

expressed the opinion that a 14-day period between designation or FRA approval of a quiet zone and actual implementation is insufficient. The BLE recommended that this provision be modified to provide that a railroad has an affirmative duty to notify each employee of the establishment of a quiet zone via the railroad's usual means of communication with its employees. FRA agrees with the BLE that 14 days may not be sufficient and has therefore lengthened the 14 day period to 21 days. However, despite the BLE's request for a regulatory requirement that railroads notify their employees of the establishment of a quiet zone, FRA is confident that railroads will indeed so notify their employees without the necessity of such a requirement, if for no other reason, than the railroad would be in violation of this regulation if horns were to routinely sound within quiet zone limits.

Other commenters explained that because FRA accepts updates to the AAR Inventory only from States and railroads, the requirement for designating entities to submit the Inventory Forms is impractical. The Oregon Department of Transportation ("DOT") explained that the State does not have the staff or resources to update the Inventory as the proposed rule would require. The Oregon DOT also questioned whether railroads would be willing to expend their resources to update the Inventory as proposed. The City of Fargo, North Dakota, and the City of Moorhead, Minnesota, echoed the Oregon DOT's concern in this regard and suggested three alternatives: (1) That communities be allowed to update the Inventory for crossings within quiet zones, (2) that railroads be required to update the Inventory when installing the safety measures necessary to implement the quiet zone, or (3) that FRA incorporate the information contained in the quiet zone notification into the Inventory. FRA is aware of the problem associated with updating the Inventory. However, an up-to-date Inventory is critical to the success of any quiet zone program. FRA needs accurate up-to-date data upon which to base its calculations of risk. FRA agrees in part with the Cities of Fargo and Moorhead that communities should be allowed to update the inventory and has addressed the issue in § 222.49, "Who may file Grade Crossing Inventory Forms?"

Paragraph (a)(1) of this section provides that information pertaining to the establishment or continuation of quiet zones must be provided to: all railroads operating over the public highway-rail grade crossings within the

quiet zone; the highway or traffic control authority or law enforcement authority having control over vehicular traffic at crossings within the quiet zone; the landowner having control over any private crossings within the quiet zone; the State agency or agencies responsible for highway and railroad safety; and the Associate Administrator. While it is likely that most of these parties will be aware of the establishment of a quiet zone, this provision ensures complete and timely notification. In order to ensure that all parties have notice and sufficient time to prepare for the change at the crossings, all notices required under this section must be provided by certified mail, return receipt requested.

Paragraph (a)(2) requires that the notice shall specify the grade crossings within the quiet zone, identified by both the U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway and the specific date upon which routine locomotive horn use at grade crossings shall cease. With the exception of Pre-Rule Quiet Zones continuing under § 222.41, the cessation date shall not be earlier than 21 days after mailing of the notification. Paragraph (a)(3) details the requirement to reference the regulatory provision under which the quiet zone is being established or continued. In those instances in which the public authority is relying on risk calculations provided by FRA, this paragraph requires that a copy of the FRA web page containing the quiet zone data be included in the notice. In this way, all parties will understand the basis for establishment or continuation of the quiet zone.

Paragraph (b) addresses the requirement that Grade Crossing Inventory Forms be filed with the Associate Administrator for each public and private highway-rail grade crossing within the quiet zone. This paragraph requires two Grade Crossing Inventory Forms for each crossing. One must be dated within six months prior to designation or FRA approval of the quiet zone. This filing will permit FRA to calculate risk based on current grade crossing information, and thus the public authority will be able to make planning decisions based on accurate data. The second Grade Crossing Inventory Form must reflect the SSMs and ASMs in place upon establishment of the quiet zone. This paragraph also requires that the Associate Administrator be furnished the name, title, and contact information of the public official responsible for monitoring compliance with the requirements of the regulation.

Paragraph (b)(5) requires each chief executive officer of each public authority establishing or continuing a quiet zone under this part, to certify that responsible officials of the public authority have reviewed documentation prepared by or for FRA sufficient to make an informed decision regarding the advisability of establishing the quiet zone. This paragraph provides reference to the docket of this proceeding and to FRA's web page for documents which may be of interest to the chief executive or to the reviewing responsible officials. This provision is included in recognition of the differing views as to the efficacy of banning the routine use of locomotive horns at grade crossings and of the fact that establishment of quiet zones is not required by this rule, but is purely voluntary on the part of public authorities.

Section 222.45 When Is a Railroad Required To Cease Routine Use of Locomotive Horns at Crossings?

This section addresses the requirement imposed on a railroad to cease routine use of the locomotive horn upon receipt of notice of establishment of a quiet zone. After a railroad receives notification from a public authority that a quiet zone is being established, the railroad, upon the date specified by the public authority, shall cease routine use of the locomotive horn at all public and private highway-rail grade crossings identified by the public authority. After receipt of such a notice, a railroad is prohibited from routine use of the locomotive horn at the crossing after the date specified in the notice. While the most extensive use of the horn in railroad operations is to provide routine warning at highway-rail crossings, it has many other purposes as an audible signal. As stated in § 222.23(b), this prohibition does not prevent a railroad from use of the horn for other purposes, *e.g.*, to warn railroad employees working near the track of an approaching train, or to warn motorists of the approaching train in the event of a grade crossing safety system malfunction. This is not an all-inclusive list of the uses that this rule does not affect (*e.g.*, use of horn to signal during switching operations; use of horn to alert pedestrians entering stations or to communicate within crews while leaving stations, etc.) Nor does this section prohibit emergency use of the horn, which is expressly permitted by § 222.23, and which is, by definition, not routine.

The form of the notice which triggers the cessation of routine horn use is specified in § 222.43. Section 222.43 also requires that the notice be mailed,