final order of the department.
- (3) Any person aggrieved by an order issued pursuant to subsection (1) of this section may appeal to the department, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

**Effective:** July 15, 1996

**History:** Amended 1996 Ky. Acts ch. 318, sec. 62, effective July 15, 1996. -- Amended 1980 Ky. Acts ch. 114, sec. 30, effective July 15, 1980. -- Amended 1974 Ky. Acts ch. 74, Art. IV, sec. 20(1); and ch. 315, sec. 22. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356z-4.