

Significant Risk Threshold (paragraph (a)(2)). FRA has added this provision in recognition of the many comments that emphasized the need for FRA to look at the safety record at individual crossings and quiet zones rather than impose a standard that required SSMs regardless of an extremely good safety record. Comparing the Quiet Zone Risk Index to the Nationwide Significant Risk Threshold does in fact address safety history at crossings within the quiet zone because the accident history is one component of the Quiet Zone Risk Index. That is why this provision applies to both New Quiet Zones and Pre-Rule Quiet Zones.

While the preceding conditions permitting continuation of a quiet zone essentially track the provisions for automatic approval for New Quiet Zones, paragraph (a)(3) is unique to Pre-Rule Quiet Zones. A quiet zone may be continued automatically if the Quiet Zone Risk Index as last published by FRA is above the Nationwide Significant Risk Threshold but is less than twice the Nationwide Significant Risk Threshold *and* there have been no relevant collisions at any public grade crossing within the quiet zone for the five years preceding the date of publication of this rule.

This provision goes a step further in recognizing situations where train horn bans have been in place for a considerable period with no untoward effects. We accommodate such impressive facts by giving the accident history greater weight than that the overall risk index. In determining the risk level resulting from silencing horns in New Quiet Zones, FRA can only project the safety implications from silencing the horn—by definition there is no empirical evidence at those crossings of the safety implications of silencing the horn. On the other hand, Pre-Rule Quiet Zones present direct empirical evidence of the safety effect of silencing the horn at those crossings within the quiet zone. Thus, FRA includes paragraph (a)(3) in recognition that, although statistically the quiet zone may present a higher safety risk (Quiet Zone Risk Index is greater than the Nationwide Significant Risk Threshold) due to risk factors such as traffic volume, experience shows that, for whatever reason, the lack of a locomotive horn at those crossings has not resulted in appreciably unsafe conditions. (Of course, the occurrence of an accident will eliminate this special exception.) Paragraph (b) addresses those Pre-Rule Quiet Zones which do not qualify for automatic approval under paragraph (a). Paragraph (b)(1) provides that a public authority may

decide to continue Pre-Rule Quiet Zones on an interim basis under the provisions of this paragraph. It is important, however, to note that this paragraph only provides interim authority to continue a quiet zone. Continuation of a quiet zone beyond the periods specified in this paragraph will require implementation of SSMs or ASMs as though the quiet zone is a New Quiet Zone (in accord with § 222.39 (“How is a quiet zone established?”)).

Paragraph (b)(2) provides that a public authority may continue a quiet zone for five years from the date of publication of this rule. This period will ensure that the public authority has adequate time for planning and implementation of SSMs or ASMs. The five-year extension period is dependent on the public authority filing with the Associate Administrator a detailed plan for establishing a quiet zone under this part. If the quiet zone will require approval under § 222.39(b), the plan must include all the required elements of filings under that paragraph together with a timetable for implementation of safety improvements. The plan must be filed within three years of the date of publication of this rule. FRA understands that, in some cases, plans filed within this period will be contingent on funding arrangements that may not be complete as of that date (particularly where State-level participation has been requested). FRA is seeking a good faith filing, which normally would be tendered by the executive head of the relevant public authority or authorities involved.

Thus, the practical implication of this timetable is that a Pre-Rule Quiet Zone may continue for three years from the date of publication of this rule without any action taken by the public authority. However, at the expiration of that three-year period locomotive horns will resume sounding at all public crossings within the former quiet zone unless the public authority has filed a plan for completing the necessary improvements. Thereafter, if the public authority wishes to establish a quiet zone, it will need to comply with the requirements for New Quiet Zones contained in this rule.

Paragraph (b)(3) provides that if certain conditions are met, locomotive horn restrictions may continue for three years beyond the five-year period permitted in paragraph (b)(2). Before the expiration of three years after publication, the appropriate State agency must provide to the Associate Administrator a comprehensive State-wide implementation plan and funding commitment for implementing improvements at Pre-Rule Quiet Zones

which do not qualify for automatic approval. The improvements must, when implemented, enable the Pre-Rule Quiet Zones to qualify for a quiet zone under this rule. Before the expiration of four years after publication, physical improvements must be initiated at least one of the crossings within the quiet zone, or the State agency must have participated in quiet zone improvements in one or more jurisdictions elsewhere in the State.

In summation, paragraph (b)(2) permits a quiet zone to be extended for three years without any action taken by the public authority. If, however, the public authority files a detailed plan for implementation of SSMs or ASMs within that three-year period, the quiet zone will be extended to five years to permit implementation of those plans. Paragraph (b)(3) permits a quiet zone to be extended for an additional three years (for a total of eight years) if the State files a comprehensive State-wide implementation plan and funding commitment within three years of publication of this rule, and if, within four years of publication, improvements are made to a crossing within the quiet zone, or to another crossing in another quiet zone elsewhere in the State.

Paragraph (4) merely recommends that if the improvements planned by the public authority require FRA approval under § 222.39(b), application for approval should be filed no later than thirty months after publication of this rule. This will provide sufficient time for FRA to review the proposal prior to the end of the three-year extension period.

Section 222.43 What Notices and Other Information Are Required To Establish a New Quiet Zone or To Continue a Pre-Rule Quiet Zone?

This section governs the type and timing of notification and information that must be provided to various parties. The intent of this section is to ensure that interested parties are made aware in a timely manner of the establishment or continuation of quiet zones and, if necessary, of their termination. This section also details the information that must be provided to FRA. FRA received a small number of comments regarding the notice and information requirements of the proposed rule. Although most commenters acknowledged the necessity of notification procedures ensuring that all interested parties are aware of the existence of quiet zones, a few commenters suggested that the specific notice and information requirements of the proposed rule would be administratively burdensome and impractical. First, the BLE