

locomotive horn at a crossing if the locomotive speed is 15 miles per hour or less and train crew members or equipped flaggers flag the crossing to provide warning of the approaching train to motorists.

- A quiet zone is at least $\frac{1}{2}$ mile in length, although Pre-Rule Quiet Zones may continue unchanged. Except for certain exceptions listed in the rule, each public crossing within a New Quiet Zone must at a minimum be equipped with flashing lights, gates, and signs warning of the absence of locomotive horns. Each public crossing within a Pre-Rule Quiet Zones may retain, but must not downgrade the warning systems in place.

- This rule does not cover horn use at private crossings outside of quiet zones. Their use will continue to be governed by State and local laws and private agreements. However, if a private crossing is within a quiet zone, horn use is restricted at that crossing.

- The rule provides for two types of quiet zones—Pre-Rule Quiet Zones (consecutive crossings where horns were silenced by State or local law or by formal or informal agreement, and which were in existence as of October 9, 1996 and on December 18, 2003, and New Quiet Zones (quiet zones established under the terms of this rule and which do not qualify as Pre-Rule Quiet Zones).

- A quiet zone may be established using SSMs, or in certain cases, ASMs, in two ways: (a) By designation by a public authority (which is the public entity responsible for safety and maintenance of the roadway crossing the railroad tracks at a public highway-rail grade crossing); or (b) by application to FRA.

- A quiet zone may be designated if (a) supplementary safety measures are applied to every public grade crossing within the quiet zone; (b) the Quiet Zone Risk Index is at, or below, the Nationwide Significant Risk Threshold; or (c) supplementary safety measures are instituted which reduce the Quiet Zone Risk Index to a level at, or below, the Nationwide Significant Risk Threshold, or to the risk level which would exist if locomotive horns sounded at all crossings within the quiet zone. The public authority has discretion as to how the Quiet Zone Risk Index is reduced, and may choose the type of SSM to be applied and the crossings at which they are to be applied in complying with either (a), (b), or (c).

- If a public authority, for whatever reason, cannot comply with the requirements of quiet zone designation, it may apply to FRA for approval to

establish a quiet zone using a combination of SSMs, or ASMs (which includes modified SSMs). As in quiet zone designation, the public authority has discretion as to which SSMs or ASMs to apply and where they are to be applied. However, in this case, the public authority's proposal is reviewed by FRA. If FRA determines that the safety improvements will compensate for the absence of the locomotive horn or that the safety improvements will reduce risk to a level at, or below the Nationwide Significant Risk Threshold, a quiet zone may be established.

- A Pre-Rule Quiet Zone will be considered approved and may remain in effect if the quiet zone could qualify for quiet zone designation if it were a New Quiet Zone based on having a Quiet Zone Risk Index at, or below, the Nationwide Significant Risk Threshold or if there haven't been any relevant collisions at the public crossings within the quiet zone for the past 5 years and the Quiet Zone Risk Index was less than twice the Nationwide Significant Risk Threshold.

- If a Pre-Rule Quiet Zone cannot comply with the requirements for a quiet zone designation as discussed above, the existing horn restrictions may continue on an interim basis. The restrictions may continue for five years if within, three years after publication of this rule, the public authority files with FRA a detailed plan for maintaining the Pre-Rule Quiet Zone (or establishing a New Quiet Zone). Horn restrictions may continue for an additional three years beyond the five-year period if the appropriate State agency provides FRA with a comprehensive statewide implementation plan and physical improvements are made within the quiet zone, or in a quiet zone elsewhere within the State, within three years and four years after publication respectively.

- FRA will annually review every quiet zone established by comparing the Quiet Zone Risk Index to the Nationwide Significant Risk Threshold. If the Quiet Zone Risk Index as last calculated by FRA is at, or above, twice the Nationwide Significant Risk Threshold, or if the Quiet Zone Risk Index is above the Nationwide Significant Risk Threshold, but is lower than twice the Nationwide Significant Risk Threshold and a relevant collision occurred at a crossing within the quiet zone within the preceding five calendar years, the quiet zone will terminate six months after the date of receipt of notification from FRA of the Nationwide Significant Risk Threshold level, unless the public authority files plans to implement SSMs or ASMs within six

months and implements such SSMs or ASMs within three years.

- Wayside horns may be installed within a quiet zone if the public authority determines that it is appropriate to do so. Wayside horns may also be used outside of quiet zones in lieu of locomotive horns at crossings equipped with automatic flashing lights and gates. (Wayside horns have not yet been classified by FHWA as traffic control devices. If FHWA does classify them as traffic control devices, the wayside horn must also be approved in the Manual on Uniform Traffic Control Devices (MUTCD) or FHWA must approve experimentations pursuant to section 1A.10 of the MUTCD.)

9. Overview of the Interim Final Rule: Principles, Strategies, and Major Outcomes

A. Usefulness of the Train Horn

This rulemaking was mandated by law, but its impetus derives from a clearly defined safety need. A majority of the States and all railroads have mandated use of the train horn to provide an audible warning at highway-rail crossings. FRA research and analysis, both prior to institution of this rulemaking and during its pendency, has confirmed the beneficial safety impact of the train horn. The National Transportation Safety Board (NTSB) has also supported the need for this warning to motorists.

FRA understands the point made by commenters that the horn cannot be relied on to prevent every accident, and the data confirm that. Nevertheless, the horn is one cue that is often available to the motorist at the decision point; and it should not be withheld absent serious thought about the consequences. There are some circumstances (e.g., restricted view) in which the train horn may be the best, and most convincing, warning to the motorist. Each year a good portion of the accidents at crossings occur when motorists are not convinced by even flashing warning lights and downed gates, and they drive around the gates and are struck by the train they neither saw nor heard. The train horn, which announces that there is, in fact, a train coming now (not switching cars down the track somewhere out of danger) may often be the most effective warning.

FRA understands the sense of frustration among law-abiding citizens who feel that they should not be burdened by train horn noise (or the cost of alternatives) because other citizens violate traffic laws at highway-rail crossings equipped with flashing lights and gates. FRA is a strong proponent of law enforcement at