

§ 222.53 What are the requirements for supplementary and alternative safety measures?

(a) Approved SSMs are listed in appendix A of this part.

(b) Additional ASMs that may be included in a request for FRA approval of a quiet zone under §222.39(b) are listed in appendix B of this part.

(c) The following do not, individually or in combination, constitute SSMs or ASMs: Standard traffic control device arrangements such as reflectorized crossbucks, STOP signs, flashing lights, or flashing lights with gates that do not completely block travel over the line of railroad, or traffic signals.

§ 222.55 How are new supplementary or alternative safety measures approved?

(a) The Associate Administrator may add new SSMs and standards to appendix A and new ASMs and standards to appendix B of this part when the Associate Administrator determines that such measures or standards are an effective substitute for the locomotive horn in the prevention of collisions and casualties at public highway-rail grade crossings.

(b) Interested parties may apply for approval from the Associate Administrator to demonstrate proposed new SSMs or ASMs to determine whether they are effective substitutes for the locomotive horn in the prevention of collisions and casualties at public highway-rail grade crossings.

(c) The Associate Administrator may, after notice and opportunity for comment, order railroad carriers operating over a public highway-rail grade crossing or crossings to temporarily cease the sounding of locomotive horns at such crossings to demonstrate proposed new SSMs or ASMs, provided that such proposed new SSMs or ASMs have been subject to prior testing and evaluation. In issuing such order, the Associate Administrator may impose any conditions or limitations on such use of the proposed new SSMs or ASMs which the Associate Administrator deems necessary in order to provide the level of safety at least equivalent to that provided by the locomotive horn.

(d) Upon completion of a demonstration of proposed new SSMs or ASMs, interested parties may apply to the Associate Administrator for their approval. Applications for approval shall be in writing and shall include the following:

(1) The name and address of the applicant;

(2) A description and design of the proposed new SSM or ASM;

(3) A description and results of the demonstration project in which the proposed SSMs or ASMs were tested;

(4) Estimated costs of the proposed new SSM or ASM; and

(5) Any other information deemed necessary.

(e) If the Associate Administrator is satisfied that the proposed safety measure fully compensates for the absence of the warning provided by the locomotive horn, the Associate Administrator will approve its use as an SSM to be used in the same manner as the measures listed in Appendix A of this part, or the Associate Administrator, may approve its use as an ASM to be used in the same manner as the measures listed in Appendix B of this part. The Associate Administrator may impose any conditions or limitations on use of the SSMs or ASMs which the Associate Administrator deems necessary in order to provide the level of safety at least equivalent to that provided by the locomotive horn.

(f) If the Associate Administrator approves a new SSM or ASM, the Associate Administrator will: notify the applicant, if any; publish notice of such action in the FEDERAL REGISTER; and add the measure to the list of approved SSMs or ASMs.

(g) A public authority or other interested party may appeal to the Administrator from a decision by the Associate Administrator granting or denying an application for approval of a proposed SSM or ASM or the conditions or limitations imposed on its use in accordance with §222.57 .

§ 222.57 Can parties seek review of the Associate Administrator's actions?

(a) A public authority or other interested party may petition the Administrator for review of any decision by the Associate Administrator granting or

denying an application for approval of a new SSM or ASM under § 222.55. The petition must be filed within 60 days of the decision to be reviewed, specify the grounds for the requested relief, and be served upon all parties identified in § 222.43(a). Unless the Administrator specifically provides otherwise, and gives notice to the petitioner or publishes a notice in the FEDERAL REGISTER, the filing of a petition under this paragraph does not stay the effectiveness of the action sought to be reviewed. The Administrator may reaffirm, modify, or revoke the decision of the Associate Administrator without further proceedings and shall notify the petitioner and other interested parties in writing or by publishing a notice in the FEDERAL REGISTER.

(b) A public authority may challenge a decision by the Associate Administrator to deny an application by that authority for approval of a quiet zone, or to require additional safety measures, or that a quiet zone be terminated, by filing a petition for reconsideration with the Associate Administrator. The petition must specify the grounds for the requested relief, be filed within 60 days of the decision to be reconsidered, and be served upon all parties identified in § 222.43(a). Upon receipt of a timely and proper petition, the Associate Administrator will provide the petitioner an opportunity to submit additional materials and for an informal hearing. Upon review of the additional materials and completion of any hearing requested, the Associate Administrator shall issue a decision on the petition that will be administratively final.

§ 222.59 When may a wayside horn be used?

(a) Notwithstanding any provisions in this part to the contrary:

(1) A wayside horn conforming to the requirements of Appendix E of this part may be used in lieu of a locomotive horn at any highway-rail grade crossing equipped with an active warning system consisting of, at a minimum, flashing lights and gates; and

(2) A wayside horn conforming to the requirements of Appendix E of this part may be installed within a quiet zone. For purposes of calculating the

length of a quiet zone, the presence of a wayside horn at a highway-grade crossing within a quiet zone shall be considered in the same manner as a grade crossing treated with an SSM. A grade crossing equipped with a wayside horn shall not be considered in calculating the Quiet Zone Risk Index or Crossing Corridor Risk Index.

(b) A public authority installing a wayside horn at a grade crossing within a quiet zone shall identify by both the U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name the grade crossing equipped with such wayside horn in its notice to railroads and other parties required by § 222.43.

(c) A public authority installing a wayside horn at a grade crossing outside a quiet zone shall provide written notice to the Associate Administrator and to each railroad operating over the grade crossing that a wayside horn is being installed and the date on which the wayside horn will be operational. The grade crossing shall be identified by both the U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name. The public authority shall provide notification of the operational date at least 21 days in advance.

(d) A railroad operating over a grade crossing equipped with an operational wayside horn installed within a quiet zone pursuant to this section shall cease routine locomotive horn use at the grade crossing. A railroad operating over a grade crossing equipped with an operational wayside horn installed outside of a quiet zone may cease routine locomotive horn use by agreement with the public authority.

APPENDIX A TO PART 222—APPROVED SUPPLEMENTARY SAFETY MEASURES

1. *Temporary Closure of a Public Highway-Rail Grade Crossing:* Close the crossing to highway traffic during designated quiet periods.

Effectiveness: 1.0.

Because an effective closure system prevents vehicle entrance onto the crossing, the probability of a collision with a train at the crossing is zero during the period the crossing is closed. Effectiveness would therefore equal 1. However, analysis should take into consideration that traffic would need to be redistributed among adjacent crossings or