

highway-rail grade crossings equipped with lights and gates and at which locomotive horns are sounded. For purposes of this rule, a risk level above the Nationwide Significant Risk Threshold represents a significant risk with respect to loss of life or serious personal injury. The Nationwide Significant Risk Threshold is calculated in accordance with the procedures in Appendix D of this part. In determining this risk threshold, FRA determines the average level of risk at public highway-rail grade crossings equipped with lights and gates and at which locomotive horns are sounded. This data pool in essence provides the starting point for communities in establishing quiet zones. Because every grade crossing in a New Quiet Zone must, at a minimum, be equipped with conventional lights and gates, a community will be able to determine the risk level associated with the crossings within the proposed quiet zone.

“New Quiet Zone” means a segment of rail line within which is situated one, or a number of consecutive public highway-rail crossings at which routine sounding of locomotive horns is restricted pursuant to this part and which does not qualify as a Pre-Rule Quiet Zone.

“Non-traversable curb” means a highway curb designed to discourage a motor vehicle from leaving the roadway. FRA is not specifying design details for such curbs beyond requiring, that they be at least six inches but not more than nine inches high. Such curbs are often combined with median islands at least two feet wide. If the curbs are not equipped with reboundable, reflectorized vertical markers, paint and reflective beads should be applied to the curb for night visibility. Additional design specifications are determined by the standard traffic design specifications used by the governmental agency constructing the curb. The term “non-traversable curb” is replacing the term “barrier curb” as proposed in the NPRM due to its greater acceptance in the highway community. FRA has also deleted from the rule the definition of “mountable curb” because that term is not being used in the rule.

“Power-out indicator” means a device which is capable of indicating to trains approaching a grade crossing equipped with an active warning system whether commercial electric power is activating the warning system at that crossing. This term includes remote health monitoring of grade crossing warning systems if such monitoring system is equipped to indicate power status.

“Pre-Rule Quiet Zone” means a segment of a rail line within which is

situated one, or a number of consecutive public or private highway-rail crossings at which State statutes or local ordinances restricted the routine sounding of locomotive horns, or at which locomotive horns did not sound due to formal or informal agreements between the community and the railroad or railroads, and such statutes, ordinances or agreements were in place and enforced or observed as of October 9, 1996 and on December 18, 2003. As proposed, this definition includes quiet zones enforced or observed as of the date of passage of Public Law 104-264, which amended 49 U.S.C. 20153 to require the Secretary to take into account the interest of communities that “have in effect” restrictions on the sounding of a locomotive horn at highway-rail grade crossings or have not been subject to the routine sounding of a locomotive horn at highway-rail grade crossings. FRA reads the statute as requiring FRA to be particularly solicitous of communities that had restrictions in effect at the time of the 1996 enactment. FRA has added the requirement that the ordinance or agreement was observed or enforced as of the date of publication of this interim final rule because it would make little sense to reinstate a ban abandoned by the community (or determined to be inconsistent with State law) and because use of information from the more recent date will permit FRA to achieve greater certainty as to the status of bans and eligibility for Pre-Rule Quiet Zone status. In particular, FRA has noted some year-to-year variability in the no-whistle policies observed in Illinois during the 1990s; and achieving certainty as to the status of individual line segments has proven much more difficult than FRA anticipated in issuing the proposed rule.

“Private highway-rail grade crossing” means, for purposes of this part, a highway-rail at grade crossing which is not a public highway-rail grade crossing. When viewed in light of the definition of public highway-rail grade crossings, a private crossing is a crossing where a private roadway crosses one or more railroad tracks at grade, and at which a public authority does not maintain the roadway on either side of the crossing. References in this rule to “private grade crossing” or “private crossing” refer to a private highway-rail grade crossing.

“Public authority” means the public entity responsible for safety and maintenance of the roadway that crosses the railroad tracks at a public highway-rail grade crossing. This term includes the traffic control authority or law enforcement authority, or the

governmental jurisdiction having responsibility for motor vehicle safety at the crossing.

“Public highway-rail grade crossing” means, for purposes of this part, a location where a public highway, road, or street, including associated sidewalks or pathways, crosses one or more railroad tracks at grade. In the event a public authority maintains the roadway on at least one side of the crossing, the crossing is considered a public crossing for purposes of this part. The second sentence of this definition is often included in a definition of public grade crossing, but was inadvertently omitted from the NPRM. References in this rule to “public grade crossing” or “public crossing” refer to a public highway-rail grade crossing.

“Quiet Zone” means a segment of a rail line, within which is situated one or a number of consecutive public or private highway-rail crossings at which locomotive horns are not routinely sounded. This definition has been modified slightly from that proposed in the NPRM. The phrase “locomotive horns may not be routinely sounded” has been changed to “locomotive horns are not routinely sounded” to more effectively indicate the non-permissive nature of the ban on routine sounding of horns within the quiet zone. Additionally, “private crossings” has been added to the definition in recognition that a quiet zone may have a combination of both public and private crossings at which routine horn use is prohibited.

“Quiet Zone Risk Index” means a measure of risk to the motoring public which reflects the Crossing Corridor Risk Index for a quiet zone, after adjustment to account for (1) increased risk due to lack of locomotive horn use at the crossings within the quiet zone (if horns are presently sounded at the crossings), and (2) reduced risk due to implementation, if any, of SSMs and ASMs within the quiet zone. The Quiet Zone Risk Index is calculated in accordance with the procedures in Appendix D of this part. The Quiet Zone Risk Index is thus a measure of risk at crossings within the quiet zone after all adjustments to risk have been made. This measure is necessary in comparing the risk level to the Nationwide Significant Risk Threshold.

“Railroad” means any form of non-highway ground transportation that runs on rails or electromagnetic guideways and any entity providing such transportation, including:

(1) Commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was