

equipped with constant warning time devices, if reasonably practical, and power-out indicators.

(3) Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones must retain, and may upgrade, the grade crossing safety warning system which existed as of December 18, 2003. Any upgrade involving the installation or renewal of an automatic warning device system shall include constant warning time devices, where reasonably practical, and power-out indicators. In no event may the grade crossing safety warning system, which existed as of December 18, 2003, be downgraded. Risk reduction resulting from upgrading to flashing lights or gates may be credited in calculating the Quiet Zone Risk Index.

(c) *Advance warning signs.* (1) Each highway approach to every public and private highway-rail grade crossing within a New Quiet Zone shall be equipped with an advance warning sign that advises the motorist that train horns are not sounded at the crossing. Such sign shall conform to the standards contained in the MUTCD.

(2) Each highway approach to every public and private highway-rail grade crossing within a New Partial Quiet Zone shall be equipped with an advance warning sign that advises the motorist that train horns are not sounded at the crossing or that train horns are not sounded at the crossing between the hours of 10 p.m. and 7 a.m., whichever is applicable. Such sign shall conform to the standards contained in the MUTCD.

(3) Each highway approach to every public and private highway-rail grade crossing within a Pre-Rule Quiet Zone shall be equipped by June 24, 2008 with an advance warning sign that advises the motorist that train horns are not sounded at the crossing. Such sign shall conform to the standards contained in the MUTCD.

(4) Each highway approach to every public and private highway-rail grade crossing within a Pre-Rule Partial Quiet Zone shall be equipped by June 24, 2008 with an advance warning sign that advises the motorist that train horns are not sounded at the crossing or that train horns are not sounded at the crossing for a specified period of time, whichever is applicable. Such

sign shall conform to the standards contained in the MUTCD.

(5) This paragraph (c) does not apply to public and private highway-rail grade crossings equipped with wayside horns that conform to the requirements set forth in §222.59 and Appendix E of this part.

(d) *Bells.* (1) Each public highway-rail grade crossing in a New Quiet Zone or New Partial Quiet Zone that is subjected to pedestrian traffic and equipped with one or more automatic bells shall retain those bells in working condition.

(2) Each public highway-rail grade crossing in a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone that is subjected to pedestrian traffic and equipped with one or more automatic bells shall retain those bells in working condition.

(e) All private highway-rail grade crossings within the quiet zone must be treated in accordance with this section and §222.25 of this part.

(f) All pedestrian grade crossings within a quiet zone must be treated in accordance with §222.27 of this part.

(g) All public highway-rail grade crossings within the quiet zone must be in compliance with the requirements of the MUTCD.

#### **§222.37 Who may establish a quiet zone?**

(a) A public authority may establish quiet zones that are consistent with the provisions of this part. If a proposed quiet zone includes public highway-rail grade crossings under the authority and control of more than one public authority (such as a county road and a State highway crossing the railroad tracks at different crossings), both public authorities must agree to establishment of the quiet zone, and must jointly, or by delegation provided to one of the authorities, take such actions as are required by this part.

(b) A public authority may establish quiet zones irrespective of State laws covering the subject matter of sounding or silencing locomotive horns at public highway-rail grade crossings. Nothing in this part, however, is meant to affect any other applicable role of State agencies or the Federal Highway Administration in decisions regarding

funding or construction priorities for grade crossing safety projects, selection of traffic control devices, or engineering standards for roadways or traffic control devices.

(c) A State agency may provide administrative and technical services to public authorities by advising them, acting on their behalf, or acting as a central contact point in dealing with FRA; however, any public authority eligible to establish a quiet zone under this part may do so.

**§ 222.38 Can a quiet zone be created in the Chicago Region?**

Public authorities that are eligible to establish quiet zones under this part may create New Quiet Zones or New Partial Quiet Zones in the Chicago Region, provided the New Quiet Zone or New Partial Quiet Zone does not include any highway-rail grade crossing described in § 222.3(c) of this part.

**§ 222.39 How is a quiet zone established?**

(a) *Public authority designation.* This paragraph (a) describes how a quiet zone may be designated by a public authority without the need for formal application to, and approval by, FRA. If a public authority complies with either paragraph (a)(1), (a)(2), or (a)(3) of this section, and complies with the information and notification provisions of § 222.43 of this part, a public authority may designate a quiet zone without the necessity for FRA review and approval.

(1) A quiet zone may be established by implementing, at every public highway-rail grade crossing within the quiet zone, one or more SSMs identified in appendix A of this part.

(2) A quiet zone may be established if the Quiet Zone Risk Index is at, or below, the Nationwide Significant Risk Threshold, as follows:

(i) If the Quiet Zone Risk Index is already at, or below, the Nationwide Significant Risk Threshold without being reduced by implementation of SSMs; or

(ii) If SSMs are implemented which are sufficient to reduce the Quiet Zone Risk Index to a level at, or below, the Nationwide Significant Risk Threshold.

(3) A quiet zone may be established if SSMs are implemented which are suffi-

cient to reduce the Quiet Zone Risk Index to a level at or below the Risk Index With Horns.

(b) *Public authority application to FRA.* (1) A public authority may apply to the Associate Administrator for approval of a quiet zone that does not meet the standards for public authority designation under paragraph (a) of this section, but in which it is proposed that one or more safety measures be implemented. Such proposed quiet zone may include only ASMs, or a combination of ASMs and SSMs at various crossings within the quiet zone. Note that an engineering improvement which does not fully comply with the requirements for an SSM under appendix A of this part, is considered to be an ASM. The public authority's application must:

(i) Contain an accurate, complete and current Grade Crossing Inventory Form for each public, private and pedestrian grade crossing within the proposed quiet zone;

(ii) Contain sufficient detail concerning the present safety measures at each public, private and pedestrian grade crossing proposed to be included in the quiet zone to enable the Associate Administrator to evaluate their effectiveness;

(iii) Contain detailed information about diagnostic team reviews of any crossing within the proposed quiet zone, including a membership list and a list of recommendations made by the diagnostic team;

(iv) Contain a statement describing efforts taken by the public authority to address comments submitted by each railroad operating 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 in response to the Notice of Intent. This statement shall also list any objections to the proposed quiet zone that were raised by the railroad(s) and State agencies;

(v) Contain detailed information as to which safety improvements are proposed to be implemented at each public, private, or pedestrian grade crossing within the proposed quiet zone;