

Quiet Zones and which allow access to the public, or which provide access to active industrial or commercial sites, may be included in a quiet zone only if a diagnostic team evaluates the crossing and the crossing is equipped or treated in accord with the recommendations of such diagnostic team.

(c)(1) At a minimum, every private highway-rail grade crossing within a New Quiet Zone shall be marked by a crossbuck and a "STOP" sign, each of which shall conform to the standards contained in the MUTCD, and shall be equipped with advance warning signs in compliance with § 222.35(c).

(2) At a minimum, every private highway-rail grade crossing within a Pre-Rule Quiet Zone shall, by December 18, 2006, be marked by a crossbuck and a "STOP" sign, each of which shall conform to the standards contained in the MUTCD, and shall be equipped with advance warning signs in compliance with § 222.35(c).

Subpart C—Exceptions to the Use of the Locomotive Horn

§ 222.31 [Reserved]

Silenced Horns at Individual Crossings

§ 222.33 Can locomotive horns be silenced at an individual public highway-rail grade crossing which is not within a quiet zone?

(a) A railroad operating over an individual public highway-rail crossing, may, at its discretion, cease the sounding of the locomotive horn if the locomotive speed is 15 miles per hour or less and train crew members, or appropriately equipped flaggers, as defined in 49 CFR 234.5, flag the crossing to provide warning of approaching trains to motorists.

(b) This section does not apply where active grade crossing warning devices have malfunctioned and use of the horn is required by 49 CFR 234.105, 234.106, or 234.107.

Silenced Horns at Groups of Crossings—Quiet Zones

§ 222.35 What are minimum requirements for quiet zones?

The following requirements apply to quiet zones established in conformity with this part.

(a) *Minimum length.* (1) The minimum length of a New Quiet Zone established under this part shall be one-half mile along the length of railroad right-of-way.

(2) The length of a Pre-Rule Quiet Zone may continue unchanged from that which existed as of October 9, 1996. Because the addition of any crossing to a Pre-Rule Quiet Zone ends the grandfathered status of that quiet zone,

the New Quiet Zone resulting from the addition of one or more crossings to a Pre-Rule Quiet Zone shall be at least one-half mile in length and shall comply with all requirements applicable to New Quiet Zones. The deletion of any crossing from a Pre-Rule Quiet Zone, with the exception of a grade separation or crossing closure, must result in a quiet zone of at least one-half mile in length in order to retain Pre-Rule Quiet Zone status.

(3) A quiet zone may include highway-rail grade crossings on a segment of rail line crossing more than one political jurisdiction.

(b) *Active grade crossing warning devices.* (1) Each public highway-rail grade crossing in a New Quiet Zone established under this subpart must be equipped, no later than the implementation date of the New Quiet Zone, with active grade crossing warning devices comprising both flashing lights and gates which control traffic over the crossing and that conform to the standards contained in the MUTCD. Such warning devices shall be equipped with constant warning time devices, if reasonably practical, and power-out indicators.

(2) Pre-Rule Quiet Zones must retain, and may upgrade the grade crossing safety warning system which existed as of December 18, 2003. Any such upgrade shall include constant warning time devices, where reasonably practical, and power-out indicators. In no event may the grade crossing safety warning system which existed as of December 18, 2003, be downgraded. Risk reduction resulting from upgrading to flashing lights or gates may be credited in calculating the quiet zone's Quiet Zone Risk Index.

(c) *Advance warning signs.* (1) Subject to paragraph (c)(2) of this section, each highway approach to every public and private highway-rail grade crossing within a Pre-Rule Quiet Zone or New Quiet Zone shall be equipped with an advance warning sign which advises the motorist that train horns are not sounded at the crossing. Such sign shall conform to the standards contained in the MUTCD issued by the Federal Highway Administration.

(2) Each highway approach to every public and private highway-rail grade crossing in a Pre-Rule Quiet Zone shall be equipped with such advance warning signs described in paragraph (c)(1) of this section by December 18, 2006.

(d) All private crossings within the quiet zone must be treated in accordance with this section and § 222.25.

(e) All public crossings within the quiet zone must be in compliance with requirements of the MUTCD.

§ 222.37 Who may establish a quiet zone?

(a) A public authority may establish quiet zones that are consistent with the provisions of this part. If a proposed quiet zone includes public grade crossings under the authority and control of more than one public authority (such as a county road and a State highway crossing the railroad tracks at different crossings), both public authorities must agree to establishment of the quiet zone, and must jointly, or by delegation provided to one of the authorities, take such actions as are required by this part.

(b) A public authority may establish quiet zones irrespective of State laws covering the subject matter of sounding or silencing locomotive horns at public highway-rail grade crossings. Nothing in this part, however, is meant to affect any other applicable role of State agencies or the Federal Highway Administration in decisions regarding funding or construction priorities for grade crossing safety projects, selection of traffic control devices, or engineering standards for roadways or traffic control devices.

(c) A State agency may provide administrative and technical services to public authorities by advising them, acting on their behalf, or acting as a central contact point in dealing with FRA; however, any public authority eligible to establish a quiet zone under this part may do so.

§ 222.39 How is a quiet zone established?

(a) *Public authority designation.* This paragraph (a) describes how a quiet zone may be designated by a public authority without the need for formal application to, and approval by FRA. If a public authority complies with either paragraph (a)(1), (2), or (3) of this section, and complies with the information and notification provisions of § 222.43, a public authority may designate a quiet zone without the necessity for FRA review and approval.

(1) A quiet zone may be established by implementing, at every public highway-rail grade crossing within the quiet zone, one or more SSMs identified in Appendix A of this part.

(2) A quiet zone may be established if the Quiet Zone Risk Index is at, or below, the Nationwide Significant Risk Threshold, as follows:

(i) If the Quiet Zone Risk Index is already at, or below, the Nationwide Significant Risk Threshold without being reduced by implementation of SSMs; or