

§ 222.11

49 CFR Ch. II (10-1-06 Edition)

(2) High speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

Recognized State agency means, for purposes of this part, a State agency, responsible for highway-rail grade crossing safety or highway and road safety, that has applied for and been approved by FRA as a participant in the quiet zone development process.

Relevant collision means a collision at a highway-rail grade crossing between a train and a motor vehicle, excluding the following: a collision resulting from an activation failure of an active grade crossing warning system; a collision in which there is no driver in the motor vehicle; or a collision in which the highway vehicle struck the side of the train beyond the fourth locomotive unit or rail car. With respect to Pre-Rule Partial Quiet Zones, a relevant collision shall not include collisions that occur during the time period within which the locomotive horn is routinely sounded.

Risk Index With Horns means a measure of risk to the motoring public when locomotive horns are routinely sounded at every public highway-rail grade crossing within a quiet zone. In Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones, the Risk Index With Horns is determined by adjusting the Crossing Corridor Risk Index to account for the decreased risk that would result if locomotive horns were routinely sounded at each public highway-rail grade crossing.

Supplementary safety measure (SSM) means a safety system or procedure established in accordance with this part which is provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the Associate Administrator to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. Appendix A of this part lists such SSMs.

Waiver means a temporary or permanent modification of some or all of the requirements of this part as they apply to a specific party under a specific set of facts. Waiver does not refer to the process of establishing quiet zones or approval of quiet zones in accordance with the provisions of this part.

Wayside horn means a stationary horn located at a highway rail grade crossing, designed to provide, upon the approach of a locomotive or train, audible warning to oncoming motorists of the approach of a train.

§ 222.11 What are the penalties for failure to comply with this regulation?

Any person who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of least \$550 and not more than \$11,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$27,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. Any person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311. Appendix G of this part contains a schedule of civil penalty amounts used in connection with this part.

§ 222.13 Who is responsible for compliance?

Any person, including but not limited to a railroad, contractor for a railroad, or a local or State governmental entity that performs any function covered by this part, must perform that function in accordance with this part.

§ 222.15 How does one obtain a waiver of a provision of this regulation?

(a) Except as provided in paragraph (b) of this section, two parties must jointly file a petition (request) for a waiver. They are the railroad owning or controlling operations over the railroad tracks crossing the public highway-rail grade crossing and the public authority which has jurisdiction over