

Federal Railroad Administration, DOT

§ 222.43

Partial Quiet Zone establishment in accordance with § 222.43 and has complied with the requirements of §§ 222.25(c), 222.27(d), and 222.35 by June 24, 2008.

(3) Locomotive horn restrictions may continue for an additional three years beyond the five-year period permitted by paragraph (b)(2)(i) of this section, if:

(i) Prior to June 24, 2008, the appropriate State agency provides to the Associate Administrator: a comprehensive State-wide implementation plan and funding commitment for implementing improvements at Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones which, when implemented, would enable them to qualify for a quiet zone under this part; and

(ii) Prior to June 24, 2009, either physical improvements are initiated at a portion of the crossings within the quiet zone, or the appropriate State agency has participated in quiet zone improvements in one or more jurisdictions elsewhere within the State.

(4) In the event that the safety improvements planned for the quiet zone require approval of FRA under § 222.39(b) of this part, the public authority should apply for such approval prior to December 24, 2007, to ensure that FRA has ample time in which to review such application prior to the end of the extension period.

(d) *Pre-Rule Partial Quiet Zones that will be converted to 24-hour Quiet Zones.* A Pre-Rule Partial Quiet Zone may be converted to a 24-hour quiet zone if the quiet zone is brought into compliance with the New Quiet Zone requirements set forth in §§ 222.25, 222.27, 222.35 and 222.39 of this part and notification of the establishment of a New 24-hour Quiet Zone is provided in accordance with § 222.43 of this part.

§ 222.42 How does this rule affect Intermediate Quiet Zones and Intermediate Partial Quiet Zones?

(a) Existing restrictions may, at the public authority's discretion, remain in place within the Intermediate Quiet Zone or Intermediate Partial Quiet Zone until June 24, 2006, provided the public authority complies with § 222.43 (notice and information requirements) of this part. Continuation of the quiet zone beyond June 24, 2006 will require

implementation of SSMs or ASMs in accordance with § 222.39 of this part and compliance with the New Quiet Zone standards set forth in §§ 222.25, 222.27 and 222.35 of this part.

(b) *Conversion of Intermediate Partial Quiet Zones into 24-hour New Quiet Zones.* An Intermediate Partial Quiet Zone may be converted into a 24-hour New Quiet Zone when the quiet zone is brought into compliance with the New Quiet Zone requirements set forth in §§ 222.25, 222.27, 222.35 and 222.39 (requirements for quiet zone establishment) of this part, provided notification of New Quiet Zone establishment is provided in accordance with § 222.43 (notice and information requirements) of this part.

§ 222.43 What notices and other information are required to create or continue a quiet zone?

(a)(1) The public authority shall provide written notice, by certified mail, return receipt requested, of its intent to create a New Quiet Zone or New Partial Quiet Zone under § 222.39 of this part. Such notification shall be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the State agency responsible for highway and road safety; and the State agency responsible for grade crossing safety.

(2) The public authority shall provide written notification, by certified mail, return receipt requested, to continue a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone under § 222.41 of this part or to continue an Intermediate Quiet Zone or Intermediate Partial Quiet Zone under § 222.42 of this part. Such notification shall be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone; the landowner having control over any private crossings within the quiet zone; the State agency responsible for highway and road safety; the State agency responsible for grade crossing safety; and the Associate Administrator.

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(3) The public authority shall provide written notice, by certified mail, return receipt requested, of its intent to file a detailed plan for a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone in accordance with § 222.41(c)(2) of this part. Such notification shall be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the State agency responsible for highway and road safety; and the State agency responsible for grade crossing safety.

(4) The public authority shall provide written notice, by certified mail, return receipt requested, of the establishment of a quiet zone under § 222.39 or 222.41 of this part. Such notification shall be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone; the landowner having control over any private crossings within the quiet zone; the State agency responsible for highway and road safety; the State agency responsible for grade crossing safety; and the Associate Administrator.

(b) *Notice of Intent.* (1) *Required Contents.* The Notice of Intent shall include the following:

(i) A list of each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian crossing that would be included within the proposed quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name.

(ii) A statement of the time period within which restrictions would be imposed on the routine sounding of the locomotive horn imposed (*i.e.*, 24 hours or from 10 p.m. until 7 a.m.)

(iii) A brief explanation of the public authority's tentative plans for implementing improvements within the proposed quiet zone.

(iv) The name and title of the person who will act as point of contact during the quiet zone development process and the manner in which that person can be contacted.

(v) A list of the names and addresses of each party that will receive notification

in accordance with paragraph (a)(1) of this section.

(2) *60-day comment period.* (i) A party that receives a copy of the public authority's Notice of Intent may submit information or comments about the proposed quiet zone to the public authority during the 60-day period after the date on which the Notice of Intent was mailed.

(ii) The 60-day comment period established under paragraph (b)(2)(i) of this section may terminate when the public authority obtains from each railroad operating over public grade crossings within the proposed quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety:

(A) Written comments; or

(B) Written statements that the railroad and State agency do not have any comments on the Notice of Intent ("no-comment statements".)

(c) *Notice of Quiet Zone Continuation.*

(1) *Timing.* (i) In order to prevent the resumption of locomotive horn sounding on June 24, 2005, the Notice of Quiet Zone Continuation under § 222.41 or 222.42 of this part shall be served no later than June 3, 2005.

(ii) If the Notice of Quiet Zone Continuation under § 222.41 or 222.42 of this part is mailed after June 3, 2005, the Notice of Quiet Zone Continuation shall state the date on which locomotive horn use at highway-rail grade crossings within the quiet zone shall cease, but in no event shall that date be earlier than 21 days after the date of mailing.

(2) *Required contents.* The Notice of Quiet Zone Continuation shall include the following:

(i) A list of each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian crossing within the quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name.

(ii) A specific reference to the regulatory provision that provides the basis for quiet zone continuation, citing as appropriate, § 222.41 or 222.42 of this part.

(iii) A statement of the time period within which restrictions on the routine sounding of the locomotive horn will be imposed (*i.e.*, 24 hours or nighttime hours only.)

(iv) An accurate and complete Grade Crossing Inventory Form for each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian crossing within the quiet zone that reflects conditions currently existing at the crossing.

(v) The name and title of the person responsible for monitoring compliance with the requirements of this part and the manner in which that person can be contacted.

(vi) A list of the names and addresses of each party that will receive notification in accordance with paragraph (a)(2) of this section.

(vii) A statement signed by the chief executive officer of each public authority participating in the continuation of the quiet zone, in which the chief executive officer certifies that the information submitted by the public authority is accurate and complete to the best of his/her knowledge and belief.

(d) *Notice of Detailed Plan.* (1) *Timing.* The Notice of Detailed Plan shall be served no later than four months before the filing of the detailed plan under § 222.41(c)(2) of this part.

(2) *Required contents.* The Notice of Detailed Plan shall include the following:

(i) A list of each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian crossing that is included in the quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name.

(ii) A statement of the time period within which restrictions would be imposed on the routine sounding of the locomotive horn imposed (*i.e.*, 24 hours or nighttime hours only.)

(iii) A brief explanation of the public authority's tentative plans for implementing improvements within the quiet zone.

(iv) The name and title of the person who will act as point of contact during the quiet zone development process and the manner in which that person can be contacted.

(v) A list of the names and addresses of each party that will receive notification in accordance with paragraph (a)(3) of this section.

(3) *60-day comment period.* A party that receives a copy of the public authority's Notice of Detailed Plan may submit information or comments about the proposed improvements to the public authority during the 60-day period after the date on which the Notice of Detailed Plan was mailed.

(e) *Notice of Quiet Zone Establishment.*

(1) *Timing.* (i) The Notice of Quiet Zone Establishment shall provide the date upon which routine locomotive horn use at highway-rail grade crossings shall cease, but in no event shall the date be earlier than 21 days after the date of mailing.

(ii) If the public authority was required to provide a Notice of Intent, in accordance with paragraph (a)(1) of this section, the Notice of Quiet Zone Establishment shall not be mailed less than 60 days after the date on which the Notice of Intent was mailed, unless the Notice of Quiet Zone Establishment contains a written statement affirming that written comments and/or "no-comment" statements have been received from each railroad operating over public grade crossings within the proposed quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety in accordance with paragraph (b)(2)(ii) of this section.

(2) *Required contents.* The Notice of Quiet Zone Establishment shall include the following:

(i) A list of each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian crossing within the quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name.

(ii) A specific reference to the regulatory provision that provides the basis for quiet zone establishment, citing as appropriate, § 222.39(a)(1), 222.39(a)(2)(i), 222.39(a)(2)(ii), 222.39(a)(3), 222.39(b), 222.41(a)(1)(i), 222.41(a)(1)(ii), 222.41(a)(1)(iii), 222.41(a)(1)(iv), 222.41(b)(1)(i), 222.41(b)(1)(ii), 222.41(b)(1)(iii), or 222.41(b)(1)(iv) of this part.

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(A) If the Notice contains a specific reference to § 222.39(a)(2)(i), 222.39(a)(2)(ii), 222.41(a)(1)(ii), 222.41(a)(1)(iv), 222.41(b)(1)(iii), or 222.41(b)(1)(iv) of this part, it shall include a copy of the FRA web page that contains the quiet zone data upon which the public authority is relying (<http://www.fra.dot.gov/us/content/1337>).

(B) If the Notice contains a specific reference to § 222.39(b) of this part, it shall include a copy of FRA's notification of approval.

(iii) If a diagnostic team review was required under § 222.25 or 222.27 of this part, the Notice shall include a statement affirming that the State agency responsible for grade crossing safety and all affected railroads were provided an opportunity to participate in the diagnostic team review. The Notice shall also include a list of recommendations made by the diagnostic team.

(iv) A statement of the time period within which restrictions on the routine sounding of the locomotive horn will be imposed (*i.e.*, 24 hours or from 10 p.m. until 7 a.m.)

(v) An accurate and complete Grade Crossing Inventory Form for each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian crossing within the quiet zone that reflects the conditions existing at the crossing before any new SSMS or ASMS were implemented.

(vi) An accurate, complete and current Grade Crossing Inventory Form for each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian crossing within the quiet zone that reflects SSMS and ASMS in place upon establishment of the quiet zone. SSMS and ASMS that cannot be fully described on the Inventory Form shall be separately described.

(vii) If the public authority was required to provide a Notice of Intent, in accordance with paragraph (a)(1) of this section, the Notice of Quiet Zone Establishment shall contain a written statement affirming that the Notice of Intent was provided in accordance with paragraph (a)(1) of this section. This statement shall also state the date on which the Notice of Intent was mailed.

(viii) If the public authority was required to provide a Notice of Intent, in accordance with paragraph (a)(1) of this section, and the Notice of Intent was mailed less than 60 days before the mailing of the Notice of Quiet Zone Establishment, the Notice of Quiet Zone Establishment shall also contain a written statement affirming that written comments and/or "no comment" statements have been received from each railroad operating over public grade crossings within the proposed quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety in accordance with paragraph (b)(2)(ii) of this section.

(ix) If the public authority was required to provide a Notice of Detailed Plan in accordance with paragraph (a)(3) of this section, the Notice of Quiet Zone Establishment shall contain a statement affirming that the Notice of Detailed Plan was provided in accordance with paragraph (a)(3) of this section. This statement shall also state the date on which the Notice of Detailed Plan was mailed.

(x) The name and title of the person responsible for monitoring compliance with the requirements of this part and the manner in which that person can be contacted.

(xi) A list of the names and addresses of each party that shall be notified in accordance with paragraph (a)(4) of this section.

(xii) A statement signed by the chief executive officer of each public authority participating in the establishment of the quiet zone, in which the chief executive officer shall certify that the information submitted by the public authority is accurate and complete to the best of his/her knowledge and belief.

§ 222.45 When is a railroad required to cease routine use of locomotive horns at crossings?

After notification from a public authority, pursuant to § 222.43(e) of this part, that a quiet zone is being established, a railroad shall cease routine use of the locomotive horn at all public and private highway-rail grade crossings identified by the public authority upon the date set by the public authority.