

provide such information because it is information that, in many cases, is known only by the railroad. For instance, maximum authorized speed, track class, and type of railroad signal system at the crossing is not public knowledge and is not information that would be readily available to the public authority. FRA is declining in this rule to require the State to provide such information, except to the extent the State is a cooperating public authority in a quiet zone project (*i.e.*, where a State highway is involved). While it is of course desirable that a State, and indeed, the railroad, cooperate in furnishing this important data, information that would be provided by a State, such as roadway type and traffic volume at the crossing, is readily available to the public authority.

Section 222.51 Under What Conditions Will FRA Review and Terminate Quiet Zone Status?

This provision is intended to ensure that quiet zones, while providing for quiet at grade crossings, also continue to provide the level of safety for motorists and rail employees and passengers that existed before the quiet zones were first established, or in the alternative, the level of safety reached by the average public grade crossing where locomotive horns sound. In order to ensure this level of safety, FRA will review safety data on at least an annual basis. Paragraph (a) addresses FRA's annual risk reviews of New Quiet Zones, while paragraph (b) addresses FRA's annual risk reviews of Pre-Rule Quiet Zones. Paragraph (c) provides for a review of quiet zone status at the initiative of FRA.

Paragraph (a)—New Quiet Zones

Paragraph (a) addresses annual reviews of risk levels at crossings within New Quiet Zones. This paragraph provides that FRA will annually calculate the Quiet Zone Risk Index for each New Quiet Zone established based on risk comparison with the Nationwide Significant Risk Threshold (§ 222.39(a)(2)) and quiet zones established based on application to, and approval of, FRA and that reduce risk to a level at, or below, the Nationwide Significant Risk Threshold (§ 222.39(b)(2)(ii)). Routine annual risk reviews will not be conducted for quiet zones established by having an SSM at every public crossing within the quiet zone (§ 222.39(a)(1)) and quiet zones established based on the risk level having been reduced to a level fully compensating for the absence of the train horn (§ 222.39(a)(3) and (b)(2)(i)). Annual risk reviews are not necessary

for those quiet zones because the risk level has been reduced to a level which fully compensates for the absence of the horn. Any subsequent safety variations would be due to factors other than absence of the horn.

Paragraph (a)(1) of this § 222.51 provides that for those quiet zones which are subject to annual risk reviews (those quiet zones established pursuant to §§ 222.39(a)(2) and 222.39(b)(2)(ii)), FRA will notify each public authority of the Quiet Zone Risk Index for the preceding calendar year. A Quiet Zone Risk Index above the Nationwide Significant Risk Threshold signifies an unacceptable increase in risk at crossings within the quiet zone.

Paragraph (a)(2) addresses the actions that need to be taken by a public authority to retain a New Quiet Zone in the event the Quiet Zone Risk Index is above the Nationwide Significant Risk Threshold.

Paragraph (a)(2)(i) provides that unless the public authority takes certain specified actions to reduce the risk level, the quiet zone will terminate six months after the public authority receives notice that the Quiet Zone Risk Index is above the Nationwide Significant Risk Threshold. If the public authority wishes to retain the quiet zone, it must, within that six month period, provide to the Associate Administrator a written commitment to lower the potential risk to the traveling public at the crossings within the quiet zone, by reducing the risk level to a level at, or below, the Nationwide Significant Risk Threshold or to a level fully compensating for the absence of the train horn. As part of this commitment, the public authority must provide a discussion of the specific steps the authority plans to take to increase safety at the crossings within the quiet zone. Taking these actions will preserve the quiet zone for three years from the date of FRA notification—sufficient time for the public authority to implement safety measures at the quiet zone.

Paragraph (a)(2)(ii) provides that in addition to complying with paragraph (a)(2)(i) (commitment and discussion of steps to be taken), within three years after the public authority receives notification from FRA that the Quiet Zone Risk Index exceeds the Nationwide Significant Risk Threshold, the public authority must complete implementation of SSMs or ASMs sufficient to reduce the Quiet Zone Risk Index to a level at, or below, the Nationwide Significant Risk Threshold, or to a level that fully compensates for the absence of the train horn. The public authority must receive approval of the

Associate Administrator for continuation of the quiet zone. Procedures for such approval process are those set forth in § 222.39(b). FRA is only requiring that the public authority reduce the risk index to either of the two risk levels (Nationwide Significant Risk Threshold or the risk level that fully compensates for the absence of the train horn). However, there are long term benefits in reducing the risk to the level that fully compensates for the absence of the train horn, rather than reducing the risk level to a level at, or below, the Nationwide Significant Risk Threshold. If the Quiet Zone Risk Index is reduced to a level that fully compensates for the absence of the train horn, the quiet zone will be considered to have been established pursuant to § 222.39(a)(3) and thus subsequent annual risk reviews will not be conducted for that quiet zone. Annual risk reviews are not necessary for those quiet zones because the risk level has been reduced to a level which fully compensates for the absence of the horn. Any subsequent safety variations would be due to factors other than absence of the horn.

Paragraph (a)(2)(iii) provides that failure of the public authority to comply with paragraph (a)(1) (commitment to lower the risk level) shall result in the termination of the quiet zone six months after the date of receipt of notification from FRA of the Quiet Zone Risk Index. This paragraph also provides that failure of the public authority to comply with paragraph (a)(2) (implementation of safety measures) shall result in the termination of the quiet zone three years after the date of receipt of notification from FRA of the Quiet Zone Risk Index.

Paragraph (b)—Pre-Rule Quiet Zones

Paragraph (b) of this section addresses annual reviews of risk levels at crossings within Pre-Rule Quiet Zones. Certain categories of Pre-Rule Quiet Zones are not subject to annual risk reviews, *i.e.*, those Pre-Rule Quiet Zones which met the requirements for public authority designation by implementing SSMs at each public grade crossing within the quiet zone (§ 222.41(a)(1)). Annual risk reviews are not necessary for those quiet zones because the risk level has been reduced to a level which fully compensates for the absence of the horn. Any subsequent safety variations would be due to factors other than absence of the horn.

Paragraph (b)(1) provides that FRA will annually calculate the Quiet Zone Risk Index for two types of Pre-Rule Quiet Zones: each Pre-Rule Quiet Zone that qualified for automatic approval pursuant to § 222.41(a)(2) (quiet zones