

## **Use of Locomotive Horns at Highway-Grade Crossings Supporting Justification**

- 1. EXPLAIN THE CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY. IDENTIFY ANY LEGAL OR ADMINISTRATIVE REQUIREMENTS THAT NECESSITATE THE COLLECTION. ATTACH A COPY OF THE APPROPRIATE SECTION OF EACH STATUTE AND REGULATION MANDATING OR AUTHORIZING THE COLLECTION OF INFORMATION.**

This collection of information is a request for a revision of a currently approved submission. The Federal Railroad Administration (FRA) has revised the information in this collection – where appropriate and necessary – to be as complete and accurate as possible and to reflect changes that are contained in agency amendments and clarifications to the final rule, which are a response to petitions for reconsideration and associated letters in support of the petitions for reconsideration.

### Background

Approximately 4,000 times per year a train and highway vehicle collide at one of this country's 251,000 highway-rail grade crossings. Of those crossings, more than 153,000 are public-at-grade crossings, i.e., crossings in which a public road crosses railroad tracks at grade. During the years 1994 through 1998, there were 21,242 grade crossing collisions in the United States. These collisions are one of the greatest causes of death associated with railroading, resulting in more than 400 deaths per year. For example, in the 1994-1998 period, 2,574 people died in these collisions. Another 8,308 people were injured. Approximately 50% of these collisions at highway-rail intersections occur at intersections equipped with active warning devices such as bells, flashing lights, or gates (approximately 62,000 crossings).

Compared to a collision between two highway vehicles, a collision with a train is eleven times more likely to result in a fatality, and five-and-a-half times more likely to result in a disabling injury. The average freight locomotive weighs between 140 and 200 tons, compared to the average car weight of one to two tons. Many freight trains weigh in excess of 10,000 tons. Any motor vehicle, even a large truck, would be crushed when struck by a moving train. The laws of physics compound the likelihood that a motor vehicle will be crushed in a collision with a moving train. The train's weight, when combined with the likelihood that the train will not be able to stop to avoid a collision, results in severe injury or death in virtually every case (it takes a one-hundred car train traveling 30 miles per hour approximately half-a-mile to stop; at 50 miles per hour, the

train's stopping distance increases to one-and-a-third miles).

FRA is responsible for ensuring that America's railroads are safe for both railroad employees and the public. FRA shares with the public the responsibility to confront the compelling facts surrounding grade crossing collisions. Nationally, from 1994 to 1998, eight railroad crewmembers died in collisions at highway-rail crossings, and 570 crewmembers were injured. Two hundred railroad passengers were also injured, and two died. In 1999, in Bourbonnais, Illinois, eleven innocent passengers died in their sleeper car following a collision with a truck at a highway-rail crossing. Investigation of these accidents/incidents has found that some of the drivers involved in these collisions may have been unaware of the approaching train since approximately one-half of all collisions occur at grade crossings that are not fully equipped with active warning devices. Law-abiding motorists too can be endangered in crossing collisions. On March 17, 1993, an Amtrak train collided with a tanker truck in Fort Lauderdale, Florida. Five people died when 8,500 gallons of burning fuel from the tanker engulfed cars waiting behind the crossing gates. Moreover, highway passengers can be innocent victims. On December 14, 1995, five people were killed when their truck was hit by an Amtrak train in Ponchatoula, Louisiana. Among the dead were three children who were passengers in the truck.

Property owners living near railroad rights-of-way can also be at risk. For example, on December 1, 1992, in Hiebert, Alabama, a freight train collided with a lumber truck. Three locomotives and nine rail cars were derailed, releasing 10,000 gallons of sulfuric acid into a nearby water supply. Residents living near the derailment site had to be evacuated because of the chemical spill. Even where the locomotive consist is not derailed in the initial collision with the highway vehicle, application of the emergency brake can result in derailment and harm to persons and property along the right-of-way.

In August 1990, as part of FRA's crossing safety program, the agency studied the impact of train whistle bans (i.e., state or local laws prohibiting the use of train horns or whistles at crossings) on safety in Florida. FRA had previously recognized the locomotive horn's contribution to rail safety by requiring that lead locomotives be equipped with an audible warning device (49 CFR 229.129) and by exempting the use of whistles from Federal noise emission standards "when operated for the purpose of safety (49 CFR 210.3(b)(3)). The Florida study documented how failing to use locomotive horns can significantly increase the number of collisions. The study compared the number of collisions at crossings subject to bans with four control groups.

Under the first control group, FRA compared collision records for time periods before and during bans. FRA found there were almost three times as many collisions after the whistle bans were established, a 195 percent increase. If collisions continued to occur at the same rate as before the bans began taking effect, it was estimated that 49 post-ban collisions would have been expected. However, 115 post-ban collisions occurred, leaving 66 crossing collisions statistically unexplained. Nineteen people died, and 59

people were injured in the 115 crossing collisions. Proportionally, 11 of the fatalities and 34 of the injuries could be attributed to the 66 unexplained collisions. In the second control group, FRA found that the daytime collision rates remained virtually unchanged for the same highway-rail crossings where the whistle bans were in effect during nighttime hours. The third control group showed that nighttime collisions increased only 23 percent along the same rail line at crossings with no whistle ban. Finally, FRA compared the 1984 through 1989 accident record of the Florida East Coast Railway Company (FEC), which was required to comply with local whistle bans because it was considered an “intrastate” carrier under Florida law, with that of the parallel rail line of interstate carrier CSX Transportation Company (CSX), which was not subject to the law. By December 31, 1989, 511 of the FEC’s 600 gate-equipped crossings were affected by whistle bans. Collision data from the same period was available for 224 similarly equipped CSX crossings in the six counties in which both railroads operate. As noted above, FRA found that FEC’s nighttime collision rate increased 195 percent after whistle bans were imposed. At similarly equipped CSX crossings, the number of collisions increased by 67 percent.

On July 26, 1991, FRA issued an emergency order to end whistle bans in Florida. Notice of that emergency order (Emergency Order No. 15) was published in the Federal Register at 56 FR 36190. FRA is authorized to issue emergency orders where an unsafe condition or practice creates “an emergency situation involving a hazard of death or injury.” 49 U.S.C. § 20104. FRA acted after updating its study with 1990 and initial 1991 collision records and finding that another twelve people died and thirteen were injured in nighttime accidents at whistle ban crossings. During this time, a smaller study, conducted by the Public Utility Commission of Oregon, corroborated FRA’s findings and led to the cessation of state efforts to initiate a whistle ban in Oregon. FRA’s emergency order required that trains operated by the FEC sound their whistles when approaching public highway-rail grade crossings. This order pre-empted state and local laws that permitted the nighttime ban on the use of locomotive horns.

In the first two years after July 1991, when FRA issued its emergency order prohibiting whistle bans in Florida, accident rates dropped dramatically to pre-ban levels. In the two years before the emergency order, there were 51 nighttime accidents. In the two years after, there were only 16. Daytime accidents dropped slightly from 34 accidents in the two years before the emergency order to 31 in the following two years.

FRA’s Florida study raised the concern that whistle bans could be increasing accidents in other locations. Given the wide divergence between grade crossings conditions from one community to another, FRA did not assume that the Florida results would be true at every whistle ban crossing. FRA began a nationwide effort to locate each grade crossing subject to a whistle ban and study the accident information for each crossing. The Association of American Railroads (AAR) joined FRA in that effort.

The AAR surveyed the rail industry and found 2,122 public grade crossings subject to whistle bans at some point during the period between January 1988 and June 30, 1994. This total did not include 511 public crossings that were subject to the Florida whistle ban that FRA had already studied. The study also did not include crossings on small, short line railroads that did not report to the AAR. The nationwide survey found whistle bans in 27 states which affected 17 railroads. FRA studied accidents occurring during the period of the above mentioned AAR survey. FRA found that 2,004 of these crossings were subject to 24 hour whistle bans. The remaining 118 grade crossings were subject to nighttime only bans. The states with the largest number of whistle ban crossings were Illinois, Wisconsin, Kentucky, New York, and Minnesota. More than half of the crossings were on three railroads: CSX, Consolidated Rail Corporation (Conrail), and Soo Line. A report covering the nationwide study was issued in April 1995. FRA discovered that whistle ban crossings averaged 84 percent more accidents than crossings with no bans. There were 948 collisions at whistle ban crossings during the period studied. Sixty-two people died in those collisions, and 308 people were injured. FRA also noted that average train speed is positively correlated with fatalities. Collisions occurred on every railroad with crossings subject to whistle bans and in 25 of the 27 states where bans were in effect.

Since the 1995 report, FRA has continued to analyze the relevant data. In 97 percent of the whistle-ban crossing collisions, a warning device was located on the highway vehicle's side of the crossing. This supports the theory that the warning given by the locomotive horn could deter the motorist from entering the crossing. Seventy-two percent of the fatalities occurred while the motorist was moving over the crossing. FRA found 831 crossings where whistle sounding had at one time been in effect, but where the practice had changed during the period of the study. A before and after comparison of the collision rates showed an average of 38 percent fewer collisions when whistles were sounded, suggesting that whistles had a 0.38 effectiveness rate in reducing collisions. This finding paralleled the Florida experience. These are the types of collisions this rule is designed to prevent. Motorists who fail to notice or heed the warning devices in place at a crossing may be deterred by the sound of a train horn (whistle). The motorist is also given information by the horn about the proximity, speed, and direction of the train.

After reviewing FRA's Florida study and receiving preliminary reports from the agency on its national whistle ban study, Congress addressed the issue. On November 2, 1994, Congress passed Public Law 103-440, which added § 20153 to Title 49 of the United States Code. This section requires the use of locomotive horns at grade crossings. Specifically, § 20153(b) states: "The Secretary of Transportation shall prescribe regulations requiring that a locomotive horn be sounded while each train is approaching and entering upon each public highway-rail grade crossing." § 20153 (c)(1) further declares:

In issuing such regulations, the Secretary may except from the requirement to sound the locomotive horn any categories of rail operations or categories of highway-rail grade crossings (by train speed or other factors specified by regulation) that (A) the Secretary determines not to present a significant risk with respect to loss of life or serious personal injury; (B) for which use of the locomotive horn as a warning measure is impractical; or (C) for which, in the judgment of the Secretary, SSMs [Supplementary Safety Measures] fully compensate for the absence of the warning provided by the locomotive horn.

On October 9, 1996, section 20153 was amended by P.L.104-264. The amended law requires the FRA to consider the interest of communities which have in effect restrictions on the sounding of a locomotive horn at highway-rail crossings. In addition, it requires FRA to work in partnership with affected communities to provide technical assistance and to provide a reasonable amount of time for local communities to install supplementary safety measures, taking into account local safety initiatives.

FRA's Final Rule on the Use of Locomotive Horns at Highway-Rail Grade Crossings (Final Rule) complied with the statutory mandate contained within section 20153 of title 49 of the United States Code (U.S.C.). As required by 49 U.S.C. 20153(b), the final rule requires locomotive horn sounding by trains that approach and enter public highway-rail grade crossings. (See rule § 222.21.) However, as allowed by 49 U.S.C. 20153(c), the final rule contains exceptions for certain categories of rail operations and highway-rail grade crossings.

**2. INDICATE HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED. EXCEPT FOR A NEW COLLECTION, INDICATE THE ACTUAL USE THE AGENCY HAS MADE OF THE INFORMATION RECEIVED FROM THE CURRENT COLLECTION.**

The information collected is used by FRA to promote and enhance rail safety throughout the United States. Specifically, FRA collects information from railroads and public authorities in order to increase safety at highway-rail grade crossings nationwide by requiring that locomotive horns are sounded when trains approach and pass through these crossings, or by ensuring that a safety level at least equivalent to that provided by blowing locomotive horns exists for corridors in which horns are silenced.

Under § 222.15, a railroad, a contractor for railroads, or a local or state governmental entity that performs any function covered by this rule may seek an exemption from its provisions by submitting a waiver petition/request to the agency. FRA reviews these requests to determine whether it is in the public interest and consistent with the safety of highway and railroad users to grant an exemption from any of the provisions of this Part.

Under § 222.17, FRA reviews applications from state agencies to become a recognized

state agency by FRA to determine whether the proposed scope of state agency involvement will facilitate safe and effective quiet zone development.

Under § 222.39, FRA reviews applications by public authorities intending to establish new or, in some cases, continue pre-rule quiet zones to ensure that the necessary level of safety is achieved. Specifically, FRA examines each such application/plan to determine that it includes the following data: (1) It contains an accurate, complete, and current Grade Crossing Inventory Form; (2) It contains sufficient details concerning the present safety measures at each public highway-rail grade crossings proposed to be included in the quiet zone to enable the Associate Administrator for Safety to evaluate their effectiveness; (3) It contains detailed information about diagnostic team reviews of any crossing within the proposed quiet zone, including a membership list and a list of recommendations made by the diagnostic team; (4) It contains a statement describing efforts taken by the public authority to work with each railroad operating over the public highway-rail grade crossings within the quiet zone and the State agency responsible for grade crossing safety. The statement must also list any objections to the proposed quiet zone that were raised by the railroad(s) and State agency; (5) It contains detailed information as to which Supplementary Safety Measures (SSMs) or Alternative Safety Measure (ASMs) are proposed to be implemented at each public or private highway-rail grade crossings within the proposed quiet zone; (6) It contains a commitment to implement the proposed safety measures within the proposed quiet zone; (7) It demonstrates through data and analysis that implementation of these measures will cause a reduction in the Quiet Zone Risk Index to, or below, either the Risk Index With Horns or the Nationwide Significant Risk Threshold; and (8) If the proposed quiet zone contains newly established public or private highway-rail grade crossings, the public authority's application for approval includes five-year projected vehicle and rail traffic counts for each newly established crossing.

Also, under § 222.39, FRA reviews comments from relevant parties concerning a public authority's application to establish a quiet zone to ensure that as many viewpoints as possible are heard before a decision is rendered.

Under §§ 222.41, 222.42, and 222.43 FRA reviews notices to confirm that our agency and other stipulated parties are notified by the public authority of its intent to establish or continue a quiet zone. The public authority is required to provide written notice to the following: (1) All railroads operating over the public highway-rail grade crossings within the quiet zone; (2) The highway or traffic control authority or law enforcement authority having control over vehicular traffic at the crossings within the quiet zone; (3) The landowner having control over any private crossings within the quiet zone; (4) The State agency responsible for highway and road safety; and (5) The Associate Administrator for Safety.

FRA reviews these notices to confirm that each one states with specificity the grade

crossings within the quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street/highway name, and the exact date upon which routine locomotive horn use at grade crossings shall cease. FRA checks these notices to verify that each one also includes specific reference to the regulatory provision of this Part which forms the basis for establishment or continuation of the quiet zone, and that a copy of FRA's notification of approval is included.

Along with the aforementioned notice, FRA reviews the information collected to ensure that the Associate Administrator for Safety is provided with the following: (1) An accurate and complete Grade Crossing Inventory Form for each public and private highway-rail grade crossing within the quiet zone, dated within six months prior to designation or FRA approval of the quiet zone; (2) An accurate, complete, and current Grade Crossing Inventory Form reflecting SSMs and ASMs in place upon establishment of the quiet zone; (3) The name and title of the person responsible for monitoring compliance with the requirements of this Part and the manner in which that person can be contacted; (4) A list of all parties notified in accordance with paragraph (a) of section 222.43; and (5) A statement, signed by the chief executive officer of each public authority establishing or continuing a quiet zone under this Part.

FRA reviews statements signed by the chief executive of each public authority participating in the establishment of a quiet zone to confirm that information submitted by the public authority is accurate and complete.

Railroads, highway or traffic control or law enforcement authorities, landowners, and state agencies review these notifications to assess how the establishment or continuation of quiet zone affects them. They then can decide whether they want to submit a comment to the public authority about the proposed quiet zone. For quiet zones to be safe and effective, all affected parties must be completely informed so that they can fulfill their respective responsibilities.

Under § 222.47 pertaining to periodic updates, FRA reviews written affirmations to endure that supplementary safety measures (SSMs) and alternative safety measures (ASMs) conform to the requirements of Appendices A and B or to the terms of the quiet zone approval. FRA also reviews updated grade crossing inventory forms to make sure that the agency has an up-to-date, accurate, and complete grade crossing inventory form for each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian crossing within the quiet zone.

Under § 222.51, FRA reviews documentation provided by public authorities wishing to retain quiet zones that the agency has indicated will be terminated. FRA reviews this documentation to verify that the public authority has made a written commitment to lower the potential risk to the traveling public at the crossings within the quiet zone to below the Nationwide Significant Risk Threshold, or to a level fully compensating for the

absence of the train horn. FRA then checks that the public authority includes in this commitment a discussion of the specific steps it intends to take to increase safety at the crossings within the quiet zone, and that, within three years after the date of receipt of notification that the Quiet Zone Risk Index exceeds the Nationwide Significant Risk Threshold, it completes implementation of SSMs or ASMs sufficient to reduce the Quiet Zone Risk Index to a level below the Nationwide Significant Risk Threshold, or to a level that fully compensates for the absence of the train horn (whichever is greater). FRA then evaluates this information to determine whether or not the quiet zone can be continued. Additionally, FRA reviews petitions to the Administrator by a public authority or other interested party requesting review of a decision by the Associate Administrator for Safety denying an application for approval of a new SSM. Once this review is complete, the Administrator reaffirms, modifies, or revokes the decision of the Associate Administrator without further proceedings, and notifies the petitioner and other interested parties in writing or by publishing a notice in the Federal Register.

Under § 222.55, FRA reviews requests from public authorities for new supplementary safety measures (SSMs) or alternative safety measures (ASMs) to determine whether they are effective substitutes for the locomotive horn in the prevention of collisions and casualties at public highway-rail grade crossings.

Under § 222.59, a public authority installing a wayside horn at a grade crossing within a quiet zone must provide written notice that a wayside horn is being installed 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 the crossings within the quiet zone, the landowner having control over any private crossings within the quiet zone, the State agency responsible for grade crossing safety, the State agency responsible for highway and road safety, and the Associate Administrator. FRA reviews these notices to make sure that it is safe to have such wayside horns installed at a particular grade crossing.

Under Appendix B, FRA reviews required records pertaining to non-engineering alternative safety measures (ASMs), such as programmed enforcement, public education and awareness, and photo enforcement, to make sure that the public authority performs monitoring and sampling efforts at the grade crossing for a period of not less than five (5) years and that safety is not jeopardized or compromised.

Finally, under § 229.129, written reports of locomotive horn testing/re-testing (required by this Part) must be made and must reflect horn type; the date, place, and manner of testing; and air flow and sound level measurements. These reports, which must be signed by the person who performs the test, must be retained by the railroad, at a location of its choice, until a subsequent locomotive horn test is completed and must be made available, upon request, to FRA as provided by 49 U.S.C. 20107. FRA reviews these reports/records to make sure that locomotive horns are tested and are functional so that



they can be sounded when safety or necessity requires.

In sum, by collecting the information required in this rule, FRA seeks to promote safety and to prevent increased train and highway vehicle collisions at grade crossings, and the corresponding deaths, injuries, and property damage that would occur, absent this rule, at crossings at which locomotive train horns are silenced.

**3. DESCRIBE WHETHER, AND TO WHAT EXTENT, THE COLLECTION OF INFORMATION INVOLVES THE USE OF AUTOMATED, ELECTRONIC, MECHANICAL, OR OTHER TECHNOLOGICAL COLLECTION TECHNIQUES OR OTHER FORMS OF INFORMATION TECHNOLOGY, E.G. PERMITTING ELECTRONIC SUBMISSION OF RESPONSES, AND THE BASIS FOR THE DECISION FOR ADOPTING THIS MEANS OF COLLECTION. ALSO DESCRIBE ANY CONSIDERATION OF USING INFORMATION TECHNOLOGY TO REDUCE BURDEN.**

FRA highly encourages and strongly endorses the use of advanced information technology, wherever possible, to reduce burden. This rule prescribes standards for sounding train horns (whistles) when trains approach and pass through public highway-rail grade crossings. The rule further provides standards for exempting from the requirement to sound the locomotive horn certain categories of rail operations and categories of highway-rail crossings. In those situations which may qualify for an exemption, the public authority's application to FRA's Associate Administrator for Safety must contain a commitment to implement the proposed safety measures within the intended quiet zone. The public authority must demonstrate through data and analysis that implementation of these measures will effect a reduction in risk at crossings within the quiet zone (viewing risk in the aggregate rather than on a crossing-by-crossing basis) sufficient to fully compensate for the absence of the warning provided by the locomotive horn.

The information that must be collected and supplied to FRA may take a variety of forms, depending on the safety measures proposed by the public authority. For example, a proposal to employ "photo enforcement" would include the use of advanced electronic automatic cameras to monitor driver compliance at crossings. Other possible safety measures, such as the temporary closing of a crossing, will require simple written notification of the proposed safety measure and the evidence for its effectiveness.

While the public authority is given maximum latitude in the methods used for the collection of the necessary information, and electronic and/or automatic methods are encouraged where appropriate, the actual notification of the alternative measures selected must be in writing. This is necessary because the Federal government (FRA) is not the sole recipient of the information. All railroads operating over the crossings, the highway or traffic control authority or law enforcement authority, and the state agency responsible for highway and road safety must also be notified.

To assist respondents and to reduce the burden on them, FRA has made Form FRA F 6180.71, U.S. DOT AAR Crossing Inventory Form, available on the Internet so that users can easily download it. This form is used to collect highway-grade crossing information from States and railroads. Moreover, an electronic version of form is available for use by respondents. It should be noted that the burden for this information collection is fairly minimal (less than 70,000 hours).

**4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION. SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSES DESCRIBED IN ITEM 2 ABOVE.**

The information collection requirements to our knowledge are not duplicated anywhere. The data collected is site-specific. Each application for a quiet zone creation must be accompanied by information for the particular crossings for which the waiver is being sought, and must contain current information.

Similar data are not available from any other source.

**5. IF THE COLLECTION OF INFORMATION IMPACTS SMALL BUSINESSES OR OTHER SMALL ENTITIES (ITEM 5 OF OMB FORM 83-I), DESCRIBE ANY METHODS USED TO MINIMIZE BURDEN.**

The information collection requirements contained in this rule are purely discretionary. No community, large or small, is required to collect any information because of this final rule. Only if there is a desire to obtain an exemption to the rules requiring the blowing of train whistles does a community have to collect information and, even in that case, only if certain safety measures are selected. In the event a community does elect to seek an exemption, the extent to which that information is required is directly related to the safety measure selected. The community chooses the amount of information to be collected when it chooses a safety measure.

FRA expects that the great majority of “communities” which apply for exemption will be “large” communities by any reasonable definition. To the extent that “small” communities do get involved, the number of crossings will also be small, and, therefore, the amount of information to be collected will be minimal.

As defined by the Small Business Administration, “small government jurisdiction” means governments of cities, counties, towns, villages, school districts, or special districts with a population of less than 50,000 individuals. As noted in the accompanying regulatory impact analysis, the final rule could impact approximately 260 governmental jurisdictions whose communities currently have either formal or informal whistle bans in place. FRA

estimates that approximately 70 percent of these communities are small entities. The impact on these governments will vary depending on whether they have to implement safety measures to retain their whistle bans or not, as well as on their choice of Supplementary Safety Measures (SSMs) or Alternative Safety Measures (ASMs), and also on whether they choose to allow locomotive horns to be sounded once again. FRA expects that the majority of small government jurisdictions which have not attempted to institute whistle bans in their communities will not do so in the future and, therefore, will not incur any burden as a result of the requirements of this rule.

Moreover, some of the safety measures involve the use of devices (such as cameras) and other equipment which may be supplied by small businesses. Communities may also employ small businesses to either help with the collection and analysis of data, or with the education, monitoring, and enforcement efforts pursuant to these measures. FRA foresees very few communities electing this alternative. Consequently, the burden should be minimal. Many communities will only be very minimally affected by the reporting and record keeping requirements of this rule, and will be exempt from requirements to implement additional safety measures.

FRA believes that approximately 640 railroads (medium sized and small) will be minimally impacted by train horn sound level testing and associated certification requirements contained in this rule. Specifically, small railroads will be affected under the provision establishing a maximum train horn sound level. They will test and potentially adjust their locomotive horns to comply with the maximum sound level of 110 dB(A). As such, they will incur costs for performing the horn volume test and making needed adjustments to the horn. Since small railroads own fewer locomotives, they will need to perform considerably fewer tests than larger railroads, and thus will incur lower total costs associated with this requirement. Furthermore, to mitigate any cost involved and in response to petitions for reconsideration, FRA has extended the effective date of the new locomotive sound level testing requirements to 30 days after the date of publication of the amendments to this final rule in the Federal Register. Thus, for locomotives built before 30 days after the date of publication of the amendments to this final rule in the Federal Register, railroads have until June 24, 2010, to meet the prescribed standard.

Additionally, it should be noted that the regulation does not apply to (1) railroads exclusively operating freight trains only on track which is not part of the general system of transportation; (2) passenger railroads that operate only on track which is not part of the general system of transportation and that operate at a maximum of 15 miles per hour over public grade crossings; and (3) rapid transit operations within an urban area that are not connected to the general system of transportation. Consequently, this regulation will not apply to tourist, excursion, and scenic railroads, which are invariably small businesses.

Finally, in response to AAR's petition for reconsideration, FRA revised § 229.129(c)(10) and removed the requirement to retain written records of air flow measurements taken during sound level testing. FRA was persuaded that this requirement would impose an unnecessary burden on railroads and locomotive manufacturers.

To summarize, FRA has incorporated into this rule (and amendments to the final rule) a wide range of options intended to mitigate any impacts consistent with the statutory mandate to address safety at highway-rail grade crossings. Notably, FRA added a considerable amount of flexibility to the rule and extended the implementation schedule by a minimum of two years and a maximum of four years. FRA certified in its regulatory impact analysis that this rule will not have significant economic impact on a substantial number of small entities.

**6. DESCRIBE THE CONSEQUENCE TO FEDERAL PROGRAM OR POLICY ACTIVITIES IF THE COLLECTION IS NOT CONDUCTED OR IS CONDUCTED LESS FREQUENTLY, AS WELL AS ANY TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN.**

If this information were not collected or collected less frequently, FRA would not be in compliance with a Congressional mandate (i.e., the 1994 Railroad Safety Reauthorization Act; Public Law 103-440). Also, railroad safety in this country would be seriously jeopardized. The sounding of train horns is a long-established method of providing safety at highway-rail grade crossings. FRA believes, and data support, that train horns provide an effective warning to motorists and thereby serve to reduce the number of collisions involving motorists and trains, as well as reducing the number of incidents involving trains and pedestrians/trespassers at crossings and corresponding casualties.

Without this rule and its associated collection of information, FRA would have no means of ensuring that either locomotive horns are sounded to warn motorists of approaching trains, or that rail corridors where train horns do not sound will have a risk level that is no higher than the average risk level at gated crossings nationwide where locomotive horns are sounded regularly, or that the effectiveness of horns is compensated for in rail corridors where trains do not sound regularly. FRA does not have the resources to station an employee in each community to develop and monitor alternative safety measures. Consequently, if the community proposes measures not already approved (as those in Appendix A) to provide safety at crossings other than the train horn, FRA needs information to ensure that safety will not be compromised by the substitution of a less effective alternative safety measure for train horns.

In the absence of the minimal information being required by FRA, communities would be in a position to negatively impact safety. Train and highway collisions would continue to occur at an undesirable and unnecessary rate. In its regulatory impact analysis

accompanying the final rule, FRA estimated that implementation of this rule will result in the prevention of 125 collisions, 14 fatalities, and 60 injuries over the next 20 years. Also, in addition to the prevention of casualties, FRA estimated that this collision prevention will result in a reduction of approximately \$400,000 in highway vehicle, railroad equipment, and track damage over the next 20 years.

Without this collection of information, FRA would not be fulfilling its primary responsibility to protect the safety of the public-at-large and railroad employees, particularly if it were to allow individual communities to change highway-rail grade crossing safety practices without first ensuring (through the reporting requirements) that protection equivalent to locomotive horns will be provided. Again, as noted earlier, this minimal information is collected only if communities choose to ban train horns and only as long as communities continue the whistle ban.

In sum, this collection of information both complies with the law and helps FRA to fulfill its mission, which is to promote and enhance rail safety throughout the United States.

**7. EXPLAIN ANY SPECIAL CIRCUMSTANCES THAT WOULD CAUSE AN INFORMATION COLLECTION TO BE CONDUCTED IN A MANNER:**

**-REQUIRING RESPONDENTS TO REPORT INFORMATION TO THE AGENCY MORE OFTEN THAN QUARTERLY;**

**-REQUIRING RESPONDENTS TO PREPARE A WRITTEN RESPONSE TO A COLLECTION OF INFORMATION IN FEWER THAN 30 DAYS AFTER RECEIPT OF IT;**

**-REQUIRING RESPONDENTS TO SUBMIT MORE THAN AN ORIGINAL AND TWO COPIES OF ANY DOCUMENT;**

**-REQUIRING RESPONDENTS TO RETAIN RECORDS, OTHER THAN HEALTH, MEDICAL, GOVERNMENT CONTRACT, GRANT-IN-AID, OR TAX RECORDS FOR MORE THAN THREE YEARS;**

**-IN CONNECTION WITH A STATISTICAL SURVEY, THAT IS NOT DESIGNED TO PRODUCE VALID AND RELIABLE RESULTS THAT CAN BE GENERALIZED TO THE UNIVERSE OF STUDY;**

**-REQUIRING THE USE OF A STATISTICAL DATA CLASSIFICATION THAT HAS NOT BEEN REVIEWED AND APPROVED BY OMB;**

**-THAT INCLUDES A PLEDGE OF CONFIDENTIALITY THAT IS NOT SUPPORTED BY AUTHORITY ESTABLISHED IN STATUTE OR**

**REGULATION, THAT IS NOT SUPPORTED BY DISCLOSURE AND DATA SECURITY POLICIES THAT ARE CONSISTENT WITH THE PLEDGE, OR WHICH UNNECESSARILY IMPEDES SHARING OF DATA WITH OTHER AGENCIES FOR COMPATIBLE CONFIDENTIAL USE; OR**

**-REQUIRING RESPONDENTS TO SUBMIT PROPRIETARY TRADE SECRET, OR OTHER CONFIDENTIAL INFORMATION UNLESS THE AGENCY CAN DEMONSTRATE THAT IT HAS INSTITUTED PROCEDURES TO PROTECT THE INFORMATION'S CONFIDENTIALITY TO THE EXTENT PERMITTED BY LAW.**

Under Appendix B of Part 222, the public authority must retain records pertaining to monitoring and sampling efforts at the grade crossings for a period of not less than five (5) years for non-engineering alternative safety measures (ASMs). These non-engineering ASMs include programmed enforcement, public education and awareness, and photo enforcement. These records must be made available, upon request, to FRA as provided by 49 U.S.C. 20107. Over a period of years, FRA must be able to inspect these records to ensure that public authorities are continuously taking the necessary measures to ensure safety at public highway-rail grade crossings, as well as to verify that these public authorities are monitoring and sampling their non-engineering alternative safety efforts/measures to ensure that they are functioning properly and are effective.

All other information collection requirements are in compliance with this section.

- 8. IF APPLICABLE, PROVIDE A COPY AND IDENTIFY THE DATE AND PAGE NUMBER OF PUBLICATION IN THE FEDERAL REGISTER OF THE AGENCY'S NOTICE, REQUIRED BY 5 CFR 1320.8(d), SOLICITING COMMENTS ON THE INFORMATION COLLECTION PRIOR TO SUBMISSION TO OMB. SUMMARIZE PUBLIC COMMENTS RECEIVED IN RESPONSE TO THAT NOTICE AND DESCRIBE ACTIONS TAKEN BY THE AGENCY IN RESPONSE TO THOSE COMMENTS. SPECIFICALLY ADDRESS COMMENTS RECEIVED ON COST AND HOUR BURDEN.**

**DESCRIBE EFFORTS TO CONSULT WITH PERSONS OUTSIDE THE AGENCY TO OBTAIN THEIR VIEWS ON THE AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, THE CLARITY OF INSTRUCTIONS AND RECORDKEEPING, DISCLOSURE, OR REPORTING FORMAT (IF ANY), AND ON THE DATA ELEMENTS TO BE RECORDED, DISCLOSED, OR REPORTED.**

**CONSULTATION WITH REPRESENTATIVES OF THOSE FROM WHOM INFORMATION IS TO BE OBTAINED OR THOSE WHO MUST COMPILE**

**RECORDS SHOULD OCCUR AT LEAST ONCE EVERY 3 YEARS--EVEN IF THE COLLECTION OF INFORMATION ACTIVITY IS THE SAME AS IN PRIOR PERIODS. THERE MAY BE CIRCUMSTANCES THAT MAY PRECLUDE CONSULTATION IN A SPECIFIC SITUATION. THESE CIRCUMSTANCES SHOULD BE EXPLAINED.**

FRA is publishing amendments to the Locomotive Train Horns Final Rule in the Federal Register on Thursday August 17, 2006. See 71 FR 47614. These amendments to the Locomotive Train Horns Final Rule respond to petitions for reconsideration from various parties.

Background

On April 27, 2005, FRA published a Final Rule in the Federal Register (70 FR 21844). After the final rule was published, FRA received petitions for reconsideration and associated letters in support from the Association of American Railroads (AAR), Mr. James Adams of Placentia, California, General Electric (GE) Transportation-Rail, United Transportation Union (UTU), Brotherhood of Locomotive Engineers and Trainmen (BLET), Burlington Northern Santa Fe (BNSF) Railway Company, and Qwick Kurb, Inc. In addition, the Association of American Railroads submitted a petition for Emergency Order, which was subsequently denied.

On December 18, 2003, FRA published an Interim Final Rule in the Federal Register (68 FR 70586). Even though FRA could have proceeded directly to the final rule stage, FRA chose to issue an interim final rule in order to give the public an opportunity to comment on changes that had been made to the rule. FRA also held a public hearing in Washington, DC on February 4, 2004. By the close of the extended comment period, over 1,400 comments had been filed with the agency regarding the Interim Final Rule. As is FRA's practice, FRA held the public docket open for late-filed comments and considered them to the extent possible. In order to avoid imposing inconsistent regulatory standards for quiet zone creation and establishment, FRA extended the effective date

On January 13, 2000, FRA published a Notice of Proposed Rulemaking (NPRM) in the Federal Register (65 FR 2230) addressing the use of locomotive horns at public highway-rail grade crossings. This rulemaking was mandated by Public Law 103-440, which added section 20153 to title 49 of the United States Code. The statute requires the Secretary of Transportation (whose authority in this area has been delegated to the Federal Railroad Administrator under 49 CFR 1.49) to issue regulations that require the use of locomotive horns at public grade crossings, but gives the Secretary the authority to make reasonable exceptions.

In accordance with the Administrative Procedure Act (5 U.S.C. 553), FRA solicited

written comments from the public. By the close of the comment period on May 26, 2000, approximately 3,000 comments had been filed with this agency regarding the NPRM and the associated Draft Environmental Impact Statement. As is FRA's practice, FRA held the public docket open for late filed comments and considered them to the extent possible.

Due to the substantial and wide-ranging public interest in the NPRM, FRA conducted a series of public hearings throughout the United States in which local citizens, local and State officials, Congressmen, and Senators provided testimony. Twelve hearings were held (Washington, DC; Fort Lauderdale, Florida; Pendleton, Oregon; San Bernadino, California; Chicago, Illinois (four hearings were held in the greater Chicago area); Berea, Ohio; South Bend, Indiana; Salem, Massachusetts; and Madison, Wisconsin) at which more than 350 people testified.

**9. EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN ENUMERATION OF CONTRACTORS OR GRANTEES.**

There are no monetary payments or gifts made to respondents associated with the information collection requirements contained in this regulation.

**10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS AND THE BASIS FOR THE ASSURANCE IN STATUTE, REGULATION, OR AGENCY POLICY.**

Information collected is not of a confidential nature, and FRA pledges no confidentiality.

**11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE. THIS JUSTIFICATION SHOULD INCLUDE THE REASONS WHY THE AGENCY CONSIDERS THE QUESTIONS NECESSARY, THE SPECIFIC USES TO BE MADE OF THE INFORMATION, THE EXPLANATION TO BE GIVEN TO PERSONS FROM WHOM THE INFORMATION IS REQUESTED, AND ANY STEPS TO BE TAKEN TO OBTAIN THEIR CONSENT.**

This regulation applies to the operation of railroads, and community safety practices at highway-rail grade crossings if locomotive horns are banned. It does not deal with specific documentation where individuals would be identified. It also has no direct bearing on individual employees, or on the way a railroad deals with an individual employee.



There are no sensitive questions, and no sensitive information is requested.

**12. PROVIDE ESTIMATES OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION. THE STATEMENT SHOULD:**

**-INDICATE THE NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, ANNUAL HOUR BURDEN, AND AN EXPLANATION OF HOW THE BURDEN WAS ESTIMATED. UNLESS DIRECTED TO DO SO, AGENCIES SHOULD NOT CONDUCT SPECIAL SURVEYS TO OBTAIN INFORMATION ON WHICH TO BASE HOUR BURDEN ESTIMATES. CONSULTATION WITH A SAMPLE (FEWER THAN 10) OF POTENTIAL RESPONDENTS IS DESIRABLE. IF THE HOUR BURDEN ON RESPONDENTS IS EXPECTED TO VARY WIDELY BECAUSE OF DIFFERENCES IN ACTIVITY, SIZE, OR COMPLEXITY, SHOW THE RANGE OF ESTIMATED HOUR BURDEN, AND EXPLAIN THE REASONS FOR THE VARIANCE. GENERALLY, ESTIMATES SHOULD NOT INCLUDE BURDEN HOUR FOR CUSTOMARY AND USUAL BUSINESS PRACTICES**

**-IF THIS REQUEST FOR APPROVAL COVERS MORE THAN ONE FORM, PROVIDE SEPARATE HOUR BURDEN ESTIMATES FOR EACH FORM AND AGGREGATE THE HOUR BURDENS IN ITEMS 13 OF OMB FORM 83-I.**

**-PROVIDE ESTIMATES OF ANNUALIZED COST TO RESPONDENTS FOR THE HOUR BURDENS FOR COLLECTIONS OF INFORMATION, IDENTIFYING AND USING APPROPRIATE WAGE RATE CATEGORIES. THE COST OF CONTRACTING OUT OR PAYING OUTSIDE PARTIES FOR INFORMATION COLLECTION ACTIVITIES SHOULD NOT BE INCLUDED HERE. INSTEAD, THIS COST SHOULD BE INCLUDED IN ITEM 14.**

*Based on the 2005 edition of the Association of American Railroads (AAR) publication titled Railroad Facts, FRA has used the following labor rate for railroad hourly wages in its cost calculations: \$40 per hour for professional/administrative staff. FRA has calculated an average hourly rate for public authority/community personnel of \$61. Wage rates are burdened 40% to include fringe benefits and overhead.*

**§ 222.11 Penalties**

Any person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311.

FRA estimated that approximately five (5) reports/records will be falsified per year. It is estimated that it will take approximately two (2) hours to falsify a report/record. Total annual burden for this requirement is 10 hours.

	Respondent Universe:
	687
	Railroads/340 Public Authorities
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	5 falsified reports/records
	Annual Burden:
	10 hours
Annual Cost:	\$400

**Calculation:** 5 falsified reports x 2 hrs. = 10 hours  
 10 hrs. x \$40 = \$400

**§ 222.15 Petitions for Waivers.**

- (a) Except as provided in paragraph (b) of this section, two parties must jointly file a petition (request) for a waiver. They are the railroad owning or controlling operations over the railroad tracks crossing the public highway-rail grade crossing and the public authority which has jurisdiction over the roadway crossing the railroad tracks.
- (b) If the railroad and the public authority cannot reach agreement to file a joint petition, either party may file a request for a waiver; however, the filing party must specify in its petition the steps it has taken in an attempt to reach agreement with the other party, and explain why applying the requirement that a joint submission be made in that instance would not be likely to contribute significantly to public safety. If the Associate Administrator determines that applying the requirement for a jointly filed submission to that particular petition would not be likely to significantly contribute to public safety, the Associate Administrator shall waive the requirement for joint submission and accept the petition for consideration. The filing party must also provide the other party with a copy of the petition filed with FRA.
- (c) Each petition for a waiver must be filed in accordance with 49CFR Part 211.
- (d) If the Administrator finds a waiver of compliance with a provision of this part is in the public interest and consistent with the safety of highway and railroad users, the Administrator may grant the waiver subject to any conditions the

Administrator deems necessary.

FRA estimates that it will receive approximately five (5) waiver petitions each year under the above requirement. It is estimated that each waiver petition will take approximately four (4) hours to complete, and send to FRA. Total annual burden for this requirement is 20 hours.

	Respondent Universe:
	687
	Railroads/340 Public Authorities
Burden time per response:	4 hours
Frequency of Response:	One-time
Annual number of Responses:	5 waiver petitions
Annual Burden:	20 hours
Annual Cost:	\$800

**Calculation:** 5 waiver petitions x 4 hrs. = 20 hours  
20 hrs. x \$40 = \$800

### § 222.17 How can a State agency become a recognized State agency?

Any State agency responsible for highway-rail grade crossing safety and/or highway and road safety may become a recognized State agency by submitting an application to the Associate Administrator that contains: (1) A detailed description of the proposed scope of involvement in the quiet zone development process; (2) The name, address, and telephone number of the person(s) who may be contacted to discuss the State agency application; and (3) A statement from State agency counsel which affirms that the State agency is authorized to undertake the responsibilities proposed in its application.

The Associate Administrator will approve the application if, in the Associate Administrator's judgment, the proposed scope of State agency involvement will facilitate safe and effective quiet zone development. The Associate Administrator may include in any decision of approval such conditions as he/she deems necessary and appropriate.

FRA estimates that it will receive approximately seven (7) applications each year to become a recognized state agency. It is estimated that each application will take approximately eight (8) hours to complete, and send to FRA. Total annual burden for this requirement is 56 hours.

	Respondent Universe:
	68 State
	Agencies
Burden time per response:	8 hours

Frequency of Response:	One-time
Annual number of Responses:	7 applications
Annual Burden:	56 hours
Annual Cost:	\$3,416

**Calculation:** 7 applications x 8 hrs. = 56 hours  
56 hrs. x \$61 = \$3,416

**§222.25 Private highway-rail grade crossings**

- A. Private highway-rail grade crossings that are located in New Quiet Zones or New Partial Quiet Zones and allow access to the public, or which provide access to active industrial or commercial sites, must be evaluated by a diagnostic team and equipped or treated in accordance with the recommendations of such diagnostic team.

*The burden for this requirement is included under that of § 222.39(b). Consequently, there is no additional burden associated with this requirement.*

- B. The public authority must provide the State agency responsible for grade crossing safety and all affected railroads an opportunity to participate in the diagnostic team review of private highway-rail grade crossings.

*The burden for this requirement is included under that of § 222.39(b). Consequently, there is no additional burden associated with this requirement.*

**§222.27 Pedestrian grade crossings?**

- A. Pedestrian grade crossings that are located in New Quiet Zones or New Partial Quiet Zones must be evaluated by a diagnostic team and equipped or treated in accordance with the recommendations of such diagnostic team.

*The burden for this requirements is included under that of § 222.39(b). Consequently, there is no additional burden associated with this requirement.*

- B. The public authority shall provide the State agency responsible for grade crossing safety and all affected railroads an opportunity to participate in diagnostic team reviews of pedestrian grade crossings.

*The burden for this requirements is included under that of § 222.39(b). Consequently, there is no additional burden associated with this requirement.*

**§222.35 What are the minimum requirements fore quiet zones?**

With the exception of combining adjacent Pre-Rule Quiet Zones or Pre-Rule Partial Quiet Zones, the addition of any public highway-rail grade crossing to a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone shall end the grandfathered status of that quiet zone and transform it into a New Quiet Zone or New Partial Quiet Zone that must comply with all the requirements applicable to New Quiet Zones or New Partial Quiet Zones.

*The burden for this requirement is included under that of § 222.41 and § 222.43 below. Consequently, there is no additional burden associated with this requirement.*

**§222.37 Quiet zones controlled by more than one public authority.**

A public authority may establish quiet zones that are consistent with the provisions of this part. If a proposed quiet zone includes public highway-rail 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 the 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.

*The burden for this requirement is included in that of § 222.39 below. Consequently, there is no additional burden associated with this requirement.*

**§222.38 Can a quiet zone be created in the Chicago Region?**

Public authorities that are eligible to establish quiet zones under this part may create New Quiet Zones or New Partial Quiet Zones in the Chicago Region, provided the New Quiet Zone or New Partial Quiet Zone does not include any highway-rail grade crossing in § 222.3(c) of this part.

*The burden for this requirement is included under that of § 222.43 below. Consequently, there is no additional burden associated with this requirement.*

**§222.39 Establishment of Quiet Zones.**

(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), (a)(2), or (a)(3) of this section, and complies with the information and notification provisions of § 222.43 of this part, a public authority may designate a quiet zone without the necessity for FRA review and approval.

*The burden for this provision is included under that of § 222.41(a & b), and § 222.43 below. Consequently, there is no additional burden associated with this requirement.*

(b) Public Authority Application to FRA. A public authority may apply to the Associate Administrator for approval of a quiet zone that does not meet the standards for public authority designation under paragraph (a) of this section, but in which it is proposed one or more safety measures be implemented. Such proposed quiet zone may include only Alternative Safety Measures (ASMs), or a combination of ASMs and Supplementary Safety Measures (SSMs) at various crossings within the quiet zone. The public authority's application must:

(i) Contain an accurate, complete and current Grade Crossing Inventory Form for each public, private, and pedestrian grade crossing within the proposed quiet zone;

(ii) Contain sufficient detail concerning the present safety measures at each public, private, and pedestrian grade crossing proposed to be included in the quiet zone to enable the Associate Administrator to evaluate their effectiveness;

(iii) Contain detailed information about diagnostic team reviews of any crossing within the proposed quiet zone, including a membership list and a list of recommendations made by the diagnostic team;

(iv) Contain a statement describing efforts taken by the public authority to address comments submitted by each railroad operating over the public highway-rail grade crossings within the quiet zone, the State agency responsible for highway and road safety, and the State agency responsible for grade crossing safety in response to the Notice of Intent. This statement shall also list any objections to the proposed quiet zone that were raised by the railroad(s) and State agencies;

(v) Contain detailed information as to which safety improvements are proposed to be implemented at each public, private, or pedestrian grade crossing within the proposed quiet zone;

(vi) Contain a commitment to implement the proposed safety measures within the proposed quiet zone;

(vii) Demonstrate through data and analysis that the proposed implementation of these measures will reduce the Quiet Zone Risk Index to a level at, or below, either the Risk Index With Horns or the Nationwide Significant Risk Threshold.

(2) If the proposed quiet zone contains newly established public or private highway-rail grade crossings, the public authority's application for approval must also include five-year projected vehicle and rail traffic counts for each newly established grade crossing.

FRA estimates that approximately 105 public authorities will submit applications for

quiet zones with the necessary accompanying information under the above requirement. It is estimated that it will take approximately 80 hours for each authority to prepare its application and submit it to FRA. Total one time burden for this requirement is 8,400 hours.

Respondent Universe:	340 Public Authorities
Burden time per response:	80 hours
Frequency of Response:	One-time
One time number of Responses:	105 applications
One time burden:	8,400 hours
Annual Cost:	\$512,400

**Calculation:** 105 applications x 80 hrs. = 8,400 hours  
 8,400 hrs. x \$61 = \$512,400

As part of the above requirement, public authorities' applications must contain detailed information about diagnostic team reviews of any crossing within the proposed quiet zone, including a membership list and a list of recommendations made by the diagnostic team. Consequently, FRA estimates that approximately half of the above 105 applications (or a total of 53) will include a diagnostic team review that will be performed under the above requirement. It is estimated that each diagnostic team review will take approximately 32 hours to complete. Total burden for this requirement is 1,696 hours.

	Respondent Universe: 340 Public Authorities
Burden time per response:	32 hours
Frequency of Response:	One-time
Annual number of Responses:	53 diagnostic team reviews
Annual Burden:	1,696 hours
Annual Cost:	\$0 (Cost covered in RIA)

**Calculation:** 53 diagnostic team reviews x  
 32 hrs. = 1,696 hours  
 \$0 (Cost covered in RIA)

As noted above, each application must contain an accurate, complete and current Grade Crossing Inventory Form for each public and private highway-rail grade crossing within the proposed quiet zone. Consequently, FRA estimates that approximately 302 crossings

nationally will be affected, and will require initial updating of a Grade Crossing Inventory Form. It is estimated that it will take approximately one (1) hour to update each Grade Crossing Inventory Form. Total burden for this requirement is 302 hours.

		Respondent Universe:
		340 Public
	Authorities	
Burden time per response:	1 hour	
Frequency of Response:	One-time	
Annual number of Responses:	302 updated forms	
Annual Burden:	302 hours	
Annual Cost:	\$0 (Cost covered in RIA)	

**Calculation:** 302 forms x 1 hr. = 302 hours  
\$0 (Cost covered in RIA)

(3) *60-Day Comment Period.* (i) The public authority application for FRA approval of the proposed quiet zone shall be provided, by certified mail, return receipt requested, to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone; the landowner having control over any private highway-rail grade crossings within the quiet zone; the State agency responsible for highway and road safety; the State agency responsible for grade crossing safety; and the Associate Administrator.

FRA estimates that approximately six (6) copies of each of the previously mentioned 105 quiet zone applications (or a total of 630 copies) will be provided to the specified parties under the above requirement. It is estimated that it will take approximately 10 minutes to copy each application and send it to the stipulated party. Total one time burden for this requirement is 105 hours.

Respondent Universe:		340 Public
	Authorities	
Burden time per response:	10 minutes	
Frequency of Response:	One-time	
One time number of Responses:	630 copies	
One time burden:	105 hours	
Annual Cost:	\$6,405	

**Calculation:** 630 copies x 10 min. = 105 hours



$$105 \text{ hrs.} \times \$61 = \$6,405$$

(ii) Except as provided in paragraph (b)(3)(iii) of this section, any party that receives a copy of the public authority application may submit comments on the public authority application to the Associate Administrator during the 60-day period after the date on which the public authority application was mailed.

FRA estimates that approximately 50 comments will be submitted under the above requirement. It is estimated that it will take approximately 2.5 hours to prepare and send each comment. Total one-time burden for this requirement is 125 hours.

Respondent Universe:	715 Railroads/State agencies
Burden time per response:	2.5 hours
Frequency of Response:	One-time
One time number of Responses:	50 comments
One time burden:	125 hours
Annual Cost:	\$5,000

**Calculation:** 50 comments x 2.5 hrs. = 125 hours  
 125 hrs. x \$40 = \$5,000

(iii) If the public authority application for FRA approval contains written statements from each railroad operating over the public highway-rail grade crossings within the quiet zone, the highway or traffic control authority or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety stating that the railroad, vehicular traffic authority, and State agencies have waived their rights to provide comments on the public authority application, the 60-day comment period under paragraph (b)(3)(ii) of this section shall be waived.

*FRA estimates that it will receive zero (0) statements under the above requirement. Consequently, there is no burden associated with it.*

Total annual burden for this entire requirement is 10,628 hours (8,400 + 1,696 + 302 + 105 + 125).

**§222.41 Rule Effect on Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones.**

(a) Pre-Rule Quiet Zones That Will be Established By Automatic Approval. A Pre-Rule Quiet Zone may be established by an automatic approval and may remain in effect,

subject to § 222.51, if the Pre-Rule Quiet Zone is in compliance with §§ 222.35 (minimum requirements for quiet zones) and 222.43 of this part (notice and information requirements) and:

(i) The Pre-Rule Quiet Zone has at every public highway-rail grade crossing within the quiet zone, one or more SSMs identified in Appendix A of this part; or

(ii) The Quiet Zone Risk Index is at, or below, the Nationwide Significant Risk Threshold, as last published in the **Federal Register**; or

(iii) The Quiet Zone Risk Index is above the Nationwide Significant Risk Threshold, as last published in the **Federal Register**, but less than twice the Nationwide Significant Risk Threshold and there have been no relevant collisions at any public highway-rail grade crossing within the quiet zone since April 27, 2000, or

(iv) The Quiet Zone Risk Index is at, or below, the Risk Index With Horns.

(2) The public authority shall provide Notice of Quiet Zone Establishment, in accordance with § 222.43, no later than December 24, 2005.

Under § 222.43 (a)(3), communities/public authorities are required to provide written notice, by certified mail, return receipt requested, of the establishment of a quiet zone under § 222.39 or § 222.41 of this part. Such notification must be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone; the landowner having control over any private highway-rail grade crossings within the quiet zone; the State agency responsible for highway and road safety; the State agency for grade crossing safety; and the [FRA] Associate Administrator for Safety.

The Notice of Quiet Zone Establishment must provide the date upon which the quiet zone will be established, but in no event shall the date be earlier than 21 days after the date of mailing.

The Notice of Quiet Zone Establishment must include the following:

(i) A list of each public, private, and pedestrian grade crossing within the quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name, if applicable.

(ii) A specific reference to the regulatory provision that provides the basis for quiet zone establishment, citing as appropriate, § 222.39(a)(1), 222.39(a)(2)(i), 222.39(a)(2)(ii), 222.39(a)(3), 222.39(b), 222.41(a)(1)(i), 222.41(a)(1)(ii), 222.41(a)(1)(iii), 222.41(a)(1)(iv), 222.41(b)(1)(i), 222.41(b)(1)(ii), 222.41(b)(1)(iii), or 222.41(b)(1)(iv) of this part.

(A) If the Notice contains a specific reference to § 222.39(a)(2)(i), 222.39(a)(2)(ii), 222.39(a)(3), 222.41(a)(1)(ii), 222.41(a)(iii), 222.41(a)(iv), 222.41(b)(1)(ii), 222.41(b)(1)(iii), or 222.41(b)(1)(iv) of this part, it shall include a copy of the FRA web page that contains the quiet zone data upon which the public authority is relying (<http://www.fra.dot.gov/us/content/13337>).

(B) If the Notice contains a specific reference to § 222.39(b), it shall include a copy of FRA's notification of approval.

(iii) If a diagnostic team review was required under §§ 222.25 or 222.27 of this part, the Notice shall include a statement affirming that the State agency responsible for grade crossing safety and all affected railroads were provided an opportunity to participate in the diagnostic team review. The Notice shall also include a list of recommendations made by the diagnostic team.

(iv) A statement of the time period within which restrictions on the routine sounding of the locomotive horn will be imposed (i.e., 24 hours or from 10 p.m. until 7 a.m.)

(v) An accurate and complete Grade Crossing Inventory Form for each public, private, and pedestrian grade crossing within the quiet zone that reflects the conditions existing at the crossing before any new SSMs or ASMs were implemented.

(vi) An accurate, complete and current Grade Crossing Inventory Form for each public, private, and pedestrian grade crossing within the quiet zone that reflects SSMs and ASMs in place upon establishment of the quiet zone. SSMs and ASMs that cannot be fully described on the Inventory Form shall be separately described.

(vii) If the public authority was required to provide a Notice of Intent, in accordance with paragraph (a)(1) of this section, the Notice of Quiet Zone Establishment shall contain a written statement affirming that the Notice of Intent was provided in accordance with paragraph (a)(1) of this section. This statement shall also state the date on which the Notice of Intent was mailed.

(viii) If the public authority was required to provide a Notice of Intent, in accordance with paragraph (a)(1) of this section, and the Notice of Intent was mailed less than 60 days before the mailing of the Notice of Quiet Zone Establishment, the Notice of Quiet Zone Establishment shall also contain a written statement affirming that written comments and/or "no comment" statements have been received from each railroad operating over public highway-rail grade crossings within the proposed quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety in accordance with paragraph (b)(3)(ii) of this section.

(ix) The name and title of the person responsible for monitoring compliance with the requirements of this part and the manner in which that person can be contacted.

(x) A list of the names and addresses of each party that shall be notified in accordance with paragraph (a)(3) of this section.

(xi) A statement signed by the chief executive officer of each public authority participating in the establishment of the quiet zone, in which the chief executive officer shall certify that the information submitted by the public authority is accurate, and complete to the best of his/her knowledge and belief.

FRA estimates that approximately 247 communities will compose notices containing all the required information (documentation) under § 222.43 (e) and that each of the 247 affected communities will send an average of approximately six (6) notifications to the required parties (a total then of 1,482 notifications). It is estimated that it will take approximately 40 hours to complete each notice with the required accompanying information (including the time necessary to send the notification copy to each of the required parties), and approximately 10 minutes make each notification copy. Total annual burden for this requirement is 10,127 hours.

	Respondent Universe:
	247
	Communities/Public Authorities
Burden time per response:	40 hours + 10 minutes
Frequency of Response:	One-time
Annual number of Responses:	247 notices + 1,482 notifications
Annual Burden:	10,127 hours
Annual Cost:	\$0 (Cost covered in RIA)

**Calculation:** 247 notices x 40 hrs. + 1,482 notifications x 10 min. =  
10,127 hours  
\$0 (Cost covered in RIA)

(a)(1) Additionally, under § 222.43, along with the notification, the chief executive officer of each public authority participating in the establishment of a quiet zone must submit to the Associate Administrator for Safety a signed statement, in which the official must certify that the information submitted is accurate and complete to the best of his/her knowledge and belief.

FRA estimates that approximately 262 certifications will be filed with FRA under the above requirement. It is estimated that each certification will take approximately five (5)

minutes to complete each certification. Total burden for this requirement is 22 hours.

		Respondent Universe:
		262
	Communities	
Burden time per response:	5 minutes	
Frequency of Response:	One-time	
Annual number of Responses:	262 certifications	
Annual Burden:	22 hours	
Annual Cost:	\$0 (Cost covered in RIA)	

**Calculation:** 262 certifications x 5 min. = 22 hours  
\$0 (Cost covered in RIA)

(a)(2) Also, under § 222.43, an accurate, complete and current Grade Crossing Inventory Form must be kept for each public, private, and pedestrian grade crossing within the quiet zone that reflects SSMs and ASMs in place upon establishment of the quiet zone. SSMs and ASMs that cannot be fully described on the Inventory Form shall be separately described.

FRA estimates that approximately 1,182 crossings nationally will be affected, and will require a Grade Crossing Inventory Form for both the current and original conditions (two forms then). It is estimated that it will take approximately one (1) hour to update each Grade Crossing Inventory Form. Total burden for this requirement is 2,364 hours.

		Respondent Universe:
		200
	Communities	
Burden time per response:	30 minutes	
Frequency of Response:	One-time	
Annual number of Responses:	2,364 inventory forms	
Annual Burden:	2,364 hours	
Annual Cost:	\$0 (Cost covered in RIA)	

**Calculation:** 2,364 forms x 1 hr. = 2,364 hours  
\$0 (Cost covered in RIA)

(b) *Pre-Rule Partial Quiet Zones that will be established by automatic approval.* (1) A Pre-Rule Partial Quiet Zone may be established by automatic approval and remain in effect, subject to § 222.51, if the Pre-Rule Partial Quiet Zone is in compliance with §§ 222.35 (minimum requirements for quiet zones) and 222.43 (notice and information

requirements) and:

- (i) The Pre-Rule Partial Quiet Zone has at every public highway-rail grade crossing within the quiet zone one or more SSMs identified in Appendix A of this part; or
  - (ii) The Quiet Zone Risk Index is at, or below, the Nationwide Significant Risk Threshold, as last published by FRA in the **Federal Register**; or
  - (iii) The Quiet Zone Risk Index is above the Nationwide Significant Risk Threshold as last published by FRA in the **Federal Register**, but less than twice the Nationwide Significant Risk Threshold and there have been no relevant collisions at any public highway-rail grade crossing within the quiet zone since April 27, 2000. With respect to Pre-Rule Partial Quiet Zones, collisions that occurred during the time period within which the locomotive horn was routinely sounded shall not be considered “relevant collisions;” or
  - (iv) The Quiet Zone Risk Index is at, or below, the Risk Index With Horns.
- (2) The public authority shall provide Notice of Quiet Zone Establishment, in accordance with § 222.43 of this part, no later than December 24, 2005.

As noted above, § 222.43 (a)(3) stipulates that communities/public authorities are required to provide written notice, by certified mail, return receipt requested, of the establishment of a quiet zone under § 222.39 or § 222.41. Such notification 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 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; the State agency responsible for grade crossing safety; and the [FRA] Associate Administrator for Safety.

The Notice of Quiet Zone Establishment must provide the date upon which the quiet zone will be established, but in no event shall the date be earlier than 21 days after the date of mailing.

The Notice of Quiet Zone Establishment must include the following:

- (i) A list of each public, private, and pedestrian grade crossing within the quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name, if applicable.
- (ii) A specific reference to the regulatory provision that provides the basis for quiet zone

establishment, citing as appropriate, § 222.39(a)(1), 222.39(a)(2)(i), 222.39(a)(2)(ii), 222.39(a)(3), 222.39(b), 222.41(a)(1)(i), 222.41(a)(1)(ii), 222.41(a)(1)(iii), 222.41(a)(1)(iv), 222.41(b)(1)(i), 222.41(b)(1)(ii), 222.41(b)(1)(iii), or 222.41(b)(1)(iv).

(A) If the Notice contains a specific reference to § 222.39(a)(2)(i), 222.39(a)(2)(ii), 222.39(a)(3), 222.41(a)(1)(ii), 222.41(a)(iii), 222.41(a)(iv), 222.41(b)(1)(ii), 222.41(b)(1)(iii) or 222.41(b)(1)(iv), it shall include a copy of the FRA web page that contains the quiet zone data upon which the public authority is relying.

(B) If the Notice contains a specific reference to § 222.39(b), it shall include a copy of FRA's notification of approval.

(iii) If a diagnostic team review was required under §§ 222.25 or 222.27, the Notice shall include a statement affirming that the State agency responsible for grade crossing safety and all affected railroads were provided an opportunity to participate in the diagnostic team review. The Notice shall also include a list of recommendations made by the diagnostic team.

(iv) A statement of the time period within which restrictions on the routine sounding of the locomotive horn will be imposed (i.e., 24 hours or from 10 p.m. until 7 a.m.)

(v) An accurate and complete Grade Crossing Inventory Form for each public, private, and pedestrian grade crossing within the quiet zone that reflects the conditions existing at the crossing before any new SSMs or ASMs were implemented.

(vi) An accurate, complete and current Grade Crossing Inventory Form for each public, private, and pedestrian grade crossing within the quiet zone that reflects SSMs and ASMs in place upon establishment of the quiet zone. SSMs and ASMs that cannot be fully described on the Inventory Form shall be separately described.

(vii) If the public authority was required to provide a Notice of Intent, in accordance with paragraph (a)(1) of this section, the Notice of Quiet Zone Establishment shall contain a written statement affirming that the Notice of Intent was provided in accordance with paragraph (a)(1) of this section. This statement shall also state the date on which the Notice of Intent was mailed.

(viii) If the public authority was required to provide a Notice of Intent, in accordance with paragraph (a)(1) of this section, and the Notice of Intent was mailed less than 60 days before the mailing of the Notice of Quiet Zone Establishment, the Notice of Quiet Zone Establishment shall also contain a written statement affirming that written comments and/or "no comment" statements have been received from each railroad operating over public highway-rail grade crossings within the proposed quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety in accordance with paragraph (b)(2)(ii) of this section.

- (ix) The name and title of the person responsible for monitoring compliance with the requirements of this part and the manner in which that person can be contacted.
- (x) A list of the names and addresses of each party that shall be notified in accordance with paragraph (a)(3) of this section.

(xi) A statement signed by the chief executive officer of each public authority participating in the establishment of the quiet zone, in which the chief executive officer shall certify that the information submitted by the public authority is accurate, and complete to the best of his/her knowledge and belief.

*The burden for these requirements are included under that of Pre-Rule Quiet Zones (§ 222.41(a)) above. Consequently, there is no additional burden associated with this requirement.*

(c) *Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones that will not be established by automatic approval.* (1)(i) If a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone will not be established by automatic approval under paragraph (a) or (b) of this section, existing restrictions may, at the public authority's discretion, remain in place until June 24, 2008, if a Notice of Quiet Zone Continuation is provided in accordance with § 222.43 of this part (notice and information requirements).

Section 222.43 (a)(2) states that the public authority must provide written notice, by certified mail, return receipt requested, to continue a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone under § 222.41 of this part or to continue an Intermediate Quiet Zone or Intermediate Partial Quiet Zone under § 222.42 of this part. Such notification must be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone; the landowner having control over any private highway-rail grade crossings within the quiet zone; the State agency responsible for highway and road safety; the State agency responsible for grade crossing safety; and the Associate Administrator.

In order to prevent the resumption of locomotive horn sounding on June 24, 2005, the Notice of Quiet Zone Continuation under § 222.41 or 222.42 of this part shall be served no later than June 3, 2005. If the Notice of Quiet Zone Continuation under § 222.41 or 222.42 of this part is mailed after June 3, 2005, the Notice of Quiet Zone Continuation shall state on which date locomotive horn use at grade crossings within the quiet zone shall cease, but in no event shall that date be earlier than 21 days after the date of mailing

The Notice of Quiet Zone Continuation shall include the following: (i) A list of each public, private, and pedestrian grade crossing within the quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or



highway name, (ii) A specific reference to the regulatory provision that provides the basis for quiet zone continuation, citing as appropriate, § 222.41 or 222.42 of this part; (iii) A statement of the time period within which restrictions on the routine sounding of the locomotive horn will be imposed (i.e., 24 hours or nighttime hours only.); (iv) An accurate and complete Grade Crossing Inventory Form for each public, private, and pedestrian grade crossing within the quiet zone that reflects conditions currently existing at the crossing; (v) The name and title of the person responsible for monitoring compliance with the requirements of this part and the manner in which that person can be contacted; (vi) A list of the names and addresses of each party that will receive notification in accordance with paragraph (a)(2) of this section; (vii) A statement signed by the chief executive officer of each public authority participating in the continuation of the quiet zone, in which the chief executive officer certifies that the information submitted by the public authority is accurate, and complete to the best of his/her knowledge and belief.

FRA estimates that approximately 200 communities will compose notices under the above requirement and that each of these 200 communities/public authorities will send an average of approximately six (6) notifications to the required parties (a total then of 1,200 notifications). It is estimated that each quiet zone notice will take approximately 40 hours to compose and each notification copy will take approximately 10 minutes to complete. Total annual burden for this requirement is 8,200 hours.

	Respondent Universe:
	200
	Communities
Burden time per response:	40 hours + 10 minutes
Frequency of Response:	One-time
Annual number of Responses:	200 notices + 1,200 notifications
Annual Burden:	8,200 hours
Annual Cost:	\$0 (Cost covered in RIA)
<b><u>Calculation:</u></b>	200 notices x 40 hrs. + 1,200 notifications x 10 min. =
	8,200 hours
	\$0 (Cost covered in RIA)

(c)(1)(i) Additionally, under § 222.43, along with the notification, the chief executive officer of each public authority participating in the establishment of a quiet zone must submit to the Associate Administrator for Safety a signed statement, in which the official must certify that the information submitted is accurate and complete to the best of his/her knowledge and belief.

FRA estimates that approximately 200 certifications will be filed with FRA under the

above requirement. It is estimated that each certification will take approximately five (5) minutes to complete each certification. Total burden for this requirement is nine (9) hours.

	Respondent Universe:
	200
	Communities
Burden time per response:	5 minutes
Frequency of Response:	One-time
Annual number of Responses:	200 certifications
Annual Burden:	17 hours
Annual Cost:	\$0 (Cost covered in RIA)

**Calculation:** 200 certifications x 5 min. = 17 hours  
\$0 (Cost covered in RIA)

(c)(1)(ii) Also, under § 222.43, an accurate, complete and current Grade Crossing Inventory Form for each public, private, and pedestrian grade crossing within the quiet zone that reflects SSMs and ASMs in place upon establishment of the quiet zone. SSMs and ASMs that cannot be fully described on the Inventory Form shall be separately described.

FRA estimates that approximately 416 crossings nationally will be affected, and will require initial updating of a Grade Crossing Inventory Form. It is estimated that it will take approximately one (1) hour to update each Grade Crossing Inventory Form. Total burden for this requirement is 416 hours.

	Respondent Universe:
	200
	Communities
Burden time per response:	1 hour
Frequency of Response:	One-time
Annual number of Responses:	416 updated forms
Annual Burden:	416 hours
Annual Cost:	\$0 (Cost covered in RIA)

**Calculation:** 416 forms x 1 hr. = 416 hours  
\$0 (Cost covered in RIA)

(c)(2)(i) Existing restrictions on the routine sounding of the locomotive horn may remain in place until June 24, 2010, if (A) Notice of Intent is mailed, in accordance with § 222.43 of this part, by February 24, 2008; and (B) A detailed plan for quiet zone

improvements is filed with the Associate Administrator by June 24, 2008. The detailed plan must include a detailed explanation of, and timetable for, the safety improvements that will be implemented at each public, private, and pedestrian grade crossing located within the Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone which are necessary to comply with §§ 222.25, 222.27, and 222.39 of this part. (New Requirement)

*The burden for the Notice of Intent is included under that of § 222.43 below. Consequently, there is no additional burden associated with this requirement.*

Also, as noted under the above section (222.41(c)(2)(i)(B)), public authorities are required to file a detailed plan with the FRA Associate Administrator for Safety by June 24, 2008. The detailed plan must include a detailed explanation of, and timetable for, the safety improvements that will be implemented at each public, private, and pedestrian grade crossing located within the Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone which are necessary to comply with §§ 222.25, 222.27, and 222.39 of this part.

FRA estimates that approximately 100 detailed plans will be filed under the above requirement. It is estimated that each detailed plan will take approximately 40 hours to complete and send to the public authority. Total annual burden for this requirement is 4,000 hours.

Respondent Universe:	200
	Communities/Public Authorities
Burden time per response:	40 hours
	Frequency of
	Response: One-time
Annual number of Responses:	100 detailed plans
Annual Burden:	4,000 hours
Annual Cost:	\$244,000

**Calculation:** 100 detailed plans x 40 hrs. = 4,000 hours  
 4,000 hrs. x \$61 = \$244,000

(c)(2)(ii) In the event that the safety improvements planned for the quiet zone require approval of FRA under § 222.39(b) of this part, the public authority should apply for such approval prior to December 24, 2007, to ensure that FRA has ample time in which to review the application prior to the end of the extension period.

*The burden for this requirement is covered under that of § 222.39(b) above. Consequently, there is no additional burden associated with this requirement.*

(3) Locomotive horn restrictions may continue for an additional three years beyond June

24, 2010, if: (i) Prior to June 24, 2008, the appropriate State agency provides to the Associate Administrator: a comprehensive State-wide implementation plan and funding commitment for implementing improvements at Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones which, when implemented, would enable them to qualify as quiet zones under this part; and (ii) Prior to June 24, 2009, either safety improvements are initiated at a portion of the crossings within the quiet zone, or the appropriate State agency has participated in quiet zone improvements in one or more Pre-Rule Quiet Zones or Pre-Rule Partial Quiet Zones elsewhere within the State.

Under the above requirement, a comprehensive State-wide implementation plan and funding commitment must be filed by the appropriate State agency with the Associate Administrator for Safety prior to June 24, 2008. The implementation plan must include a detailed explanation of, and timetable for, the safety improvements that will be implemented within each Pre-Rule Partial Quiet Zone and Pre-Rule Partial Quiet Zone, which are necessary to comply with §§ 222.25, 222.27, and 222.39 of this part.

FRA estimates that the agency will receive approximately three (3) implementation plans from State agencies under the above requirement. It is estimated that it will take approximately 120 hours to complete each implementation plan and send it to FRA. Total annual burden for this requirement is 360 hours.

		Respondent Universe:
		25 State
	Agencies	
Burden time per response:	120 hours	
Frequency of Response:	One-time	
Annual number of Responses:	3 implementation plans	
Annual Burden:	360 hours	
Annual Cost:	\$21,960	

**Calculation:**

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plans x  
120  
hrs. =  
360  
hours

$$360 \text{ hrs.} \times \$61 = \$21,960$$

(4) A public authority may establish a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone upon compliance with: (A) The Pre-Rule Quiet Zone or Pre-Rule Partial Quiet

Zone requirements contained within §§ 222.25, 222.27, and 222.35 of this part; (B) The quiet zone standards set forth in § 222.39 of this part; and (C) All applicable notification and filing requirements contained within this paragraph (c) and § 222.43 of this part. **(New Requirement)**

- A. The public authority must provide written notice, by certified mail, return receipt requested, of its intent to create a New Quiet Zone or New Partial Quiet Zone under § 222.39 of this part or to implement new SSMS or ASMS within a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone under § 222.41(c) or (d) of this Part. Such notification must be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the State agency responsible for highway and road safety; and the State agency responsible for grade crossing safety.

Under § 222.43(b), the Notice of Intent must be mailed at least 60 days before the mailing of the Notice of Quiet Zone Establishment, unless the public authority obtains written comments and/or “no-comment” statements from each railroad operating over public highway-rail grade crossings within the quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety, in accordance with paragraph (b)(3)(ii) of this section. The Notice of Intent must be mailed no later than February 24, 2008, for all Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones governed by §§ 222.41(c) and (d) of this part, in order to continue existing locomotive horn sounding restrictions beyond June 24, 2008, without interruption.

The Notice of Intent must include the following: (i) A list of each public, private, and pedestrian crossing that is included in the quiet zone, identified by U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name, if applicable; (ii) A statement of the time period within which restrictions would be imposed on the routine sounding of the locomotive horn (i.e., 24 hours or from 10 p.m. until 7 a.m.); (iii) A brief history of the public authority’s tentative plan for implementing improvements within the quiet zone; (iv) The name and title of the person who will act as a point of contact during the quiet zone development process and the manner in which that person can be contacted; (v) A list of the names and addresses of each party that will receive notification in accordance with paragraph (a) of this section (§ 222.43).

FRA estimates that approximately 100 pre-rule quiet zones will not qualify and thus 100 public authorities will need to compose notices with all the accompanying information under the above requirement. It is estimated that each of these 100 public authorities will send an average of approximately six (6) notifications to the required parties (an annual total then of 600). It is estimated that each quiet zone notice will take approximately 20 hours to compose and each notification copy will take approximately 10 minutes to complete. Total annual burden for this requirement is 2,100 hours.

		Respondent Universe: 200 Public
	Authorities	
Burden time per response:	20 hours + 10 minutes	
Frequency of Response:	One-time	
Annual number of Responses:	100 notices + 600 notifications	
Annual Burden:	2,100 hours	
Annual Cost:	\$128,100	

**Calculation:** 100 notices x 20 hrs. + 600 notifications x 10 min. =  
2,100 hours  
2,100 hrs. x \$61 = \$128,100

*60-day comment period.* A party that receives a copy of the public authority’s Notice of Intent may submit information or comments about the quiet zone or proposed improvements to the public authority during the 60-day period after the date on which the Notice of Intent was mailed. The 60-day comment period established under paragraph (b)(3)(i) of this section (222.43) may terminate when the public authority obtains from each railroad operating over public highway-rail grade crossings within the proposed quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety: (A) Written comments; or (B) Written statements that the railroad and State agency do not have any comments on the Notice of Intent (“no-comment statements”). **(New requirement)**

FRA estimates that approximately 70 written comments/statements will be submitted to the public authority by relevant parties under the above requirement. It is estimated that each written comment/statement will take approximately four (4) hours to complete and send to the public authority. Total annual burden for this requirement is 280 hours.

Respondent Universe:	200 Railroads/State Agencies
Burden time per response:	4 hours
	Frequency of Response: One-time
Annual number of Responses:	70 written comments/statements
Annual Burden:	280 hours
Annual Cost:	\$17,080

**Calculation:** 70 written comments/statements x 4 hrs. = 280 hours  
280 hrs. x \$61 = \$17,080

B § 222.43(a)(3) requires that a Notice of Quiet Establishment must be provided.

*The burden for this requirement is included under that of § 222.43 below. Consequently, there is no additional burden associated with this requirement.*

(d) *Pre-Rule Partial Quiet Zones that will be converted to 24-hour New Quiet Zones.* A Pre-Rule Partial Quiet Zone may be converted into a 24-hour New Quiet Zone before June 24, 2008, if: (i) The quiet zone is brought into compliance with the New Quiet Zone requirements set forth in §§ 222.25, 222.27, and 222.35 of this part;(ii) The quiet zone is brought into compliance with the quiet zone standards set forth in § 222.39 of this part; and (iii)) The public authority complies with all applicable notification and filing requirements contained within this paragraph (c) and § 222.43 of this part.

*The burden for these requirements is included under those of § 222.41(c) above, and that of § 222.43 below. Consequently, there is no additional burden associated with this requirement.*

Total annual burden for this entire requirement is 27,886 hours (10,127 + 22 + 2,364 + 8,200 + 17 + 416+ 4,000 + 360 + 2,100 + 280 ).

#### **§ 222.42 Intermediate Quiet Zones and Intermediate Partial Quiet Zones**

(a)(1) Existing restrictions may, at the public authority's discretion, remain in place within the Intermediate Quiet Zone or Intermediate Partial Quiet Zone until June 24, 2006, if the public authority provides Notice of Quiet Zone Continuation in accordance § 222.43 (notice and information requirements) of this part.

In order to prevent the resumption of locomotive horn sounding on June 24, 2005, the Notice of Quiet Zone Continuation under § 222.41 or 222.42 of this part shall be served no later than June 3, 2005. If the Notice of Quiet Zone Continuation under §§ 222.41 or 222.42 of this part is mailed after June 3, 2005, the Notice of Quiet Zone Continuation shall state on which date locomotive horn use at grade crossings within the quiet zone shall cease, but in no event shall that date be earlier than 21 days after the date of mailing.

The Notice of Quiet Zone Continuation shall include the following: (i) A list of each public, private, and pedestrian grade crossing within the quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name. (ii) A specific reference to the regulatory provision that provides the basis for quiet zone continuation, citing as appropriate, § 222.41 or 222.42. (iii) A statement of the time period within which restrictions on the routine sounding of the locomotive horn will be imposed (i.e., 24 hours or nighttime hours only.) (iv) An accurate and complete Grade Crossing Inventory Form for each public, private, and pedestrian grade crossing within the quiet zone that reflects conditions currently existing at the

- crossing. (v) The name and title of the person responsible for monitoring compliance with the requirements of this part and the manner in which that person can be contacted.
- (vi) A list of the names and addresses of each party that will receive notification in accordance with paragraph (a)(2) of this section.
- (vii) A statement signed by the chief executive officer of each public authority participating in the continuation of the quiet zone, in which the chief executive officer certifies that the information submitted by the public authority is accurate and complete to the best of his/her knowledge and belief.

FRA estimates that approximately 10 communities/public authorities will be affected by these above requirements. FRA estimates that each of the 10 affected communities will take approximately 40 hours to compose the required notice. Also, it is estimated that each community/public authority will send an average of approximately six (6) notifications to the required parties (an annual total then of 60 notifications). It is estimated that each quiet zone notification will take approximately 10 minutes to complete and send. Total annual burden for this requirement is 410 hours.

Respondent Universe:	10 Communities/Public Authorities
Burden time per response:	40 hours + 10 minutes
Frequency of Response:	One-time
Annual number of Responses:	10 notices + 60 notifications
Annual Burden:	410 hours
Annual Cost:	\$25,010

**Calculation:** 10 notices x 40 hrs. + 60 notifications x 10 min. =  
410 hours  
410 hrs. x \$61= \$25,010

(a)(1)(i) As stipulated above, an accurate and complete Grade Crossing Inventory Form for each public, private and pedestrian grade crossing within the quiet zone that reflects conditions currently existing at the crossing must be completed.

FRA estimates that approximately 100 crossings nationally will be affected, and will require the completion of a Grade Crossing Inventory Form. Total annual burden for this requirement is 100 hours.

	Respondent Universe: 10 Communities/Public authorities
Burden time per response:	1 hour
Frequency of Response:	One-time
Annual number of Responses:	100 forms



Annual Burden:	100 hours
Annual Cost:	\$6,100

**Calculation:** 100 forms x 1 hr. = 100 hours  
100 hrs. x \$61 = \$6,100

(a)(1)(ii) Also, as stipulated above, the chief executive officer of each public authority establishing or continuing a quiet zone under this part must submit to the Associate Administrator for Safety a signed statement, along with the notification, in which the official must certify that responsible officials of the public authority have reviewed documentation prepared by or for FRA, and filed in Docket No. FRA-1999-6439, sufficient to make an informed decision regarding the advisability of establishing the quiet zone.

FRA estimates that approximately 10 certifications will be filed with FRA under the above requirement. It is estimated that each certification will take approximately five (5) minutes to complete and send to FRA. Total annual burden for this requirement is 17 hours.

Respondent Universe:	10	
	Communities/Public Authorities	
Burden time per response:	5 minutes	
Frequency of Response:	One-time	
Annual number of Responses:	10 certifications	
Annual Burden:	1 hour	
Annual Cost:		\$61

**Calculation:** 10 certifications x 5 min. = 1 hour  
1 hr. x \$61 = \$61

(a)(2) A public authority may continue locomotive horn sounding restrictions beyond June 24, 2006, by establishing a New Quiet Zone or New Partial Quiet Zone. A public authority may establish a New Quiet Zone or New Partial Quiet Zone if: (i) Notice of Intent is mailed, in accordance with § 222.43 of this part; (ii) The quiet zone complies with the standards set forth in § 222.39 of this part; (iii) The quiet zone complies with the New Quiet Zone standards set forth in §§ 222.25, 222.27, and 222.35 of this part; (iv) Notice of Quiet Zone Establishment is mailed, in accordance with § 222.43 of this part, by June 3, 2006.

A Under § 222.43, the public authority shall provide written notice, by certified mail, return receipt requested, of its intent to create a New Quiet Zone or New Partial Quiet Zone under § 222.39. Such notification shall be provided to: all railroads operating over the

public highway-rail grade crossings within the quiet zone; the State agency responsible for highway and road safety; and the State agency responsible for grade crossing safety. The Notice of Intent must include the following: (i) A list of each public, private, and pedestrian grade crossing that would be included within the proposed quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name, if applicable. (ii) A statement of the time period within which restrictions would be imposed on the routine sounding of the locomotive horn imposed (i.e., 24 hours or from 10 p.m. until 7 a.m.). (iii) A brief explanation of the public authority's tentative plans for implementing improvements within the proposed quiet zone. (iv) The name and title of the person who will act as point of contact during the quiet zone development process and the manner in which that person can be contacted. (v) A list of the names and addresses of each party that will receive notification in accordance with paragraph (a)(1) of this section. **(New Requirement)**

FRA estimates that approximately five (5) public authorities will compose the Notice of Intent with all the accompanying information under the above requirement and that each public authority will send approximately six (6) notifications to the required parties (a total of 30 notifications). It is estimated that each quiet zone notice will take approximately 40 hours to compose and each notification copy will take approximately 10 minutes to complete. Total annual burden for this requirement is 205 hours.

	Respondent Universe:
	10
	Communities/Public Authorities
Burden time per response:	40 hours + 10 minutes
Frequency of Response:	One-time
Annual number of Responses:	5 Notices of Intent + 30 notifications
Annual Burden:	205 hours
Annual Cost:	\$12,505

**Calculation:** 5 Notices of Intent x 40 hrs. + 30  
 notifications x 10 min. = 205 hours  
 205 hrs. x \$61 = \$12,505

*60-day comment period.* A party that receives a copy of the public authority's Notice of Intent may submit information or comments about the quiet zone or proposed improvements to the public authority during the 60-day period after the date on which the Notice of Intent was mailed. The 60-day comment period established under paragraph (b)(3)(i) of this section (222.43) may terminate when the public authority obtains from each railroad operating over public highway-rail grade crossings within the proposed quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety: (A) Written comments; or (B) Written statements that the railroad and State agency do not have any comments on the Notice of

Intent (“no-comment statements”). **(New Requirement)**

FRA estimates that approximately five (5) written comments/statements will be submitted to public authorities by relevant parties under the above requirement. It is estimated that each written comment/statement will take approximately four (4) hours to complete and send to the public authority. Total annual burden for this requirement is 20 hours.

Respondent Universe:	20 Railroads/State Agencies
Burden time per response:	4 hours
Annual number of Responses:	Frequency of Response: One-time 5 written comment/statement
Annual Burden:	20 hours
Annual Cost:	\$1,220

**Calculation:** 5 written comments/statements x 4 hrs. = 20 hours  
20 hrs. x \$61 = \$1,220

- B. *The burden for Quiet Zone Establishment is included under that of § 222.43 below. Consequently, there is no additional burden associated with this requirement.*

(b) *Conversion of Intermediate Partial Quiet Zones into 24-hour New Quiet Zones.* An Intermediate Partial Quiet Zone may be converted into a 24-hour New Quiet Zone if: (1) Notice of Intent is mailed, in accordance with § 222.43 of this part; (2) The quiet zone complies with the standards set forth in § 222.39 of this part; (3) The quiet zone is brought into compliance with the New Quiet Zone requirements set forth in §§ 222.25, 222.27, and 222.35 of this part; and (4) Notice of Quiet Zone Establishment is mailed, in accordance with § 222.43 of this part, by June 3, 2006.

- A. Under § 222.43, the public authority shall provide written notice, by certified mail, return receipt requested, of its intent to create a New Quiet Zone or New Partial Quiet Zone under § 222.39. Such notification shall be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the State agency responsible for highway and road safety; and the State agency responsible for grade crossing safety.

The Notice of Intent must include the following: (i) A list of each public, private, and pedestrian grade crossing that would be included within the proposed quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name, if applicable. (ii) A statement of the time period within

which restrictions would be imposed on the routine sounding of the locomotive horn imposed (i.e., 24 hours or from 10 p.m. until 7 a.m.). (iii) A brief explanation of the public authority’s tentative plans for implementing improvements within the proposed quiet zone. (iv) The name and title of the person who will act as point of contact during the quiet zone development process and the manner in which that person can be contacted. (v) A list of the names and addresses of each party that will receive notification in accordance with paragraph (a)(1) of this section. **(New Requirement)**

FRA estimates that approximately five (5) public authorities will compose the Notice of Intent with all the accompanying information under the above requirement and that each public authority will each send approximately six (6) notifications to the required parties (a total of 30 notifications). It is estimated that each quiet zone notice will take approximately 40 hours to compose and each notification copy will take approximately 10 minutes to complete. Total annual burden for this requirement is 205 hours.

	Respondent Universe: 10 Public Authorities
Burden time per response:	40 hours + 10 minutes
Frequency of Response:	One-time
Annual number of Responses:	5 Notices of Intent + 30 notifications
Annual Burden:	205 hours
Annual Cost:	\$12,505

**Calculation:** 5 Notices of Intent x 40 hrs. + 30  
 notifications x 10 min. =  
 205 hours  
 205 hrs. x \$61 = \$12,505

*60-day comment period.* A party that receives a copy of the public authority’s Notice of Intent may submit information or comments about the quiet zone or proposed improvements to the public authority during the 60-day period after the date on which the Notice of Intent was mailed. The 60-day comment period established under paragraph (b)(3)(i) of this section (222.43) may terminate when the public authority obtains from each railroad operating over public highway-rail grade crossings within the proposed quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety: (A) Written comments; or (B) Written statements that the railroad and State agency do not have any comments on the Notice of Intent (“no-comment statements”). **(New Requirement)**

FRA estimates that approximately five (5) written comment/statement will be submitted to the public authority by relevant parties under the above requirement. It is estimated that each written comment/statement will take approximately four (4) hours to complete

and send to the public authority. Total annual burden for this requirement is 20 hours.

Respondent Universe:	20 Railroads/State Agencies
Burden time per response:	4 hours
Annual number of Responses:	Frequency of Response: One-time 5 written comments/statements
Annual Burden:	20 hours
Annual Cost:	\$1,220

**Calculation:** 5 written comments/statements x 4 hrs. = 20 hours  
20 hrs. x \$61 = \$1,220

- B. *The burden for Quiet Zone Establishment is included under that of § 222.43 below. Consequently, there is no additional burden associated with this requirement.*

Total burden for this entire requirement is 961 hours (410 + 100 + 1 + 205 + 20 + 205 + 20).

### **§ 222.43 Notices and Other Information Required to Create or Continue a Quiet Zone**

(a)(1) The public authority shall provide written notice, by certified mail, return receipt requested, of its intent to create a New Quiet Zone or New Partial Quiet Zone under § 222.39 of this part or to implement new SSMs or ASMs within a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone under § 222.41(c) or (d) of this part. Such notification shall be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the State agency responsible for highway and road safety; and the State agency responsible for grade crossing safety.

(i) The Notice of Intent shall be mailed at least 60 days before the mailing of the Notice of Quiet Zone Establishment, unless the public authority obtains written comments and/or “no-comment” statements from each railroad operating over public highway-rail grade crossings within the quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety, in accordance with paragraph (b)(3)(ii) of this section.

The Notice of Intent must include the following: (i) A list of each public, private, and pedestrian grade crossing within the quiet zone identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name, if applicable. (ii) A statement of the time period within which restrictions would be imposed on the routine sounding of the locomotive horn imposed (i.e., 24 hours or from

10 p.m. until 7 a.m.). (iii) A brief explanation of the public authority’s tentative plans for implementing improvements within the proposed quiet zone. (iv) The name and title of the person who will act as point of contact during the quiet zone development process and the manner in which that person can be contacted. (v) A list of the names and addresses of each party that will receive notification in accordance with paragraph (a)(1) of this section.

FRA estimates that approximately 216 communities/public authorities will be affected by these notification requirements. FRA estimates that it will take each of the affected communities approximately 40 hours to complete each written notice, and that each public authority will send an average of approximately three (3) notifications copies to the required parties (an annual total then of 648 notifications). It is estimated that each notification copy will take approximately 10 minutes to complete. Total annual burden for this requirement is 8,748 hours.

	Respondent Universe:
	216
	Communities/Public Authorities
Burden time per response:	40 hours + 10 minutes
Frequency of Response:	One-time
Annual number of Responses:	216 notices + 648 notifications
Annual Burden:	8,748 hours
Annual Cost:	\$533,628

**Calculation:** 216 notices x 40 hrs. + 648 notifications x 10 min. =  
 8,748 hours  
 8,748 hrs. x \$61= \$533,628

(a)(1)(i) As stipulated above, the notice itself must state with specificity the grade crossings within the quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name, as well as the other information stipulated above. FRA estimates that approximately 376 crossings nationally will be affected, and will require initial updating of a Grade Crossing Inventory Form. It is estimated that it will take approximately one (1) hour to update each Grade Crossing Inventory Form. Total burden for this requirement is 376 hours.

Respondent Universe:	216 Communities
Burden time per response:	1 hour
Frequency of Response:	One-time
Annual number of Responses:	376 updated forms
Annual Burden:	376 hours
Annual Cost:	\$0 (Cost covered in RIA)

**Calculation:** 376 forms x 1 hr. = 376 hours  
 \$0 (Cost covered in RIA)

(a)(1)(ii)60-day comment period. A party that receives a copy of the public authority’s Notice of Intent may submit information or comments about the proposed quiet zone to the public authority during the 60-day period after the date on which the Notice of Intent was mailed. (iii) The 60-day comment period established under paragraph (b)(3)(i) of this section may terminate when the public authority obtains from each railroad operating over public highway- rail grade crossings within the proposed quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety: (A) written comments; or (B) written statements that the railroad and State agency do not have any comments on the Notice of Intent (“no-comment statements”).

FRA estimates that approximately 108 comments will be submitted to the public authority by relevant parties under the above requirement. It is estimated that each comment will take approximately four (4) hours to complete and send to the public authority. Total annual burden for this requirement is 432 hours.

Respondent Universe:	715 Railroads/State Agencies
Burden time per response:	4 hours
Annual number of Responses:	108 comments
Annual Burden:	432 hours
Annual Cost:	\$17,280

**Calculation:** 108 comments x 4 hrs. = 432 hours  
 432 hrs. x \$40 = \$17,280

(a)(2) The public authority shall provide written notice, by certified mail, return receipt requested, to continue a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone under § 222.41 of this part or to continue an Intermediate Quiet Zone or Intermediate Partial Quiet Zone under § 222.42 of this part. Such notification shall be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone; the landowner having control over any private highway-rail grade crossings within the quiet zone; the State agency responsible for highway and road safety; the State agency responsible for grade crossing safety; and the Associate Administrator.

*Notice of Quiet Zone Continuation.* In order to prevent the resumption of locomotive horn sounding on June 24, 2005, the Notice of Quiet Zone Continuation under § 222.41 or 222.42 shall be served no later than June 3, 2005. If the Notice of Quiet Zone Continuation under § 222.41 or 222.42 is mailed after June 3, 2005, the Notice of Quiet Zone Continuation shall state on which date locomotive horn use at grade crossings within the quiet zone shall cease, but in no event shall that date be earlier than 21 days after the date of mailing.

The Notice of Quiet Zone Continuation shall include the following: (i) A list of each public, private, and pedestrian grade crossings within the quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name. (ii) A specific reference to the regulatory provision that provides the basis for quiet zone continuation, citing as appropriate, § 222.41 or 222.42 of this part. (iii) A statement of the time period within which restrictions on the routine sounding of the locomotive horn will be imposed (i.e., 24 hours or nighttime hours only.). (iv) An accurate and complete Grade Crossing Inventory Form for each public, private, and pedestrian grade crossing within the quiet zone that reflects conditions currently existing at the crossing; (v) The name and title of the person responsible for monitoring compliance with the requirements of this part and the manner in which that person can be contacted; (vi) A list of the names and addresses of each party that will receive notification in accordance with paragraph (a)(2) of this section; (vii) A statement signed by the chief executive officer of each public authority participating in the continuation of the quiet zone, in which the chief executive officer certifies that the information submitted by the public authority is accurate, correct, and complete to the best of his/her knowledge and belief.

*The burden for this requirement is included under that of § 222.41(c) and that of § 222.42(a)(1). Consequently, there is no additional burden associated with this requirement.*

(a)(2)(i) As stipulated above, an accurate and complete Grade Crossing Inventory Form for each public, private and pedestrian grade crossing within the quiet zone that reflects conditions currently existing at the crossing must be completed.

*The burden for this requirement is included under that of § 222.41(c) and that of § 222.42(a)(1). Consequently, there is no additional burden associated with this requirement.*

(a)(2)(ii) Also, as stipulated above, the chief executive officer of each public authority establishing or continuing a quiet zone under this part must submit to the Associate Administrator for Safety a signed statement, along with the notification, in which the official must certify that responsible officials of the public authority have reviewed documentation prepared by or for FRA, and filed in Docket No. FRA-1999-6439,



sufficient to make an informed decision regarding the advisability of establishing the quiet zone.

*The burden for this requirement is included under that of § 222.41(c) and that of § 222.42(a)(1). Consequently, there is no additional burden associated with this requirement.*

(a)(3) The public authority shall provide written notice, by certified mail, return receipt requested, of the establishment of a quiet zone under § 222.39 or 222.41 of this part. Such notification shall be provided to: all railroads operating over the public highway-rail grade crossings within the quiet zone; the highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone; the landowner having control over any private highway-rail grade crossings within the quiet zone; the State agency responsible for highway and road safety; the State agency responsible for grade crossing safety; and the Associate Administrator.

The Notice of Quiet Zone Establishment must provide the date upon which the quiet zone will be established, but in no event shall the date be earlier than 21 days after the date of mailing.

If the public authority was required to provide a Notice of Intent, in accordance with paragraph (a)(1) of this section, the Notice of Quiet Zone Establishment shall not be mailed less than 60 days after the date on which the Notice of Intent was mailed, unless the Notice of Quiet Zone Establishment contains a written statement affirming that written comments and/or “no-comment” statements have been received from each railroad operating over public highway-rail grade crossings within the proposed quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety, in accordance with paragraph (b)(3)(ii) of this section.

The Notice of Quiet Zone Establishment must include the following:

(i) A list of each public, private, and pedestrian grade crossing within the quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name, if applicable.

(ii) A specific reference to the regulatory provision that provides the basis for quiet zone establishment, citing as appropriate, § 222.39(a)(1), 222.39(a)(2)(i), 222.39(a)(2)(ii), 222.39(a)(3), 222.39(b), 222.41(a)(1)(i), 222.41(a)(1)(ii), 222.41(a)(1)(iii), 222.41(a)(1)(iv), 222.41(b)(1)(i), 222.41(b)(1)(ii), 222.41(b)(1)(iii), or 222.41(b)(1)(iv).

(A) If the Notice contains a specific reference to § 222.39(a)(2)(i), 222.39(a)(2)(ii), 222.39(a)(3), 222.41(a)(1)(ii), 222.41(a)(iii), 222.41(a)(iv), 222.41(b)(1)(ii), 222.41(b)(1)(iii), or 222.41(b)(1)(iv).

(iii) or 222.41(b)(1)(iv) of this part, it shall include a copy of the FRA web page that contains the quiet zone data upon which the public authority is relying (<http://www.fra.dot.gov/us/content/1337>)

(B) If the Notice contains a specific reference to § 222.39(b), it shall include a copy of FRA's notification of approval.

(iii) If a diagnostic team review was required under §§ 222.25 or 222.27, the Notice shall include a statement affirming that the State agency responsible for grade crossing safety and all affected railroads were provided an opportunity to participate in the diagnostic team review. The Notice shall also include a list of recommendations made by the diagnostic team.

(iv) A statement of the time period within which restrictions on the routine sounding of the locomotive horn will be imposed (i.e., 24 hours or from 10 p.m. until 7 a.m.).

(v) An accurate and complete Grade Crossing Inventory Form for each public, private, and pedestrian grade crossing within the quiet zone that reflects the conditions existing at the crossing before any new SSMs or ASMs were implemented.

(vi) An accurate, complete, and current Grade Crossing Inventory Form for each public, private, and pedestrian grade crossing within the quiet zone that reflects SSMs and ASMs in place upon establishment of the quiet zone. SSMs and ASMs that cannot be fully described on the Inventory Form shall be separately described.

(vii) If the public authority was required to provide a Notice of Intent, in accordance with paragraph (a)(1) of this section, the Notice of Quiet Zone Establishment shall contain a written statement affirming that the Notice of Intent was provided in accordance with paragraph (a)(1) of this section. This statement shall also state the date on which the Notice of Intent was mailed.

(viii) If the public authority was required to provide a Notice of Intent, in accordance with paragraph (a)(1) of this section, and the Notice of Intent was mailed less than 60 days before the mailing of the Notice of Quiet Zone Establishment, the Notice of Quiet Zone Establishment shall also contain a written statement affirming that written comments and/or "no comment" statements have been received from each railroad operating over public highway-rail grade crossings within the proposed quiet zone, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety, in accordance with paragraph (b)(3)(ii) of this section.

(ix) The name and title of the person responsible for monitoring compliance with the requirements of this part and the manner in which that person can be contacted.

(x) A list of the names and addresses of each party that shall be notified in accordance with paragraph (a)(3) of this section.

(xi) A statement signed by the chief executive officer of each public authority participating in the establishment of the quiet zone, in which the chief executive officer shall certify that the information submitted by the public authority is accurate, correct, and complete to the best of his/her knowledge and belief.

FRA estimates that approximately 72 public authorities will compose notices with all the accompanying information under the above requirement and that each of these 72 public authorities will send an average of approximately six (6) notifications to the required parties (a total then of 432). It is estimated that each quiet zone notice will take approximately 40 hours to compose and each notification copy will take approximately 10 minutes to complete. Total annual burden for this requirement is 2,952 hours.

	Respondent Universe:
	316 Public
	Authorities
Burden time per response:	40 hours +10 minutes
Frequency of Response:	One-time
Annual number of Responses:	72 notices + 432 notifications
Annual Burden:	2,952 hours
Annual Cost:	\$180,072

**Calculation:** 72 notices x 40 hrs. + 432 notifications x 10 min. =  
2,952 hours  
2,952 hrs. x \$61 = \$180,072

Also, under § 222.43, an accurate, complete and current Grade Crossing Inventory Form for each public, private, and pedestrian grade crossing within the quiet zone that reflects SSMs and ASMs in place upon establishment of the quiet zone. SSMs and ASMs that cannot be fully described on the Inventory Form shall be separately described.

FRA estimates that approximately 950 crossings nationally will be affected, and will require initial updating of a Grade Crossing Inventory Form. It is estimated that it will take approximately 60 minutes to update each Grade Crossing Inventory Form. Total burden for this requirement is 950 hours.

Respondent Universe:  
316  
Communities

Burden time per response:	60 minutes
Frequency of Response:	One-time
Annual number of Responses:	950 updated forms
Annual Burden:	950 hours
Annual Cost:	\$57,950

**Calculation:** 950 forms x 60 hrs. = 950 hours  
950 hrs. x \$61 = \$57,950

Additionally, under § 222.43, along with the notification, the chief executive officer of each public authority participating in the establishment of a quiet zone must submit to the Associate Administrator for Safety a signed statement, in which the official must certify that the information submitted is accurate and complete to the best of his/her knowledge and belief.

FRA estimates that approximately 216 certifications will be filed with FRA under the above requirement. It is estimated that each certification will take approximately five (5) minutes to complete each certification. Total burden for this requirement is 18 hours.

	Respondent Universe:
	216 Public
	Authorities
Burden time per response:	5 minutes
Frequency of Response:	One-time
Annual number of Responses:	216 certifications
Annual Burden:	18 hours
Annual Cost:	\$1,098

**Calculation:** 216 certifications x 5 min. = 18 hours

18 hrs. x \$61 =  
\$1,098

Total annual burden for this entire requirement is 13,476 hours (8,748 + 376 + 432 + 2,952 + 950 + 18).

**222.45 Requirement to cease routine use of locomotive horns at crossings.**

On the date specified in a Notice of Quiet Zone Continuation or Notice of Quiet Zone Establishment that complies with the requirements set forth in § 222.43 of this part, a railroad shall refrain from, or cease, routine sounding of the locomotive horn at all public, private, and pedestrian grade crossings identified in the Notice.

*The burden for this requirement is already included under that of § 222.43.*

*Consequently, there is no additional burden associated with this requirement.*

**§ 222.47 Periodic Updates**

(a) Quiet Zones with SSMs at Each Public Crossing. Between 4 ½ and 5 years after the date of the original quiet zone implementation notice provided by the public authority under § 222.43 of this part, and between 4 ½ and 5 years after the last affirmation under this section, the public authority must: (1) 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. Copies of such affirmation must be provided by certified mail, return receipt requested, to the parties identified in § 222.43 (a)(3) of this part; and (2) provide to the Associate Administrator an up-to-date, accurate, and complete Grade Crossing Inventory Form for each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian crossing within the quiet zone.

*Since this requirement falls outside the scope of the time period applicable to this present submission under the Paperwork Reduction Act, there is no paperwork burden associated with it.*

(b) Quiet Zones Which Do Not Have a Supplementary Safety Measure at Each Public Crossing.

Between 2 ½ and 3 years after the date of the quiet zone establishment notice provided by the public authority under § 222.43 of this part, and between 2 ½ and 3 years after the last affirmation under this section, the public authority must: (1) 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 or the terms of the Quiet Zone approval. Copies of such notification must be provided to the parties identified in § 222.43(a)(3) by certified mail, return receipt requested; and (2) provide to the Associate Administrator an up-to-date, accurate, and complete Grade Crossing Inventory Form for each public highway-rail grade crossing, private highway-rail grade, and pedestrian crossing within the quiet zone.

FRA estimates that approximately 100 written affirmations will be completed and 600 copies (100 x 6) of these written affirmations will be sent to required parties under the above requirement. It is estimated that it will take approximately 30 minutes to compose each affirmation and an additional two (2) minutes to make copies for the six (6) required parties and send copies to them. Total annual burden for this requirement is 70 hours.

Respondent Universe:	200 Public Authorities
Burden time per response:	30 minutes + 2 minutes

Frequency of Response:	On occasion
One time number of Responses:	100 written affirmations + 600 copies
One time burden:	70 hours
Annual Cost:	\$0 (Cost covered in RIA)

**Calculation:** 100 written affirmations x 30 min. + 600 copies x 2 min. = 70 hours  
 \$0 (Cost covered in RIA)

Additionally, FRA estimates that approximately 500 updated Grade Crossing Inventory Forms for each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian crossing within the quiet zone will be sent to FRA under the above requirement. It is estimated that it will take approximately 60 minutes to complete each form and send it to FRA. Total annual burden for this requirement is 500 hours.

Respondent Universe:	200 Public Authorities
Burden time per response:	60 minutes
Frequency of Response:	On occasion
One time number of Responses:	500 updated Inventory Forms
One time burden:	500 hours
Annual Cost:	\$0 (Cost covered in RIA)

**Calculation:** 500 updated Inventory Forms x 60 min. = 500 hours  
 \$0 (Cost covered in RIA)

Total annual burden for this entire requirement is 570 hours (70 + 500).

**§ 222.49 Filing Grade Crossing Inventory Forms**

(a) Grade Crossing Inventory Forms required to be filed with the Associate Administrator in accordance with §§ 222.39, 222.43 and 222.47 may be filed by the public authority if, for any reason, such forms are not timely submitted by the State and railroad.

*The burden for this requirement is included under that of §§ 222.39, 222.43 (222.41) and § 222.47. Consequently, there is no additional burden associated with this requirement.*

(b) Within 30 days after receipt of a written 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 proposed quiet zone shall provide to the State and public

authority sufficient current information regarding the grade crossing and the railroad's operations over the grade crossing to enable the State and public authority to complete the Grade Crossing Inventory Form.

*The burden for this requirement is already included under that of §§ 222.39, 222.43 (222.41), and 222.47 above. Consequently, there is no additional burden associated with this requirement.*

### **§ 222.51 Review of Quiet Zone Status**

- A. New Quiet Zones – Annual Risk Review. FRA will annually calculate the Quiet Zone Index for each quiet zone established pursuant to §§222.39(a)(2) and 222.39(b) of this part, and in comparison to the Nationwide Significant Risk Threshold. FRA will notify each public authority of the Quiet Zone Risk Index for the preceding calendar year. FRA will not conduct annual risk reviews for quiet zones established by having an SSM at every public crossing within the quiet zone or for quiet zones established by reducing the Quiet Zone Risk Index to the Risk Index With Horns.

Actions to be Taken by Public Authority to Retain Quiet Zone. If the Quiet Zone Risk Index is above the Nationwide Significant Risk Threshold, the quiet zone will terminate six months from the date of receipt of notification from FRA that the Quiet Zone Index exceeds the Nationwide Significant Risk Threshold, unless the public authority takes the following actions: (i) Within six months after the date of receipt of notification from FRA that the Quiet Zone Risk Index exceeds the Nationwide Significant Risk Threshold, provides to the Associate Administrator a written commitment to lower the potential risk to the traveling public at the crossings within the quiet zone to a level at, or below, the Nationwide Significant Risk Threshold or the Risk Index With Horns. Included in the commitment statement shall be a discussion of the specific steps to be taken by the public authority to increase safety at the crossings within the quiet zone; and (ii) Within three years after the date of receipt of notification from FRA that the Quiet Zone Risk Index exceeds the Nationwide Significant Risk Threshold, 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 the Risk Index With Horns, and receive approval from the Associate Administrator, under the procedures set forth in § 222.39(b) of this part, for continuation of the quiet zone. If the Quiet Zone Risk Index is reduced to the Risk Index With Horns, the quiet zone will be considered to have been established pursuant to § 222.39(a)(3) of this part and subsequent annual risk reviews will not be conducted for that quiet zone; (iii) Failure to comply with paragraph (a)(2)(i) of this section shall result in the termination of the quiet zone six months after the date of receipt of notification from FRA that the Quiet Zone Risk Index exceeds the Nationwide Significant Threshold. Failure to comply with paragraph (a)(2)(ii) of this section shall result in the termination of the quiet zone three years after the date of receipt of notification from FRA that the Quiet Zone Risk Index exceeds the Nationwide

Significant Threshold.

FRA estimates that approximately two (2) written commitment/statements with the necessary accompanying information will be completed by the public authority under the above requirement. It is estimated that it will take approximately five (5) hours to complete each commitment/statement with the necessary accompanying information and send it to FRA. Total annual burden for this requirement is 10 hours.

Respondent Universe:	9 Public Authorities
Burden time per response:	5 hours
Frequency of Response:	On occasion
One time number of Responses:	2 written commitment/statements
One time burden:	10 hours
Annual Cost:	\$610

**Calculation:** 2 written commitment/statements x 5  
hrs. = 10 hours  
10 hrs. x \$61 = \$610

**B. Pre-Rule Quiet Zones – Annual Risk Review.**

(1) FRA will annually calculate the Quiet Zone Risk Index for each Pre-Rule Quiet Zone and Pre-Rule Partial Quiet Zone that qualified for automatic approval pursuant to §§222.41(a)(1)(ii), 222.41(a)(1)(iii), 222.41(b)(1)(ii), and 222.41(b)(1)(iii) of this part. FRA will notify each public authority of the Quiet Zone Risk Index for the preceding calendar year. FRA will also notify each public authority if a relevant collision occurred at a grade crossing within the quiet zone during the preceding calendar year.

(2) Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones Authorized Under §§ 222.41(a)(1)(ii) and 222.41(b)(1)(ii). (i) If a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone originally qualified for automatic approval because the Quiet Zone Risk Index was at, or below, the Nationwide Significant Risk Threshold, the quiet zone may continue unchanged if the Quiet Zone Risk Index as last calculated by FRA remains at, or below, the Nationwide Significant Risk Threshold. (ii) If the Quiet Zone Risk Index as last calculated by FRA is above the Nationwide Significant Risk Threshold, but is lower than twice the Nationwide Significant Risk Threshold and no relevant collisions have occurred at crossings within the quiet zone within the five years preceding the annual risk review, then the quiet zone may continue as though it originally received automatic approval pursuant to § 222.41(a)(1)(iii) or 222.41(b)(1)(iii) of this part. (iii) If the Quiet Zone Risk Index as last calculated by FRA is at, or above, twice the Nationwide Significant Risk Threshold, or if the Quiet Zone Risk Index is above the Nationwide Significant Risk Threshold, but is lower than twice the Nationwide Significant Risk Threshold and a relevant collision occurred at a crossing within the quiet zone within the preceding five



calendar years, the quiet zone will terminate six (6) months after the date of receipt of notification from FRA of the Nationwide Significant Risk Threshold level, unless the public authority takes the actions specified in paragraph (b)(4) of this section.

(3) Pre-Rule Quiet Zone and Pre-Rule Partial Quiet Zone Authorized Under §§ 222.41(a)(1)(iii) and 222.41(b)(1)(iii). (i) If a Pre-Rule Quiet Zone or a Pre-Rule Partial Quiet Zone originally qualified for automatic approval because the Quiet Zone Risk Index was above the Nationwide Significant Risk Threshold, but below twice the Nationwide Significant Risk Threshold, and no relevant collisions had occurred within the five (5) year qualifying period, the quiet zone may continue unchanged if the Quiet Zone Risk Index as last calculated by FRA remains below twice the Nationwide Significant Risk Threshold and no relevant collisions occurred at a public grade crossing within the quiet zone during the preceding calendar year. (ii) If the Quiet Zone Risk Index as last calculated by FRA is at, or above, twice the Nationwide Significant Risk Threshold, or if a relevant collision occurred at a public grade crossing within the quiet zone during the preceding calendar year, the quiet zone will terminate six months after the date of receipt of notification from FRA that the Quiet Zone Risk Index is at or exceeds twice the Nationwide Significant Threshold, or that a relevant collision occurred at a crossing within the quiet zone, unless the public authority takes the actions specified in paragraph (b)(4) of this section.

(4) Actions To Be Taken By The Public Authority To Retain A Quiet Zone. (i) Within six months after the date of FRA notification, the public authority must 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 Quiet Zone Risk Index to a level at, or below, the Nationwide Significant Risk Threshold or the Risk Index With Horns. Included in the commitment statement must be a discussion of the specific steps to be taken by the public authority to increase safety at the public crossings within the quiet zone; and (ii) Within three years after the date of FRA notification, 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 the Risk Index With Horns, and receive approval from the Associate Administrator, under the procedures set forth in § 222.39(b), for continuation of the quiet zone. 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) of this part and subsequent annual risk reviews will not be conducted for that quiet zone. (iii) Failure to comply with paragraph (b)(4)(i) of this section shall result in the termination of the quiet zone six months after the date of receipt of notification from FRA. Failure to comply with paragraph (b)(4)(ii) of this section shall result in the termination of the quiet zone three years after the date of receipt of notification from FRA.

*FRA estimates that zero (0) written commitments with the necessary accompanying*

information will be completed by the public authorities in the first three (3) years under the above requirement. Consequently, there is no burden associated with this requirement.

- C. Review at FRA’s Initiative. The Associate Administrator may, at any time, review the status of any quiet zone. If the Associate Administrator makes any of the following preliminary determinations, the Associate Administrator will provide written notice to the public authority, all railroads operating over 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 grade crossing safety, and the State agency responsible for highway and road safety, and will publish notice of the determination in the Federal Register: (i) Safety systems and measures implemented within the quiet zone do not fully compensate for the absence of the locomotive horn due to a substantial increase in risk; (ii) Documentation relied upon to establish the quiet zone contains substantial errors that may have an adverse impact on public safety; or (iii) Significant risk with respect to loss of life or serious personal injury exists within the quiet zone.

After providing an opportunity for comment, the Associate Administrator may require additional safety measures be taken or that the quiet zone be terminated. The Associate Administrator will provide a copy of his/her decision to the public authority and all parties listed in paragraph (c)(2) of this section. The public authority may appeal the Associate Administrator’s decision in accordance with § 222.57(c) of this part. Nothing in this section is intended to limit the Administrator’s emergency authority under 49 U.S.C. 20104 and 49 CFR part 211. (Note: The burden for challenges of the Associate Administrator’s decisions is included under § 222.57(b) below.)

FRA estimates that approximately 20 comments will be received by FRA under the above requirement. It is estimated that it will take approximately 30 minutes to complete each comment and send it to FRA. Total annual burden for this requirement is 30 hours.

Respondent Universe:	3 Public Authorities
Burden time per response:	30 minutes
Frequency of Response:	On occasion
One time number of Responses:	20 comments
One time burden:	10 hours
Annual Cost:	\$610

**Calculation:** 20 comments x 30 min. = 10 hours  
 10 hrs. x \$61 = \$610

- D. Termination By the Public Authority. (1) Any public authority that participated in the

establishment of a quiet zone under the provisions of this Part may, at any time, withdraw its quiet zone status. (2) A public authority may withdraw its quiet zone status by providing written notice of termination, by certified mail, return receipt requested, to all railroads operating 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 grade crossing safety, the State agency responsible for highway and road safety, and the Associate Administrator.

*FRA estimates zero (0) public authorities will elect to terminate a quiet zone that they only recently designated or established, and so there will be no need to provide any written notices of termination. Consequently, there is no burden associated with this requirement.*

(3)(i) If the quiet zone that is being withdrawn was part of a multi-jurisdictional quiet zone, the remaining quiet zones may remain in effect, provided the public authorities responsible for the remaining quiet zones provide statements to the Associate Administrator certifying that the Quiet Zone Risk Index for each remaining quiet zone is at, or below, the Nationwide Significant Risk Threshold or the Risk Index With Horns. These statements shall be provided, no later than six months after the date on which the notice of quiet zone termination was mailed, to all parties listed in paragraph (d)(2) of this section.

*Since zero (0) public authorities will elect to terminate a quiet zone that they only recently designated or established, there will be no need to provide written statements to the Associate Administrator about the Quiet Zone Risk Index being at or below the Nationwide Significant Risk Threshold or the Risk Index With Horns. Consequently, there is no burden associated with this requirement.*

(ii) If any remaining quiet zone has a Quiet Zone Risk Index in excess of the Nationwide Significant Risk Threshold and the Risk Index With Horns, the public authority responsible for the quiet zone shall submit a written commitment, to all parties listed in paragraph (d)(2) of this section, to reduce the Quiet Zone Risk Index to a level at or below the Nationwide Significant Risk Threshold or the Risk Index With Horns within three years. Included in the commitment statement shall be a discussion of the specific steps to be taken by the public authority to reduce the Quiet Zone Risk Index. This commitment statement shall be provided to all parties listed in paragraph (d)(2) of this section no later than six months after the date on which the notice of quiet zone termination was mailed; (iii) Failure to comply with paragraphs (d)(3)(i) and (d)(3)(ii) of this section shall result in the termination of the remaining quiet zone(s) six months after the date on which the notice of quiet zone termination was mailed by the withdrawing public authority in accordance with paragraph (d)(2) of this section; (iv) Failure to

complete implementation of SSMs and/or ASMs to reduce the Quiet Zone Risk Index to a level at, or below, the Nationwide Significant Risk Index or the Risk Index With Horns, in accordance with the written commitment provided under paragraph (d)(3)(iii) of this section, shall result in the termination of quiet zone status three years after the date on which the written commitment was received by FRA.

*Since zero (0) public authorities will elect to terminate a quiet zone that they only recently designated or established, FRA estimates that there will be no remaining quiet zones with a Quiet Zone Risk Index in excess of the Nationwide Significant Risk Threshold, and thus there will be no need to provide written commitments to relevant parties listed in this section. Consequently, there is no burden associated with this requirement.*

- E. Notification of Termination and Requirement to Sound Locomotive Horn. In the event that a quiet zone is terminated under the provisions of this section, it shall be the responsibility of the public authority to immediately provide written notification of termination by certified mail, return receipt requested, to all railroads operating over 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 zones, the State agency responsible for grade crossing safety, the State agency responsible for highway and road safety, and the Associate Administrator. Notwithstanding paragraph (e)(1) of this section, if a quiet zone is terminated under the provisions of this section, FRA shall also provide written notification to all parties listed in paragraph (e)(1) of this section.

Upon receipt of notification of quiet zone termination pursuant to paragraph (e) of this section, railroads must, within seven days, and in accordance with the provisions of this part, sound the locomotive horn when approaching and passing through every public highway-rail grade crossing within the former quiet zone.

*Again, FRA estimates that there will be zero (0) quiet zones terminated under the provisions of this section, and that there will be no need to provide written notifications to relevant parties. Consequently, there is no burden associated with this requirement.*

Total annual burden for this entire requirement is 20 hours (10 + 10).

#### **§ 222.55 Approval of New Supplementary or Alternative Safety Measures.**

- A. Interested parties may apply for approval from the Associate Administrator to demonstrate proposed new SSMs (Supplementary Safety Measures) or ASMs (Alternative Safety Measures) to determine whether they are effective substitutes for the locomotive horn in the prevention of collisions and casualties at public highway-rail grade crossings.

FRA estimates that approximately one (1) letter requesting approval by FRA will be completed by parties seeking to demonstrate the safety of proposed new supplementary safety systems under the above requirement. It is estimated that it will take approximately 30 minutes to complete each letter and send it to FRA. Total annual burden for this requirement is one (1) hour.

Respondent Universe:	265 Interested Parties
Burden time per response:	30 minutes
Frequency of Response:	On occasion
One time number of Responses:	1 demonstration/approval letter
One time burden:	1 hour
Annual Cost:	\$61

**Calculation:** 1 demonstration/approval letter x 30 min. = 1 hour  
 1 hr. x \$61 = \$61

- B The Associate Administrator may, after notice and opportunity for comment, order railroad carriers operating over a public highway-rail grade crossing or crossings to temporarily cease the sounding of locomotive horns at such crossings to demonstrate proposed new SSMs or ASMs, provided that such proposed new SSMs or ASMs have been subject to prior testing and evaluation. In issuing such order, the Associate Administrator may impose any conditions or limitations on such use of the proposed SSMs or ASMs which the Associate Administrator deems necessary in order to provide the level of safety at least equivalent to that provided by the locomotive horn.

FRA estimates that it will receive approximately five (5) comments regarding an order granting the temporary cessation of sounding locomotive horns under the above requirement. It is estimated that it will take approximately 30 minutes to complete each comment and send it to FRA. Total annual burden for this requirement is three (3) hours.

Respondent Universe:	265 Interested Parties/General Public
Burden time per response:	30 minutes
Frequency of Response:	On occasion
One time number of Responses:	5 comments
One time burden:	3 hours
Annual Cost:	\$183

**Calculation:** 5 comments x 30 min. = 3 hours  
 3 hrs. x \$61 = \$183

- C. Upon completion of a demonstration of proposed new SSMs or ASMs, interested parties

may apply to the Associate Administrator for their approval. Applications for approval must be in writing and must include the following:

- (1) The name and address of the applicant;
- (2) A description and design of the proposed new SSM or ASM;
- (3) A description and results of the demonstration project in which the proposed SSMs or ASMs were tested;
- (4) Estimated costs of the proposed new SSM or ASM; and
- (5) Any other information deemed necessary.

FRA estimates that approximately one (1) letter seeking approval of proposed new SSMs will be completed by interested parties under the above requirement. It is estimated that it will take approximately 30 minutes to complete each letter and send it to FRA. Total annual burden for this requirement is one (1) hour.

Respondent Universe:	265 Interested Parties
Burden time per response:	30 minutes
Frequency of Response:	On occasion
One time number of Responses:	1 approval letter
One time burden:	1 hour
Annual Cost:	\$61

**Calculation:** 1 approval letter x 30 min. = 1 hour  
 1 hr. x \$61 = \$61

- D. A public authority or other interested party may appeal to the Administrator from a decision by the Associate Administrator granting or denying an application for approval of a proposed SSM or ASM or the conditions or limitations imposed on its use in accordance with § 222.57 of this part.

*The burden for this requirement is included under § 222.57 below.*

Total annual burden for this entire requirement is five (5) hours (1 + 3 + 1).

**§ 222.57 Review of the Associate Administrator’s Actions**

- (a) A public authority or other interested party may petition the Administrator for review of any decision by the Associate Administrator granting or denying an application for approval of a new SSM or ASM under § 222.55 of this part. The petition must be filed within 60 days of the decision to be reviewed, specify the grounds for the requested

relief, and be served upon the following parties: all railroads ordered to temporarily cease sounding of the locomotive horn over public highway-rail grade crossings for the demonstration of the proposed new SSM or ASM, the highway or traffic control authority or law enforcement authority having control over vehicular traffic at the crossings affected by the new SSM/ASM demonstration, the State agency responsible for grade crossing safety, the State agency responsible for highway and road safety, and the Associate Administrator. Unless the Administrator specifically provides otherwise, and gives notice to the petitioner or publishes a notice in the Federal Register, the filing of a petition under this paragraph does not stay the effectiveness of the action sought to be reviewed. The Administrator may reaffirm, modify, or revoke the decision of the Associate Administrator without further proceedings and shall notify the petitioner and other interested parties in writing or by publishing a notice in the Federal Register.

FRA estimates that approximately one (1) petition for review will be sent to the agency Administrator and a copy served upon relevant parties (a total of five (5) parties in all) under the above requirement. It is estimated that it will take approximately 60 minutes to complete each petition letter and send it to FRA, and approximately two (2) minutes to make a copy of each petition and send it to the relevant party. Total annual burden for this requirement is one (1) hour.

Respondent Universe:	265 Public Authorities/Interested Parties
Burden time per response:	60 minutes + 2 minutes
Frequency of Response:	On occasion
One time number of Responses:	1 review petition + 5 petition copies
One time burden:	1 hour
Annual Cost:	\$61

**Calculation:** 1 review petition x 60 min. + 5 petition copies x 2 min. =  
 1 hour  
 1 hr. x \$61 = \$61

(b) A public authority may request reconsideration of a decision by the Associate Administrator to deny an application by that authority for approval of a quiet zone, or to require additional safety measures, by filing a petition for reconsideration with the Associate Administrator. The petition must specify the grounds for asserting that the Associate Administrator improperly exercised his/her judgment in finding that the proposed SSMs and ASMs would not result in a Quiet Zone Risk Index that would be at or below the Risk Index With Horns or the Nationwide Significant Risk Threshold. The petition must be filed within 60 days of the date of the decision to be reconsidered and be served upon all parties listed in § 222.39(b)(3) of this part. Upon receipt of a timely and proper petition, the Associate Administrator will provide the petitioner an opportunity to submit additional materials and request an informal hearing. Upon review of the

additional materials and completion of any hearing requested, the Associate Administrator shall issue a decision on the petition that will be administratively final.

FRA estimates that approximately one (1) petition for reconsideration will be sent to the Associate Administrator and that approximately six (6) copies of this petition for reconsideration will be sent to the stipulated parties under the above requirement. It is estimated that it will take approximately five (5) hours to complete each petition letter and send it to FRA, and approximately two (2) minutes to make each petition letter copy and send it to one of the stipulated parties. Total annual burden for this requirement is five (5) hours.

Respondent Universe:	200 Public Authorities
Burden time per response:	5 hours + 2 minutes
Frequency of Response:	On occasion
One time number of Responses:	1 reconsideration petition letter + 6 petition letter copies
One time burden:	5 hours
Annual Cost:	\$305

**Calculation:** 1 reconsideration petition letter x 5 hrs. + 6 petition letter copies x 2 min. = 5 hours  
5 hrs. x \$61 = \$305

Additionally, FRA estimates that approximately one (1) document (or set of additional materials) will be sent to the Associate Administrator to follow up on the petition for reconsideration mentioned above. It is estimated that it will take approximately two (2) hours to complete this document and send it to FRA. Total annual burden for this requirement is two (2) hours.

Respondent Universe:	200 Public Authorities
Burden time per response:	2 hours
Frequency of Response:	On occasion
One time number of Responses:	1 document/set of additional materials
One time burden:	2 hours
Annual Cost:	\$122

**Calculation:** 1 documents/set of additional materials x 2 hrs. = 2 hours  
2 hrs. x \$61 = \$122

Moreover, FRA estimates that approximately one (1) letter requesting an informal



hearing from the Associate Administrator will be sent under the above requirement. It is estimated that it will take approximately 30 minutes to complete each letter and send it to FRA. Total annual burden for this requirement is one (1) hour.

Respondent Universe:	200 Public Authorities
Burden time per response:	30 minutes
Frequency of Response:	On occasion
One time number of Responses:	1 letter
One time burden:	1 hour
Annual Cost:	\$61
<b>Calculation:</b>	1 letter x 30 min. = 1 hour
	1 hr. x \$61 = \$61

*There is no burden associated with the hearing itself since any hearing that is held involves an administrative action where the Associate Administrator’s decision is final. 5 CFR 1320.4(2) states: “The requirements of this Part ... shall not apply to collections of information ... during the conduct of a civil action to which the United States or any official or agency thereof is a party, or during the conduct of an administrative action, investigation, or audit involving an agency against specific individuals or entities ...” Thus, this provision is exempt from the requirements of the PRA, and there is no burden associated with it.*

(c) A public authority may request reconsideration of a decision by the Associate Administrator to terminate quiet zone status by filing a petition for reconsideration with the Associate Administrator. The petition must be filed within 60 days of the date of the decision, specify the grounds for the requested relief, and be served upon all parties listed in § 222.51(c)(2) of this part. Unless the Associate Administrator publishes a notice in the Federal Register that specifically stays the effectiveness of his/her decision, the filing of a petition under this paragraph will not stay the termination of quiet zone status. Upon receipt of a timely and proper petition, the Associate Administrator will provide the petitioner an opportunity to submit additional materials and to request an informal hearing. Upon review of the additional materials and completion of any hearing requested, the Associate Administrator shall issue a decision on the petition that will be administratively final. A copy of this decision shall be served upon all parties listed in § 222.51(c)(2) of this part.

*FRA estimates that zero (0) public authorities will request reconsideration/file a petition of reconsideration of a decision by the Associate Administrator to terminate a quiet zone and, as a result, will not need to submit any documents or additional materials to support such a request. Accordingly too, there will be zero (0) requests for an informal hearing. Consequently, there is no burden associated with the above requirement.*

(d) A railroad may request reconsideration of a decision by the Associate Administrator to approve an application for approval of a proposed quiet zone under § 222.39(b) by filing a petition for reconsideration with the Associate Administrator. The petition must specify the grounds for asserting that the Associate Administrator improperly exercised his/her judgment in finding that the proposed SSMs and ASMs would result in a Quiet Zone Risk Index that would be at or below the Risk Index With Horns or the Nationwide Significant Risk Threshold. The petition shall be filed within 60 days of the date of the decision to be reconsidered, and be served upon all parties listed in § 222.39(b)(3) of this part. Upon receipt of a timely and proper petition, the Associate Administrator will provide the petitioner an opportunity to submit additional materials and to request an informal hearing. Upon review of the additional materials and completion of any hearing requested, the Associate Administrator shall issue a decision that will be administratively final.

*FRA estimates that zero (0) railroads will request reconsideration of a decision by the Associate Administrator to approve an application for approval of a proposed quiet zone under § 222.39(b) by filing a petition with the Associate Administrator, and, therefore, there will be no need to provide any documents/additional materials to support such a petition. As well, there will be no requests for an informal hearing. Consequently, there is no burden associated with this requirement.*

Total annual burden for this entire requirement is 9 hours (1 + 5 + 2 + 1).

#### **§ 222.59 Use of Wayside Horns**

- A. A public authority installing a wayside horn at a grade crossing within a quiet zone shall provide written notice that a wayside horn is being installed 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 the crossings within the quiet zone, the landowner having control over any private crossings within the quiet zone, the State agency responsible for grade crossing safety, the State agency responsible for highway and road safety, and the Associate Administrator. This notice shall provide the date on which the wayside horn will be operational and identify the grade crossing at which the wayside horn shall be installed by both the U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name. The railroad or public authority shall provide notification of the operational date at least 21 days in advance.

FRA estimates that approximately 10 written notices will be completed by public authorities and 60 notice copies sent to relevant parties under the above requirement. It is estimated that it will take approximately 2.5 hours to complete each notice and approximately ten (10) minutes to make a copy of the notice, and send it to one of the required parties. Total annual burden for this requirement is 35 hours.

Respondent Universe:	200 Public Authorities
Burden time per response:	2.5 hours + 10 minutes
Frequency of Response:	On occasion
One time number of Responses:	10 written notices + 60 notice copies
One time burden:	35 hours
Annual Cost:	\$2,135

**Calculation:** 10 written notices x 2.5hrs. + 60 notice copies x 10 min. =  
35 hours  
35 hrs. x \$61 = \$2,135

- B. A railroad or public authority installing a wayside horn at a grade crossing located outside a quiet zone shall provide written notice that a wayside horn is being installed to all railroads operating over the public highway-rail grade crossing, the highway or traffic control authority or law enforcement authority having control over vehicular traffic at the crossing, the State agency responsible for grade crossing safety, the State agency responsible for highway and road safety, and the Associate Administrator. This notice shall provide the date on which the wayside horn will be operational and identify the grade crossing at which the wayside horn shall be installed by both the U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name. The railroad or public authority shall provide notification of the operational date at least 21 days in advance.

FRA estimates that approximately 10 written notices will be completed by public authorities and 60 notice copies sent to relevant parties under the above requirement. It is estimated that it will take approximately 2.5 hours to complete each notice and approximately ten (10) minutes to make a copy of the notice, and send it to one of the required parties. Total annual burden for this requirement is 35 hours.

Respondent Universe:	200 Public Authorities
Burden time per response:	2.5 hours + 10 minutes
Frequency of Response:	On occasion
One time number of Responses:	10 written notices + 60 notice copies
One time burden:	35 hours
Annual Cost:	\$2,135

**Calculation:** 10 written notices x 2.5hrs. + 60 notice copies x 10 min. =  
35 hours  
35 hrs. x \$61 = \$2,135

The total annual burden for this entire requirement is 70 hours (35 + 35).

## **Appendix A to Part 222 - Approved Supplementary Safety Measures**

### **A. Requirements and Effectiveness Rates for Supplementary Safety Measures**

*Gates with Medians or Channelization Devices.* Intersections of two or more streets, or a street and an alley, that are within 60 feet of the gate arm must be closed or relocated . . . It should be noted that if a public authority can not comply with the 60 feet or 100 feet requirement, it may apply to FRA for a quiet zone under § 222.39(b), “Public authority application to FRA.” Such arrangement may qualify for a risk reduction credit in calculation of the Quiet Zone Risk Index. Similarly, if a public authority finds that it is feasible to only provide channelization on one approach to the crossing, it may also apply to FRA for approval under § 222.39(b). Such an arrangement may also qualify for a risk reduction credit in calculation of the Quiet Zone Risk Index.

*The burden for this provision is already included under that of § 222.39(b) above. Consequently, there is no additional burden associated with this requirement.*

## **Appendix B to Part 222 - Alternative Safety Measures (ASMs)**

### **A. Introduction**

A public authority seeking approval of a quiet zone under public authority application to FRA (§ 222.39(b)) may include ASMs listed in this Appendix in its proposal. This Appendix addresses three types of ASMs: Modified SSMs, Non-Engineering ASMs, and Engineering ASMs. Modified SSMs are SSMs that do not fully comply with the provisions listed in Appendix A. As provided in section I.B. of this Appendix, public authorities can obtain risk reduction credit for pre-existing modified SSMs under the final rule. Non-engineering ASMs consist of programmed enforcement, public education and awareness, and photo enforcement programs that may be used to reduce risk within a quiet zone. Engineering ASMs consist of engineering improvements that address underlying geometric conditions, including sight distance, that are the source of increased risk at crossings.

*The burden for this requirement is already included under that of § 222.39(b) above. Consequently, there is no additional burden associated with this requirement.*

### **II. Non-engineering ASMs**

The following non-engineering ASMs may be used in the creation of a Quiet Zone:

*1. Programmed Enforcement:* Community and law enforcement officials commit to a systematic and measurable crossing monitoring and traffic law enforcement program at the public highway-rail grade crossing, alone or in combination with the Public Education and Awareness ASM.

*Required:*

- a. Subject to audit, a statistically valid baseline violation rate must be established through automated or systematic manual monitoring or sampling at the subject crossing(s); and
- b. A law enforcement effort must be defined, established and continued along with continual or regular monitoring that provides a statistically valid violation rate that indicates the effectiveness of the law enforcement effort.
- c. The public authority must retain records pertaining to monitoring and sampling efforts at the grade crossing for a period of not less than five (5) years. These records shall be made available, upon request, to FRA as provided by 49 U.S.C. 20107.

FRA estimates that approximately 10 records pertaining to monitoring and sampling will be kept under the above requirement. It is estimated that it will take approximately 500 hours to complete and file each record. Total annual burden for this requirement is 5,000 hours.

Respondent Universe:	200 Public Authorities/Communities
Burden time per response:	500 hours
Frequency of Response:	On occasion
One time number of Responses:	10 records
One time burden:	5,000 hours
Annual Cost:	\$305,000

**Calculation:** 10 records x 500 hrs. = 5,000 hours  
 5,000 hrs. x \$61 = \$305,000

*2. Public Education and Awareness:* Conduct, alone or in combination with programmed law enforcement, a program of public education and awareness directed at motor vehicle drivers, pedestrians, and residents near the railroad to emphasize the risks associated with public highway-rail grade crossings and applicable requirements of state and local traffic laws at those crossings.

*Requirements:*

- a. Subject to audit, a statistically valid baseline violation rate must be established through automated or systematic manual monitoring or sampling at the subject crossing(s); and
- b. A sustainable public education and awareness program must be defined, established, and continued along with continual or regular monitoring that provides a statistically valid violation rate that indicates the effectiveness of the public education and awareness effort. This program must be provided and supported primarily through local resources.
- c. The public authority must retain records pertaining to monitoring and sampling efforts at the grade crossing for a period of not less than five (5) years. These records must be made available, upon request, to FRA as provided by 49 U.S.C. 20107.

*Since public authorities will do both programmed enforcement and public education and awareness at the same time, the burden for this requirement is already included under the previous one listed above. Consequently, there is no additional burden associated with this requirement.*

*3. Photo Enforcement:* This ASM entails automated means of gathering valid photographic or video evidence of traffic law violations at a public highway-rail grade crossing together with follow-through by law enforcement and the judiciary.

*Requirements:*

- a. State law authorizing use of photographic or video evidence both to bring charges and sustain the burden of proof that a violation of traffic laws concerning public highway-rail grade crossings has occurred, accompanied by commitment of administrative, law enforcement, and judicial officers to enforce the law;
- b. Sanction includes sufficient minimum fine (e.g., \$100 for a first offense, “points” toward license suspension or revocation) to deter violations;
- c. Means to reliably detect violations (e.g., loop detectors, video imaging technology);
- d. Photographic or video equipment deployed to capture images sufficient to document the violation (including the face of the driver, if required to charge or convict under state law).
- e. Appropriate integration, testing, and maintenance of the system to provide

evidence supporting enforcement;

- f. Public awareness efforts designed to reinforce photo enforcement and alert motorists to the absence of train horns;
- g. Subject to audit, a statistically valid baseline violation rate must be established through automated or systematic manual monitoring or sampling at the subject crossing(s); and
- h. A law enforcement effort must be defined, established, and continued along with continual or regular monitoring.
- i. The public authority must retain records pertaining to monitoring and sampling efforts at the grade crossing for a period of not less than five (5) years. These records must be made available, upon request, to FRA as provided by 49 U.S.C. 20107.

FRA estimates that approximately 10 records pertaining to monitoring and sampling at the grade crossing will be kept under the above requirement. It is estimated that it will take approximately nine (9) hours to complete and file each record. Total annual burden for this requirement is 90 hours.

Respondent Universe:	200 Public Authorities/Communities
Burden time per response:	9 hours
Frequency of Response:	On occasion
One time number of Responses:	10 records
One time burden:	90 hours
Annual Cost:	\$5,490

**Calculation:** 10 records x 9 hrs. = 90 hours  
90 hrs. x \$61 = \$5,490

B. The effectiveness of an ASM will be determined as follows . . .

(f)(6) Using the effectiveness rates for each grade crossing treated by an ASM, determine the Quiet Zone Risk Index. If and when the Quiet Zone Risk Index for the proposed quiet zone has been reduced to a level at, or below, the Risk Index with Horns or the Nationwide Significant Threshold, the public authority may apply to FRA for approval of the proposed quiet zone. Upon receiving written approval of the quiet zone application from FRA, the public authority may proceed with notifications and implementation of the quiet zone.

*The burden for this provision is already included under that of §§ 222.39(b), 222.41,*

222.42, and 222.43 above. Consequently, there is no additional burden associated with this requirement.

### **III. Engineering ASMs**

The effectiveness of an ASM will be determined as follows . . .

- B. (f)(5) Using the Engineering ASM effectiveness rate, determine the Quiet Zone Risk Index. If and when the Quiet Zone Risk Index for the proposed quiet zone has been reduced to a risk level at or below the Risk Index With Horns or the Nationwide Significant Risk Threshold, the public authority may apply to FRA for approval of the quiet zone. Upon receiving written approval of the quiet zone application from FRA, the public authority may then proceed with notifications and implementation of the quiet zone.

*The burden for this provision is already included under that of §§ 222.39(b), 222.41, 222.42, and 222.43 above. Consequently, there is no additional burden associated with this requirement.*

The total annual burden for this entire requirement (Appendix B) is 5,090 hours. (5,000 + 90).

### **Appendix C - Guide to Establishing Quiet Zones**

#### **Section I - Overview**

- A. Risk Reduction Methods

1. Public Authority Designations (SSMs). The Public Authority Designation method (§ 222.39(a)) involves the use of SSMs at some or all crossings within the quiet zone . . . If only SSMs are installed within the quiet zone, but not at every crossing, the public authority must calculate that sufficient risk reduction will be accomplished by the SSMs. Once the improvements are made, the public authority must make the required notifications (which includes a copy of the report generated by the Quiet Zone Calculator showing that the risk in the quiet zone has been sufficiently reduced), and the quiet zone may be implemented.

*The burden for this provision is already included under that of §§ 222.41, 222.42, and*



222.43 above. Consequently, there is no additional burden associated with this requirement.

2. Public Authority Application to FRA (ASMs). The Public Authority Application to FRA method (§ 222.39(b)) involves the use of ASMs . . . If the use of ASMs (or a combination of ASMs and SSMs) is elected to reduce risk, then the public authority must provide a Notice of Intent and then apply to FRA for approval of the quiet zone. The application must contain sufficient data and analysis to confirm that the proposed ASMs do indeed provide the necessary risk reduction. FRA will review the application and will issue a formal approval, if it determines that risk is reduced to a level that is necessary to comply with the rule. Once FRA approval has been received and the safety measures fully implemented, the public authority would then provide a Notice of Quiet Zone Establishment and the quiet zone may be implemented. The use of non-engineering ASMs will require continued monitoring and analysis throughout the existence of the quiet zone to ensure that risk continues to be reduced.

*The burden for this provision is already included under that of § 222.39(b) above and §222.41(c)/(d) and § 222.43 above. Consequently, there is no additional burden associated with this requirement.*

- B. Pre-Existing Modified SSMs. Risk reduction credit may be taken by a public authority for a modified SSM that was previously implemented and is currently in place in the quiet zone. Modified SSMs are Alternative Safety Measures which must be approved by FRA. If an existing improvement is approved by FRA as a modified SSM as provided in Appendix B, the improvement is deemed a Pre-Existing Modified SSM. Risk reduction credit is obtained by inflating the Risk Index With Horns to show what the risk would have been at the crossing if the pre-existing SSM had not been implemented. The effectiveness rate of the modified SSM will be determined by FRA. The public authority may provide information to FRA to be used in determining the effectiveness rate of the modified SSM.

*The burden for this provision is already included under that of § 222.39(b) above. Consequently, there is no additional burden associated with this requirement.*

- C. Partial Quiet Zones. Pre-Rule Partial Quiet Zones must provide the notification as required in § 222.43 in order to keep train horns silenced. A Pre-Rule Partial Quiet Zone may be converted to a 24-hour New Quiet Zone by complying with all of the New Quiet Zone regulations.

*The burden for this provision is included under that of § 222.43 above. Consequently, there is no additional burden associated with this requirement.*

- D. Intermediate Quiet Zones. Intermediate Quiet Zones and Intermediate Partial Quiet

Zones will be able to keep train horns silenced until June 24, 2006, provided notification is made per § 222.43.

*The burden for this provision is included under that of § 222.42 above. Consequently, there is no additional burden associated with this requirement.*

## **Section II - New Quiet Zones**

### **A. Requirements for both Public Authority Designation and Public Authority Application**

The following steps are necessary when establishing a new Quiet Zone. This information pertains to both the Public Authority Designation and Public Authority Application to FRA methods.

1. The public authority must provide a written Notice of Intent (§ 222.43(a)(1) and § 222.43(b)) to the railroads that operate over the proposed quiet zone, the State agency responsible for highway and road safety and the State agency responsible for grade crossing safety. The purpose of this Notice of Intent is to provide an opportunity for the railroads and the State agencies to provide comments and recommendations to the public authority as it is planning the quiet zone. They will have 60 days to provide these comments to the public authority. The quiet zone can not be created unless the Notice of Intent has been provided.

*The burden for this provision is included under that of § 222.43 (a)(1) above. Consequently, there is no additional burden associated with these requirements.*

2. A complete and accurate Grade Crossing Inventory Form must be on file with FRA for all crossings (public, private, and pedestrian) within the quiet zone. An inspection of each crossing in the proposed quiet zone should be performed and the Grade Crossing Inventory Forms updated, as necessary, to reflect the current conditions at each crossing.

The burden for this provision is included under that of § 222.43(a)(4)(i) above. Consequently, there is no additional burden associated with this requirement.

3. Each pedestrian crossing must be reviewed by a diagnostic team and equipped or treated in accordance with the recommendation of the diagnostic team. The public authority must invite the State agency responsible for grade crossing safety and all affected railroads to participate in the diagnostic review.

*The burden for this requirement is included under that of § 222.39(b)(2) above. Consequently, there is no additional burden associated with this requirement.*

### **B. New Quiet Zones - Public Authority Designation**

Steps necessary to establish a New Quiet Zone using the Public Authority Application to FRA method:

I. If one or more SSMs as identified in Appendix A are installed at each public crossing in the quiet zone, the requirements for a public authority designation quiet zone will have been met. It is not necessary for the same SSM to be used at each crossing. However, before any improvements are implemented, the public authority must provide a Notice of Intent, which will trigger a 60-day comment period. During the 60-day comment period, railroads operating within the proposed quiet zone and State agencies responsible for grade crossing, highway and road safety may submit comments on the proposed quiet zone improvements to the public authority. Once the necessary improvements have been installed, Notice of Quiet Zone Establishment shall be provided and the quiet zone implemented in accordance with the rule.

*The burden for this provision is included under that of §§ 222.43(a) above. Consequently, there is no additional burden associated with this requirement.*

II. If the Quiet Zone Risk Index is equal to, or less than, the Nationwide Significant Risk Threshold, then the public authority may decide to designate a quiet zone and provide the Notice of Intent, followed by the Notice of Quiet Zone Establishment.

*The burden for this provision is included under those of §§ 222.41 and 222.43(a) above. Consequently, there is no additional burden associated with this requirement.*

III. If the Quiet Zone Risk Index is greater than the Nationwide Significant Threshold, then select an appropriate SSM for a crossing. Reduce the inflated risk index calculated in Step 4 [of this section] for that crossing by the effectiveness rate of the chosen SSM. Recalculate the Quiet Zone Risk Index by averaging the revised inflated risk index with the inflated risk indices for the other public crossings. If this new Quiet Zone Risk Index is equal to, or less than, the Nationwide Significant Threshold, the quiet zone would qualify for public authority designation. If the Quiet Zone Risk Index is still higher than the Nationwide Significant Threshold, treat another public crossing with an appropriate SSM and repeat the process until the Quiet Zone Risk Index is equal to, or less than, the Nationwide Significant Threshold. Once this is obtained, the quiet zone will qualify for establishment by public authority designation. Early in the quiet zone development process, a Notice of Intent should be provided by the public authority, which will trigger a 60-day comment period. During this 60-day comment period, railroads operating within the proposed quiet zone and State agencies responsible for grade crossing, highway and road safety may provide comments on the proposed quiet zone improvements described in the Notice of Intent. Once all the necessary safety improvements have been implemented, Notice of Quiet Zone Establishment must be

provided.

*The burden for this provision is included under those of §§ 222.41 and 222.43(a) above. Consequently, there is no additional burden associated with this requirement.*

III. If the public authority wishes to reduce the risk of the quiet zone to the level of risk that would exist if the horn were sounded at every crossing within the quiet zone, the public authority should calculate the initial Quiet Zone Risk Index as in Step 4. The objective is to now reduce the Quiet Zone Risk Index to the level of the Risk Index with Horns by adding SSMs at the crossings. The difference between the Quiet Zone Risk Index and the Risk Index with Horns is the amount of risk that will have to be reduced in order to fully compensate for the lack of the train horn. The use of the Quiet Zone Calculator will aid in determining which SSMs may be used to reduce the risk sufficiently. Follow the procedure stated in Step 6 [of this section], except that the Quiet Zone Risk Index must be equal to, or less than, the Risk Index with Horns instead of the Nationwide Significant Threshold. Once this risk level is attained, the quiet zone will qualify for establishment by public authority designation. Early in the quiet zone development process, a Notice of Intent should be provided by the public authority, which will trigger a 60-day comment period. During this 60-day comment period, railroads operating within the proposed quiet zone and State agencies responsible for grade crossing, highway and road safety may provide comments on the proposed quiet zone improvements described in the Notice of Intent. Once all the necessary safety improvements have been implemented, Notice of Quiet Zone Establishment must be provided.

*The burden for this provision is included under those of §§ 222.41 and 222.43 (a) above. Consequently, there is no additional burden associated with this requirement.*

IV. Early in the quiet zone development process, a Notice of Intent should be provided by the public authority, which will trigger a 60-day comment period. During this 60-day comment period, railroads operating within the proposed quiet zone and State agencies responsible for grade crossing, highway and road safety may provide comments on the proposed quiet zone improvements described in the Notice of Intent. Once all the necessary safety improvements have been implemented, Notice of Quiet Zone Establishment must be provided.

*The burden for this provision is included under those of §§ 222.41 and 222.43(a) above. Consequently, there is no additional burden associated with this requirement.*

C. New Quiet Zones - Public Authority Application to FRA

I. A public authority must apply to FRA for approval of a quiet zone under three conditions. First, if any of the SSMs selected for the quiet zone do not fully conform to the design standards set forth in Appendix A. These are referred to as modified SSMs in

Appendix B. Second, when programmed law enforcement, public education and awareness programs, or photo enforcement is used to reduce risk in the quiet zone, these are referred to as non-engineering ASMs in Appendix B. Third, when engineering ASMs are used to reduce risk. Please see Appendix B for detailed explanations of ASMs and the periodic monitoring of non-engineering ASMs. The public authority is strongly encouraged to submit the application to FRA for review and comment *before* the appendix B treatments are initiated.

*The burden for this requirement is already included under that of § 222.39(b) above. Consequently, there is no additional burden associated with this requirement.*

II. A quiet zone that utilizes a combination of SSMs from Appendix A and ASMs from Appendix B must make a Public Authority Application to FRA.

*The burden for this requirement is already included under that of § 222.39(b) above. Consequently, there is no additional burden associated with this requirement.*

III. Once it has been determined through analysis that the Quiet Zone Risk Index will be reduced to a level equal to, or less than, either the Nationwide Significant Risk Threshold or the Risk Index with Horns, the public authority must provide a Notice of Intent. The mailing of the Notice of Intent will trigger a 60-day comment period, during which railroads operating within the proposed quiet zone and State agencies responsible for grade crossing, highway and road safety may provide comments on the proposed quiet zone improvements. After reviewing any comments received, the public authority may make application to FRA for a quiet zone under §222.39(b).

FRA will review the application to determine the appropriateness of the proposed effectiveness rates, and whether or not the proposed application demonstrates that the quiet zone meets the requirements of the rule. When submitting the application to FRA for approval, the application must contain the following (§ 222.39(b)(1)): (a.) Sufficient detail concerning the present safety measures at all crossings within the proposed quiet zone. This includes current and accurate crossing inventory forms for each public private, and pedestrian grade crossing; (b.) Detailed information on the safety improvements that are proposed to be implemented at public, private and pedestrian grade crossings within the proposed quiet zone; (c.) Membership and recommendations of the diagnostic team (if any) that reviewed the proposed quiet zone; (d.) Statement of efforts taken to address comments submitted by affected railroads, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety, including a list of any objections raised by the railroads or State agencies; (e.) A commitment to implement the proposed safety measures; (f.) Demonstrate through data and analysis that the proposed measures will reduce the Quiet Zone Risk Index to a level equal to, or less than, either the Nationwide Significant Risk Threshold or the Risk Index with Horns; (g.) A copy of the application must be provided to: all railroads

operating over the public highway-rail grade crossings within the quiet zone; the highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade 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; the State agency responsible for grade crossing safety; and the Associate Administrator. (§ 222.39(b)(3)).

*The burden for this requirement is already included under that of § 222.39(b) and above. Consequently, there is no additional burden associated with this requirement.*

IV. Upon receiving written approval from FRA of the quiet zone application, the public authority may then provide the Notice of Quiet Zone Establishment and implement the Quiet Zone.

*The burden for this requirement is already included under that of § 222.43(a) above. Consequently, there is no additional burden associated with this requirement.*

### **Section III - Pre-Rule Quiet Zones**

#### **A. Requirements for both Public Authority Designation and Public Authority Application - Pre-Rule Quiet Zones**

The following is necessary when establishing a Pre-Rule Quiet Zone. This information pertains to Automatic Approval, the Public Authority Designation and Public Authority application to FRA methods.

- I. Determine all public, private, and pedestrian at-grade crossings that will be included within the quiet zone. Also, determine any existing grade separated crossings that fall within the quiet zone. Each crossing must be identified by the U.S. DOT Crossing Inventory number and street name.
- II. Document the length of the quiet zone.
- III. A complete and accurate Grade Crossing Inventory Form must be on file with FRA for all crossings (public, private, and pedestrian) within the quiet zone. An inspection of each crossing in the proposed quiet zone should be performed and the Grade Crossing Inventory Form updated, as necessary, to reflect the current condition at each crossing.

*The burden for this requirement is already included under that of § 222.41 above. Consequently, there is no additional burden associated with this requirement.*

- IV. It will be necessary for the public authority to provide a Notice of Quiet Zone Continuation in order to prevent the resumption of locomotive horn sounding when the

rule becomes effective. The Notice of Quiet Zone Continuation must be provided to the appropriate parties by all Pre-Rule Quiet Zones that have not established quiet zones by automatic approval. This should be no later than June 3, 2005, to ensure that train horns not start being sounded on June 24, 2005. A Pre-Rule Quiet Zone may provide a Notice of Quiet Zone Continuation before it has determined whether or not it qualifies for automatic approval. Once it has been determined that the Pre-Rule Quiet Zone will be established by automatic approval, the Public Authority must provide the Notice of Quiet Zone Establishment. This must be accomplished no later than December 24, 2005. If the Pre-Rule Quiet Zone will not be established by automatic approval, the Notice of Quiet Zone Continuation will enable the train horns to be silenced until June 24, 2008.

*The burden for this requirement is already included under § 222.41(a) and § 222.41(c) above. Consequently, there is no additional burden associated with this requirement.*

B. Pre-Rule Quiet Zones - Automatic Approval

- I. In order for a Pre-Rule Quiet Zone to be established under this rule (§ 222.41(a)), . . . it must be in compliance with the minimum requirements for quiet zones (§ 222.35) and the notification requirements in § 222.43.

*The burden for this requirement is already included under that of § 222.41(a) above. Consequently, there is no additional burden associated with this requirement.*

- II. If one or more SSMs as identified in Appendix A are installed at each public crossing in the quiet zone, the quiet zone qualifies and the public authority may provide the Notice of Quiet Zone Establishment.  
If the Quiet Zone Risk Index is equal to, or less than, the Nationwide Significant Threshold, then the quiet zone qualifies for automatic approval, and the public authority may provide the Notice of Quiet Zone Establishment.
- III. If the Quiet Zone Risk Index is above the Nationwide Significant Threshold but less than twice the Nationwide Significant Threshold and there have been no relevant collisions at any public grade crossing within the quiet zone for the preceding five years, then the quiet zone qualifies for automatic approval. However, in order to qualify on this basis, the public authority must provide the Notice of Quiet Zone Establishment by December 24, 2005.

*The burden for these requirements are already included under that of § 222.41(a) above. Consequently, there is no additional burden associated with this requirement.*

C. Pre-Rule Quiet Zones - Public Authority Designation

I. *Steps Necessary to establish a Pre-Rule Quiet Zone using the Public Authority Designation method.*

The public authority must provide written a Notice of Intent (§§ 222.43(a)(1) and 222.43(b)) to the railroads that operate within the proposed quiet zone, the State agency responsible for highway and road safety and the State agency responsible for grade crossing safety. This notice must be mailed by February 24, 2008, in order to continue existing locomotive horn restrictions beyond June 24, 2008, without interruption. The purpose of this Notice of Intent is to provide an opportunity for the railroads and the State agencies to provide comments and recommendations to the public authority as it is planning the quiet zone. They will have 60 days to provide these comments to the public authority. The Notice of Intent must be provided, if new SSMs or ASMs will be implemented within the quiet zone. FRA encourages public authorities to provide the required Notice of Intent early in the quiet zone development process. The railroads and State agencies can provide an expertise that very well may not be present within the public authority. FRA believes that it will be very useful to include these organizations in the planning process.

*The burden for this requirement is already included under that of § 222.41(c)(2)(i) above. Consequently, there is no additional burden associated with this requirement.*

II. Once the Quiet Zone Risk Index has been reduced to a level equal to, or less than, either the Nationwide Significant Threshold or the Risk Index with Horns, the quiet zone may be established by the Public Authority Designation method, and the public authority may provide the Notice of Quiet Zone Establishment once all the necessary improvements have been installed.

*The burden for this requirement is beyond the approval period sought by this information collection. Consequently, there is no additional burden associated with this requirement.*

III. If the Pre-Rule Quiet Zone will not be established before June 24, 2008, the public authority must file a detailed plan for quiet zone improvements with the Associate Administrator by June 24, 2008. By providing a Notice of Intent and a detailed plan for quiet zone improvements, existing locomotive horn restrictions may continue until June 24, 2010. (If a comprehensive State-wide implementation plan and funding commitment are also provided and safety improvements are initiated within at least one Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone, existing locomotive horn restrictions may continue until June 24, 2013.)

*The burden for this requirement is already included under that of § 222.41(c)(2)(i)*



*above. Consequently, there is no additional burden associated with this requirement.*

D. Pre-Rule Quiet Zones - Public Authority Application to FRA

- I. The public authority must provide a Notice of Intent (§§ 222.43(a)(1) and 222.43(b)) to the railroads that operate within the proposed quiet zone, the State agency responsible for highway and road safety and the State agency responsible for grade crossing safety. This notice must be mailed by February 24, 2008, in order to continue existing locomotive horn restrictions beyond June 24, 2008, without interruption. The purpose of this Notice of Intent is to provide an opportunity for the railroads and the State agencies to provide comments and recommendations to the public authority as it is planning the quiet zone. They will have 60 days to provide these comments to the public authority. The Notice of Intent must be provided, if new SSMs or ASMs will be implemented within the quiet zone. FRA encourages public authorities to provide the required Notice of Intent early in the quiet zone development process. The railroads and State agencies can provide an expertise that very well may not be present within the public authority. FRA believes that it will be very useful to include these organizations in the planning process.

*The burden for this requirement is already included under that of § 222.41(a)(1) and § 222.43(b) above. Consequently, there is no additional burden associated with this requirement.*

- II. Once it has been determined through analysis that the Quiet Zone Risk Index will be reduced to a level equal to, or less than, either the Nationwide Significant Risk Threshold or the Risk Index with Horns, the public authority may make application to FRA for a quiet zone under §222.39(b). FRA will review the application to determine the appropriateness of the proposed effectiveness rates, and whether or not the proposed application demonstrates that the quiet zone meets the requirements of the rule. When submitting the application to FRA for approval, it should be remembered that the application must contain the following (§ 222.39(b)(1)): (a.) Sufficient detail concerning the present safety measures at all crossings within the proposed quiet zone to enable the Associate Administrator to evaluate their effectiveness. This includes current and accurate crossing Inventory forms for each public, private and pedestrian grade crossing; (b). Detailed information on the safety improvements, including upgraded warning devices that are proposed to be implemented at public, private, and pedestrian grade crossings within the proposed quiet zone; (c). Membership and recommendations of the diagnostic team (if any) that reviewed the proposed quiet zone; (d.) Statement of efforts taken to address comments submitted by affected railroads, the State agency responsible for grade crossing safety, and the State agency responsible for highway and road safety, including a list of any objections raised by the railroads or State agencies; (e). A commitment to implement the proposed safety measures; (f.) Demonstrate through data and analysis that the proposed measures will reduce the Quiet Zone Risk Index to a level at, or below, either the Nationwide Significant Risk Threshold or the Risk Index with Horns;

(g.) A copy of the application must be provided to all railroads operating over the public highway-rail grade crossings within the quiet zone; the highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade 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; the State agency responsible for grade crossing safety; and the Associate Administrator. (§ 222.39(b)(3))

*The burden for this requirement is already included under that of § 222.39(b) above. Consequently, there is no additional burden associated with this requirement.*

- III. Upon receiving written approval from FRA of the quiet zone application, the public authority may then provide the Notice of Quiet Zone Establishment and implement the quiet zone.

*The burden for this requirement is already included under that of § 222.43(a) above. Consequently, there is no additional burden associated with this requirement.*

#### **Section IV - Required Notifications**

- I. Notice of Intent - §222.43(b)

The Notice of Intent must be provided under the following circumstances:

1. A New Quiet Zone or New Partial Quiet Zone is under consideration.
2. An Intermediate Quiet Zone or Intermediate Partial Quiet Zone that will be converted into a New Quiet Zone or New Partial Quiet Zone. Please note that Notice of Intent must be mailed by April 3, 2006, in order prevent the resumption of locomotive horn sounding on June 24, 2006.
3. The implementation of SSMs or ASMs within a Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone is under consideration. Please note that Notice of Intent must be mailed by February 24, 2008, in order to continue existing restrictions on locomotive horn sounding beyond June 24, 2008, without interruption. Each public authority that is creating a New Quiet Zone must provide written notice, by certified mail, return receipt requested, to the following:
  1. All railroads operating within the proposed quiet zone
  2. State agency responsible for highway and road safety
  3. State agency responsible for grade crossing safety

The Notice of Intent must contain the following information:

1. A list of each public highway-rail grade crossing, private highway-rail grade crossing,

and pedestrian crossings within the proposed quiet zone. The crossings are to be identified by both the U.S. DOT Crossing Inventory Number and the street or highway name.

2. A statement of the time period within which the restrictions would be in effect on the routine sounding of train horns (i.e. 24 hours or from 10 p.m. to 7 a.m.).

3. A brief explanation of the public authority's tentative plans for implementing improvements within the proposed quiet zone.

4. The name and title of the person who will act as the point of contact during the quiet zone development process and how that person can be contacted.

5. A list of the names and addresses of each party that will receive a copy of the Notice of Intent.

*The burden for these requirements is already included under that of §§ 222.41, 222.42, and 222.43 above. Consequently, there is no additional burden associated with this requirement.*

The parties that receive the Notice of Intent will be able to submit information or comments to the public authority for 60 days. The public authority will not be able to establish the quiet zone during the 60 day comment period, unless each of the railroads and State agencies that receive the Notice of Intent provides either written comments to the public authority or written statements waiving its rights to provide comments on the Notice of Intent. The public authority must provide written affirmation in the Notice of Quiet Zone Establishment that each of the required parties was provided the Notice of Intent and the date it was mailed. If the quiet zone is being established within 60 days of the mailing of the Notice of Intent, the public authority also must affirm each of the parties have been provided written comments or waived its right to comments in the Notice of Intent.

*The burden for these requirements is already included under that of § 222.43(a) & (b) above. Consequently, there is no additional burden associated with this requirement.*

## II Notice of Quiet Zone Continuation - §222.43(c)

All Pre-Rule, Pre-Rule Partial, Intermediate and Intermediate Partial Quiet Zones must provide the Notice of Quiet Zone Continuation no later than June 3, 2005, to ensure that train horns are not sounded at public crossings when the rule becomes effective on June 24, 2005. Each public authority that is continuing an existing Pre-Rule, Pre-Rule Partial, Intermediate and Intermediate Partial Quiet Zone must provide written notice, by certified mail, return receipt requested, to the following: All railroads operating over the

public highway-rail grade crossings within the quiet zone; (2.) The highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone; (3) The landowner having control over any private crossings within the quiet zone; (4). The State agency responsible for highway and road safety; (5.) The State agency responsible for grade crossing safety; (6). The Associate Administrator.

The Notice of Quiet Zone Continuation must contain the following information: (1). A list of each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian crossing within the quiet zone, identified by both U.S. DOT National Highway-Rail Grade Crossing Inventory Number and street or highway name; (2.) A specific reference to the regulatory provision that provides the basis for quiet zone continuation, citing as appropriate, § 222.41 or 222.42; (3.) A statement of the time period within which restrictions on the routine sounding of the locomotive horn will be imposed (i.e., 24 hours or nighttime hours only); (4). An accurate and complete Grade Crossing Inventory Form for each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian crossing within the quiet zone that reflects conditions currently existing at the crossing; (5.) The name and title of the person responsible for monitoring compliance with the requirements of this part and the manner in which that person can be contacted ; (6.) A list of the names and addresses of each party that will receive the Notice of Quiet Zone Continuation; (7.) A statement signed by the chief executive officer of each public authority participating in the continuation of the quiet zone, in which the chief executive officer certifies that the information submitted by the public authority is accurate and complete to the best of his/her knowledge and belief.

*The burden for these requirements is already included under that of §§ 222.41(a), 222.41(c)(1) and 222.42(a) above. Consequently, there is no additional burden associated with this requirement.*

### III. Notice of Quite Zone Establishment - §222.43(d)

Notice of Quiet Zone Establishment must be provided under the following circumstances:

- (1) A New Quiet Zone or a New Partial Quiet Zone is being created.
- (2) A Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone that qualifies for automatic approval under the rule is being established.
- (3) An Intermediate Quiet Zone or Intermediate Partial Quiet Zone that is creating a New Quiet Zone under the rule. The Notice of Quiet Zone Establishment must be provided by June 3, 2006, in order to prevent the resumption of locomotive horn sounding on June 24, 2006.

(4) A Pre-Rule Quiet Zone or Pre-Rule Partial Quiet Zone that was not established by automatic approval and has since implemented improvements to establish a quiet zone in accordance to the rule.

Each public authority that is establishing a quiet zone under the above circumstances must provide written notice, by certified mail, return receipt requested, to the following: (1.) All railroads operating over the public highway-rail grade crossings within the quiet zone; (2.) The highway or traffic control or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone; (3.) The landowner having control over any private crossings within the quiet zone; (4.) The State agency responsible for highway and road safety; (5) The State agency responsible for grade crossing safety; (6.) The FRA Associate Administrator for Safety. The Notice of Quiet Zone Establishment must contain the information stipulated in § 222.43(d)(2).

*The burden for these requirements is already included under that of § 222.41(a), § 222.41(b), and § 222.43(a)(4) above. Consequently, there is no additional burden associated with this requirement.*

**Part 229 - [Amended]**

**§ 229.129 Locomotive Horn.**

Testing Requirements. Written reports of locomotive horn testing required by this Part must be made and must reflect horn type; the date, place, and manner of testing; and sound level measurements. These reports, which must be signed by the person who performs the test, must be retained by the railroad, at a location of its choice, until a subsequent locomotive horn test is completed and must be made available, upon request, to FRA as provided by 49 U.S.C. 20107.

FRA estimates that approximately 7,743 reports/records a year will be kept of locomotive horn testing under the above requirement. It is estimated that it will take approximately 60 minutes to conduct the test and to complete each report/record. Total annual burden for this requirement is 7,743 hours.

Respondent Universe:	687 Railroads
Burden time per response:	60 minutes
Frequency of Response:	Annually
One time number of Responses:	7,743 reports/records
One time burden:	7,743 hours
Annual Cost:	\$309,720

**Calculation:** 7,743 tests/reports/records x 60 min. = 7,743 hours  
7,743 hrs. x \$40 = \$309,720

Additionally, because locomotives will require major maintenance at various times throughout their life cycle, horns will need to be retested. FRA estimates that an average of 650 locomotive horns will need to be retested and have the required reports/records completed. Again, it is estimated that it will take approximately 60 minutes to conduct the test and to complete each report/record. Total annual burden for this requirement is 650 hours.

Respondent Universe:	687 Railroads
Burden time per response:	60 minutes
Frequency of Response:	On occasion
One time number of Responses:	650 reports/records
One time burden:	650 hours
Annual Cost:	\$26,000

**Calculation:** 650 retests/reports/records x 60 min. = 650 hours  
 650 hrs. x \$40 = \$26,000

Total annual burden for this entire requirement is 8,393 hours (7,743 + 650).

Total annual burden for this entire information collection is 67,194 hours

**13. PROVIDE AN ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORDKEEPERS RESULTING FROM THE COLLECTION OF INFORMATION. (DO NOT INCLUDE THE COSTS OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14).**

**-THE COST ESTIMATES SHOULD BE SPLIT INTO TWO COMPONENTS: (A) A TOTAL CAPITAL AND START-UP COST COMPONENT (ANNUALIZED OVER IT EXPECTED USEFUL LIFE); AND (B) A TOTAL OPERATION AND MAINTENANCE AND PURCHASE OF SERVICES COMPONENT. THE ESTIMATES SHOULD TAKE INTO ACCOUNT COSTS ASSOCIATED WITH GENERATING, MAINTAINING, AND DISCLOSING OR PROVIDING THE INFORMATION. INCLUDE DESCRIPTIONS OF METHODS USED TO ESTIMATE MAJOR COSTS FACTORS INCLUDING SYSTEM AND TECHNOLOGY ACQUISITION, EXPECTED USEFUL LIFE OF CAPITAL EQUIPMENT, THE DISCOUNT RATE(S), AND THE TIME PERIOD OVER WHICH COSTS WILL BE INCURRED. CAPITAL AND START-UP COSTS INCLUDE, AMONG OTHER ITEMS, PREPARATIONS FOR COLLECTING INFORMATION SUCH AS**

**PURCHASING COMPUTERS AND SOFTWARE; MONITORING, SAMPLING, DRILLING AND TESTING EQUIPMENT; AND RECORD STORAGE FACILITIES.**

**-IF COST ESTIMATES ARE EXPECTED TO VARY WIDELY, AGENCIES SHOULD PRESENT RANGES OF COST BURDENS AND EXPLAIN THE REASONS FOR THE VARIANCE. THE COST OF PURCHASING OR CONTRACTING OUT INFORMATION COLLECTION SERVICES SHOULD BE A PART OF THIS COST BURDEN ESTIMATE. IN DEVELOPING COST BURDEN ESTIMATES, AGENCIES MAY CONSULT WITH A SAMPLE OF RESPONDENTS (FEWER THAN 10), UTILIZE THE 60-DAY PRE-OMB SUBMISSION PUBLIC COMMENT PROCESS AND USE EXISTING ECONOMIC OR REGULATORY IMPACT ANALYSIS ASSOCIATED WITH THE RULEMAKING CONTAINING THE INFORMATION COLLECTION, AS APPROPRIATE.**

**-GENERALLY, ESTIMATES SHOULD NOT INCLUDE PURCHASES OF EQUIPMENT OR SERVICES, OR PORTIONS THEREOF, MADE (1) PRIOR TO OCTOBER 1, 1995, (2) TO ACHIEVE REGULATORY COMPLIANCE WITH REQUIREMENTS NOT ASSOCIATED WITH THE INFORMATION COLLECTION, (3) FOR REASONS OTHER THAN TO PROVIDE INFORMATION OR KEEP RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.**

*Listed below are annual additional costs associated with these information collection requirements. Since it is difficult to break down the costs per respondent, the cost shown are for all respondents.*

Set-up Costs:

For law enforcement: \$1,128,000

For public awareness: \$ 20,000

Total \$1,148,000

Recurring Costs

\$ 5,000	Postage/Certified Mail
250,000	Purchase/printing of Public awareness material
360,000	Law enforcement (film/ processing/tickets
<u>5,000</u>	Miscellaneous

\$620,000

expenses

**14. PROVIDE ESTIMATES OF ANNUALIZED COST TO THE FEDERAL GOVERNMENT. ALSO, PROVIDE A DESCRIPTION OF THE METHOD USED TO ESTIMATE COSTS, WHICH SHOULD INCLUDE QUANTIFICATION OF HOURS, OPERATIONAL EXPENSES SUCH AS EQUIPMENT, OVERHEAD, PRINTING, AND SUPPORT STAFF, AND ANY OTHER EXPENSE THAT WOULD NOT HAVE BEEN INCURRED WITHOUT THIS COLLECTION OF INFORMATION. AGENCIES ALSO MAY AGGREGATE COST ESTIMATES FROM ITEMS 12, 13, AND 14 IN A SINGLE TABLE.**

The costs to the Federal Government are as follows:

Review of documentation submitted by respondents.

FRA Headquarters, Regional Administrators, and Grade Crossing Managers would be involved in the review of documentation submitted by the respondents.

-FRA estimates that approximately 36 of the communities will select alternatives from Appendix A. These alternatives are pre-defined approaches, and will be automatically approved by FRA. Therefore, FRA will spend minimal time in reviewing these applications. It is estimated that the time spent by FRA personnel in reviewing these applications will be approximately one hour per application, or a total of 36 hours. This will be a one-time cost.

-FRA estimates that approximately 49 of the communities will select alternatives from Appendix B. For these applications, it is assumed that review and approval will require a minimum of 13 hours review time per application by a Grade Crossing Manager, and two (2) hours review time by FRA Headquarters staff (for a total of 735 hours). This will be a one-time cost.

-FRA estimates that approximately 26 of the communities will develop their own alternatives. These applications will require a substantial amount of time to review. It is estimated that these applications will require approximately 40 hours per application for review and approval (for a total of 1,040 hours; 24 hours by Grade Crossing Managers, and 8 hours each for Regional Administrators and FRA Headquarters personnel). This will be a one-time cost.

-FRA estimates that approximately 654 notifications, 286 certifications,



10 affirmations, and two (2) commitments statements will be reviewed by FRA staff. It is estimated that it will take approximately 30 minutes to review and process each of these documents, or a total of 476 hours. This will be a one-time cost.

-FRA estimates that approximately 3,621 upgraded crossing inventory forms, 107 comments, and six (6) letters/petitions/documents will be reviewed by FRA staff. It is estimated that it will take approximately 15 minutes to review each of these, or a total of 934 hours. This will be a one-time cost.

Thus, a total of 3,221 hours will be spent on the above. It is estimated that Federal government labor costs to accomplish these tasks will be incurred at an average hourly rate of \$60 (GS-14 salary plus burden for overhead and fringe benefits). Thus, the total cost of above comes to \$193,260.

Additionally, FRA will recalculate annually the National Significant Risk Threshold (NSRT) as well as the Quiet Zone Risk Index (QZRI) for each quiet zone. Further, FRA will issue a notice in the Federal Register with these indices, update a website with these indices, and e-mail them to the affected communities. FRA anticipates that this effort will take approximately 40 labor hours annually by FRA staff. Again, Federal government labor will be incurred at an average hourly rate of \$60. Thus, a total cost of \$2,400 will be incurred to accomplish these tasks.

Total government cost then is \$195,660. If this cost is spread over a three (3) year period, it equals to \$65,220 annually.

**15. EXPLAIN THE REASONS FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEMS 13 OR 14 OF THE OMB FORM 83-I.**

The burden for this information collection has decreased by 2,004 hours. The change in burden resulted from both program changes and adjustments. The following **program changes** resulted in burden *increases*:

(1) Under new § 222.41(c)(4), there is a new provision regarding public authorities wishing to establish Pre-Rule Quiet Zones/Pre-Rule Partial Quiet Zones and corresponding filing requirements (Notice of Intent). This change *increased* the burden by *2,100 hours*.

(2) Under new § 222.41(c)(4), there also is a new provision regarding a 60-day comment period on the Notices of Intent filed by public authorities. This change *increased* the burden by *280 hours*.

(3) Under § 222.42(a)(2), there is a new provision concerning Intermediate Quiet Zones and Intermediate Partial Quiet Zones. Specifically, public authorities may continue locomotive horn restrictions beyond June 24, 2006, by filing the required Notice of Intent concerning the establishment of a New Quiet Zone/New Partial Quiet Zone. This change *increased* the burden by *205 hours*.

(4) Under § 222.42(a)(2), there also is a new provision regarding a 60-day comment period on the Notice of Intent filed by public authorities. This change *increased* the burden by *20 hours*.

(5) Under new § 222.42(b), there is a new provision regarding the conversion of Intermediate Partial Quiet Zones into 24-hour New Quiet Zones and new filing requirements (Notice of Intent). This change *increased* the burden by *205 hours*.

(6) Under new § 222.42(b), there also is a new provision regarding a 60-day comment period on the Notice of Intent filed by public authorities. This change *increased* the burden by *20 hours*.

Total **program change** *increases* amounted to *2,830 hours*. There were no program change decreases.

There were also **adjustments**. The following revised estimates resulted in *increases*:

(1) Under § 222.39(3)(ii), FRA revised the number of comments received regarding public authority applications (from 2 comments to 50 comments). This revised estimate *increased* the burden by *120 hours* (from 5 hours to 125 hours).

(2) Under § 222.41(c), FRA revised the number of quiet zone continuation notices and notifications regarding Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones that will not be established by automatic approval (from 103 notices and 618 notifications to 200 notices and 1,200 notifications). This revised estimate *increased* the burden by *3,977 hours* (from 4,223 hours to 8,200 hours).

(3) Under § 222.41(c)(1)(1), FRA revised the number of certifications accompanying the notices of quiet zone continuation regarding Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones that will not be established by automatic approval (from 103 certifications to 200 certifications). This revised estimate *increased* the burden by *eight (8) hours* (from nine (9) hours to 17 hours).

(4) Under § 222.41(c)(2)(i)(B), FRA revised the number of detailed plans submitted to the agency regarding keeping existing restrictions on the routine sounding of the locomotive horn in place until June 24, 2010 (from zero to 100). This revised estimate *increased* the burden by *4,000 hours* (from zero (0) hours to 4,000 hours).

- (5) Under § 222.41(c)(3), FRA revised the number of implementation plans submitted to the agency regarding keeping existing locomotive horn restrictions for an additional three years beyond June 24, 2010 (from zero (0) to three (3)). This revised estimate *increased* the burden by *360 hours* (from zero (0) hours to 360 hours).
- (6) Under § 222.42(a)(1), FRA revised the number of notices and notifications regarding notices of quiet zone continuation for Intermediate Quiet Zones and Intermediate Partial Quiet Zones (from three (3) notices and 18 notifications to 10 notices and 60 notifications). This revised estimate *increased* the burden by *287 hours* (from 123 hours to 410 hours).
- (7) Under § 222.42(a)(1)(i), FRA revised the number of updated grade crossing inventory forms included in the requirement for quiet zone continuation for Intermediate Quiet Zones and Intermediate Partial Quiet Zones (from 71 forms to 100 forms). This revised estimate *increased* the burden by *29 hours* (from 71 hours to 100 hours).
- (8) Under § 222.42(a)(1)(ii), FRA revised the number of certifications included in the requirement for quiet zone continuation for Intermediate Quiet Zones and Intermediate Partial Quiet Zones (from zero (0) certifications to 10 certifications). This revised estimate *increased* the burden by *one (1) hour* (from zero (0) hours to one (1) hour).
- (9) Under § 222.43(a)(1), FRA revised the number of notices and notifications regarding public authorities Notices of Intent to create a New Quiet Zone/New Partial Quiet Zone (from 105 notices and 315 notifications to 216 notices and 648 notifications). This revised estimate *increased* the burden by *4,495 hours* (from 4,253 hours to 8,748 hours).
- (10) Under § 222.43(a)(1)(ii), FRA revised the number of comments regarding public authorities intent to create a New Quiet Zone/New Partial Quiet Zone (from 70 comments to 108 comments). This revised estimate *increased* the burden by *152 hours* (from 280 hours to 432 hours).
- (11) Under § 222.43(a)(3), FRA revised the number of notices and notifications regarding the Notice of Quiet Zone Establishment (from zero (0) notices and notifications to 72 notices and 432 notifications). FRA mistakenly thought that this burden was covered under another requirement in the last submission (§ 222.41(a),(b), and (d)), but realized that this was not the case upon a more careful reading of the requirement. This revised estimate *increased* the burden by *2,952 hours* (from zero (0) hours to 2,952 hours).
- (12) Under § 222.43(a)(3), FRA revised the number of updated grade crossing inventory forms included with the Notice of Quiet Zone Establishment (from zero (0) forms to 950 forms). This revised estimate *increased* the burden by *950 hours* (from zero (0) hours to 950 hours).

(13) Under § 222.43(a)(3), FRA revised the number of certifications included with the Notice of Quiet Zone Establishment (from 100 certifications to 216 certifications). This revised estimate *increased* the burden by *10 hours* (from eight (8) hours to 18 hours).

(14) Under § 222.47(b), FRA revised the number of affirmation (from 9 to 100) and copies of affirmations (from 54 to 600). This revised estimate *increased* the burden by *64 hours* (from six (6) hours to 70 hours).

(15) Under § 222.47(b), FRA revised the number of grade crossing inventory forms (from 45 to 500). This revised estimate *increased* the burden by *455 hours* (from 45 hours to 500 hours).

(16) Under § 222.59B, FRA mistakenly believed that the burden for this requirement was already included in that of § 222.59A. This revised estimate *increased* the burden by *35 hours* (from zero (0) hours to 35 hours).

Total burden *increases* due to **adjustments** then amounted to *17,895 hours*.

There were also **adjustments** that resulted in burden *decreases*. The following revised estimates resulted in *decreases*:

(1) Under § 222.17, FRA revised the estimate for the number of applications sent to FRA (from 13 applications to seven (7) applications). This revised estimate *decreased* the burden by *48 hours* (from 104 hours to 56 hours).

(2) Under § 222.41(a), FRA revised (lowered) the number of quiet zone establishment notices and notifications regarding Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones that will not be established by automatic approval (from 262 notices and 1,572 notifications to 247 notices and 1,482 notifications). This revised estimate *decreased* the burden by *615 hours* (from 10,742 hours to 10,127 hours).

(3) Under § 222.43(a)(2), FRA already accounted for the burden for quiet zone continuation notices and notifications regarding Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones and Intermediate Quiet Zone/Intermediate Partial Quiet Zones under that of § 222.41(c) and § 222.42(a)(1). Consequently, this revised estimate *decreased* the burden by *354 hours* (from 354 hours to zero (0) hours).

(4) Under § 222.43(a)(2)(i), FRA already accounted for the burden for grade crossing inventory forms regarding Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones and Intermediate Quiet Zone/Intermediate Partial Quiet Zones under that of § 222.41(c) and § 222.42(a)(1). Consequently, this revised estimate *decreased* the burden by *1,100 hours* (from 1,100 hours to zero (0) hours).

(5) Under § 222.43(a)(2)(ii), FRA already accounted for the burden for quiet zone continuation certifications regarding Pre-Rule Quiet Zones and Pre-Rule Partial Quiet Zones and Intermediate Quiet Zone/Intermediate Partial Quiet Zones under that of § 222.41(c) and § 222.42(a)(1). Consequently, this revised estimate *decreased* the burden by *15 hours* (from 15 hours to zero (0) hours).

(6) Under § 222.51C, FRA revised the number of comments related to the review at FRA's initiative (from 60 comments to 20 comments). This revised estimate *decreased* the burden by *20 hours* (from 30 hours to 10 hours).

(7) Under Appendix B, FRA revised the number of records related to Non-Engineering ASMs and Programmed Enforcement (from 20 records to 10 records). This revised estimate *decreased* the burden by *5,000 hours* (from 10,000 hours to 5,000 hours).

(8) Under Appendix B, FRA revised the number of records related to Non-Engineering ASMs and Photo Enforcement (from 20 records to 10 records). This revised estimate *decreased* the burden by *90 hours* (from 180 hours to 90 hours).

(9) Under § 222.129, FRA revised the number of reports/records related to Locomotive Horn Testing (from 23,230 reports/records to 17,743 reports/records). This revised estimate *decreased* the burden by *15,487 hours* (from 23,230 hours to 7,743 hours).

Total burden *decreases* due to **adjustments** then amounted to *22,729 hours*.

Overall, burden *increases* amounted to *20,725 hours*, while burden *decreases* amounted to *22,729 hours*. The current OMB inventory presently shows 69,198 total burden hours, while this information collection submission exhibits a total burden of 67,194 hours. Hence, there is a burden decrease of 2,004 hours.

There has been no change in estimated burden costs to respondents from the previous submission.

- 16. FOR COLLECTIONS OF INFORMATION WHOSE RESULTS WILL BE PUBLISHED, OUTLINE PLANS FOR TABULATION, AND PUBLICATION. ADDRESS ANY COMPLEX ANALYTICAL TECHNIQUES THAT WILL BE USED. PROVIDE THE TIME SCHEDULE FOR THE ENTIRE PROJECT, INCLUDING BEGINNING AND ENDING DATES OF THE COLLECTION OF INFORMATION, COMPLETION OF REPORT, PUBLICATION DATES, AND OTHER ACTIONS.**

FRA plans no publication of this information.

- 17. IF SEEKING APPROVAL TO NOT DISPLAY THE EXPIRATION DATE FOR**

**OMB APPROVAL OF THE INFORMATION COLLECTION, EXPLAIN THE REASONS THAT DISPLAY WOULD BE INAPPROPRIATE.**

Once OMB approval is received, FRA will publish the approval number for these information collection requirements in the Federal Register.

**18. EXPLAIN EACH EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19, "CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS," OF OMB FORM 83-I.**

No exceptions are taken at this time.

Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports the top DOT strategic goal, namely transportation safety. Without this collection of information, rail safety in the U.S., particularly at highway-rail grade crossings, would be seriously hampered. Approximately 4,000 times per year a train and highway vehicle collide at one of this country's 251,000 highway-rail grade crossings. These collisions are one of the greatest causes of death associated with railroading, resulting in more than 400 deaths per year. During the years 1994 through 1998, there were 21,242 grade crossing collisions in the United States, and 2,574 people died in these collisions. Another 8,308 people were injured. Approximately 50% of these collisions at highway-rail intersections occur at intersections equipped with active warning devices such as bells, flashing lights, or gates (approximately 62,000 crossings).

The sounding of train horns is a long-established method of providing safety at highway-rail grade crossings. FRA believes, and data support that train horns provide an effective warning to motorists and thereby serve to reduce the number of collisions involving motorists and trains as well as the number of incidents involving trains and pedestrians/trespassers at crossings. FRA does not have the resources to station an employee in each community to develop and monitor alternative safety measures. Consequently, if the community proposes measures not already approved (as those in Appendix A) to provide safety at crossings other than the train horn, FRA needs information to ensure that safety will not be compromised by the substitution of a less effective alternative safety measure for train horns.

To be effective, a safety program requires timely information. Without the minimal information being collected/required by FRA, communities would be in a position to negatively impact safety. Train and highway collisions would continue to occur at an undesirable and unnecessary rate. FRA then would not be fulfilling its responsibility to protect the safety of the public-at-large and railroad employees if it were to allow individual communities to change highway-rail grade crossing safety practices without first ensuring (through the collection and reporting of information) that protection equivalent to locomotive horns will be provided.

The information provided by this collection is an invaluable and constant resource that can be used by FRA, State and local transportation officials, and railroads to mitigate the dangers presented at highway-rail grade crossings and thus reduce the number of run into train (“RIT”) accidents/incidents, and the corresponding number of deaths and injuries to motorists and train crews, as well as to mitigate the damage to the communities and surrounding environment that such accidents/incidents cause.

In sum, this collection of information helps FRA to fulfill its mission, which is to promote and enhance rail safety throughout the United States. As always, FRA seeks to do its utmost to fulfill DOT Strategic Goals and to be an integral part of One DOT.