

by certified mail, to every railroad operating over the grade crossing subject to the New Quiet Zone.

*Section 222.47 What Periodic Updates Are Required?*

This section details the periodic updates required of public authorities after a quiet zone is established. The NPRM, at proposed § 222.39(a), (b), and (c), contained provisions generally similar to those in this section. However, rather than divide the section based on SSMs and ASMs as was done in the NPRM, this section distinguishes among quiet zones with SSMs at each public crossing (§ 222.39(a)(1)), and those quiet zones which do not have SSMs at each public crossing (§§ 222.39(a)(2) and 222.39(b)).

There were few comments on proposed periodic updates. The City of Fargo, North Dakota commented that the periodic written affirmation requirements of § 222.39 are excessive. Fargo suggested that FRA's reservation in § 222.39(d) of the right to review at any time the status of any quiet zone is sufficient to assure that the SSM and ASM in place at crossings within the quiet zone fully compensate for the absence of the warning provided by the locomotive horn under the conditions then present at the crossings within the quiet zone. Likewise, to limit the reporting burden of the requirement for periodic quiet zone affirmations in the proposed rule, the City of Chicago, Illinois, recommended that State agencies responsible for railroad safety should be designated to monitor quiet zone grade crossing accidents under their existing procedures. FRA does not agree that an update every three or five years is burdensome. FRA needs to be informed of the current status of the quiet zone and when viewed in light of the safety interest and minimal inconvenience to the public authority, periodic updates on the schedule proposed is being retained.

Paragraph (a) of this section governs periodic information updates for quiet zones with SSMs at each public crossing (those quiet zones established pursuant to §§ 222.39(a)(1) and 222.41(a)(1)). This section requires the public authority to provide to FRA updated information every five years, with a six month window during which the information must be filed. Thus, the rule states that the required information must be filed between 4½ and 5 years after the initial implementation notice required by § 222.43 and every 4½ to 5 years thereafter. This section requires the public authority to affirm in writing to the Associate Administrator that the SSMs implemented within the quiet

zone continue to conform to the requirements of Appendix A of this part. This requirement merely ensures that the original basis for establishment of the quiet zone continues to exist. Copies of the affirmation must be sent to the same parties which received the original notice of establishment of quiet zone (§ 222.43(a)): 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 the crossings within the quiet zone; the landowner having control over any private crossings within the quiet zone; the State agency responsible for highway and road safety; and FRA. The affirmation and copies must be provided to the required parties by certified mail, return receipt requested. In addition, the public authority must file with the Associate Administrator an up-to-date, accurate, and complete Grade Crossing Inventory Form for each public and private highway-rail grade crossing within the quiet zone.

Paragraph (b) of this section governs periodic information updates for quiet zones which do not have an SSM at each public crossing (those quiet zones established pursuant to §§ 222.39(a)(2) and (a)(3), § 222.39(b) and § 222.41(a)(2) and (a)(3)). FRA is providing for a shorter period between affirmations because of the greater possibility that changed circumstances will affect either the level of risk within zones where no SSMs or ASMs were necessary due to low risk or the effectiveness of the safety measures put in place in the quiet zone. Because the safety measures instituted at crossings subject to the three-year affirmation cycle are dependent on local circumstances and local effort, review on a more frequent basis is appropriate. Thus, the period between updates for these quiet zones is three years, rather than the five years for quiet zones provided in paragraph (a). The required information must be filed with the Associate Administrator between 2½ and 3 years after the initial implementation notice required by § 222.43 and every 2½ to 3 years thereafter. This section requires the public authority to affirm in writing to the Associate Administrator that all SSMs and ASMs implemented within the quiet zone continue to conform to the requirements of Appendices A and B of this part, and the terms, if any, of FRA's quiet zone approval. The method of notice and the parties to which the copies of the affirmation must be sent mirror the requirements in paragraph (a)

above. As in paragraph (a), an up-to-date, accurate, and complete Grade Crossing Inventory Form for each public and private highway-rail grade crossing within the quiet zone is required.

*Section 222.49 Who May File Grade Crossing Inventory Forms?*

This section addresses filing of Grade Crossing Inventory Forms. The U.S. DOT National Highway-Rail Grade Crossing Inventory provides the basic database by which FRA compiles information pertaining to characteristics of both public and private highway-rail grade crossings. The data collected includes information on the railroad operating over the crossing, such as: the name of the railroad; maximum authorized speed of trains which cross the roadway; type of warning system at the crossing; train traffic at the crossing; type of railroad signal system, if any, at the crossing; and the number of tracks crossing the roadway. Similarly, the inventory contains information about the roadway and motor vehicle traffic at the crossing, such as: the type of road surface; number of lanes; and speed limit.

It is essential that the inventory be up-to-date, accurate and complete in order that FRA's safety analyses are based on the best data. While filing of Inventory Forms has been voluntary, this Interim Final Rule requires the filing of such forms for each grade crossing within a quiet zone.

Paragraph (a) of this section provides that if the State or railroad do not file Grade Crossing Inventory Forms with the Associate Administrator, in accordance with §§ 222.43 and 222.47, the public authority may do so. Those sections require that forms be filed when a quiet zone is established (§ 222.43) and when periodic updates are filed with the Associate Administrator (§ 222.47). Providing the public authority with the authority to file Grade Crossing Inventory Forms prevents the public authority from being powerless if either the State or railroad fails to provide such needed information due, for instance, to the workload issues identified by commenters.

Paragraph (b) requires that, upon the request of the public authority, the railroad owning the line of railroad that includes public or private highway-rail grade crossings within the quiet zone, or within the proposed quiet zone, shall provide sufficient current information to the State and public authority regarding the grade crossing and its operations to enable the State and public authority to complete the Grade Crossing Inventory Form. FRA is requiring that railroads