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Policies and Procedures

No. 55

SUBJECT:

Board Approval: 6/28/07

REQUESTS FOR THE ESTABLISHMENT OF A QUIET ZONE

PURPOSE:

To establish uniform guidelines and requirements for responding to and/or establishing Quiet Zones requested by member agencies.

BACKGROUND:

In the summer of 2006, the City of San Diego requested the establishment of a downtown Quiet Zone for both freight and light rail vehicle operations. Although MTS light rail operations are not governed by the Federal Railway Administration (FRA), because both types of operations are conducted within the same corridor, MTS agreed to participate in the project. As a follow-up to the City of San Diego's request, staff was directed to establish a Board policy that would govern future requests to establish Quiet Zones in joint-use corridors located within member agency jurisdictions. This policy will formalize procedures for the establishment of Quiet Zones.

POLICY:

Existing State of California regulations require all light rail train (LRT) operators, including San Diego Trolley, Inc. (SDTI), to sound an audible warning on the approach to all grade crossings. Since the inception of LRT service, SDTI has complied with this standard and sounds the appropriate horn sounds. Further, LRT vehicles have two different horn devices onboard—a low-volume buzzer horn and a loud-volume air horn type of device. Operators have discretion as to which device to use based on conditions at the crossings upon approach.

In June 2005 and after industry reviews through interim rule measures, the FRA issued a final rule requiring the use of horn sounds for all trains approaching grade crossings. Until this rule was promulgated, each railroad had its own specific standards, and there was no federal standard established.



In addition to establishing horn requirements, the final rule also contains a provision that allows for certain “public agencies” to apply to the FRA for crossings to be designated as Quiet Zones. This provision, subject to very specific criteria and approval by the FRA, allows communities to designate one or more crossings as locations where train horns are not required as otherwise prescribed by the rule. FRA rules and regulations pertaining to Quiet Zones only apply to crossings regulated by the FRA or located within joint-use corridors.

The establishment of a Quiet Zone requires certain studies, risk assessments, plan reviews, legal document preparation, and installation of equipment or other actions in the form of “supplementary and alternative safety measures” (SSMs and ASMs). Each designated vehicular or pedestrian crossing requires considerable evaluation to determine the extent to which SSMs or ASMs could be applied to secure Quiet Zone status. Moreover, the issue regarding indemnification of the rail-operating entities is of paramount concern in order to limit liability exposure.

The broad policy issues that require consideration for MTS operators at Quiet Zone crossings include the following:

- Indemnification for liability protection.
- Cost associated with SSMs or ASMs.
- Additional operations, maintenance, and construction costs.
- Equipment location issues and multiagency agreements.
- Strict compliance with all FRA rules and regulations pertaining to Quiet Zones by the requesting agency.
- Participation in the establishment of the Quiet Zone shall not subject MTS nor any of its subsidiaries to any other FRA regulation.

55.1 Requests for Quiet Zones.

Requests for the establishment of a Quiet Zone shall only be considered by the Board when made by an authorized agency as specified in Title 49, Code of Federal Regulations, part 22. Requests shall be made to the Chief Executive Officer, or his or her designee.

- a. Each request shall contain, at a minimum, the following information:
 - i. A list of each public highway-rail grade crossing, private highway-rail grade crossing, and/or pedestrian crossing within the requesting agency’s area of jurisdiction identified by street or highway name.
 - ii. A statement of the time period within which restriction on the routine sounding of the locomotive horn is being requested (i.e., 24 hours or from 10 p.m. until 7 a.m.).

- iii. A brief explanation of the requesting agency's ability to fund the implementing improvements within the proposed Quiet Zone.
 - iv. The name and title of the person who will act as the point of contact during the Quiet Zone development process and the manner in which that person can be contacted.
- b. If staff determines that the request is proper, it shall be forwarded to the MTS Board for review and consideration. The requesting agency shall make a presentation at a regularly scheduled Board meeting, which demonstrates the need for the Quiet Zone and its compliance with FRA requirements. The Board shall direct staff to proceed with the request for a Quiet Zone, shall seek additional information from the requesting agency in order to make a decision about whether to proceed with the Quiet Zone, or deny the request.
- c. If the Board directs staff to proceed with the request, the requesting agency shall enter into a full-cost recovery agreement prior to any study, risk assessment, plan review or any other work being performed. The full-cost recovery agreement shall comply with the provisions of MTS's Full Cost Recovery Policy, as amended from time to time. All costs for the establishment or creation of a Quiet Zone shall be born by the requesting agency, including, but not limited to, staff time, legal services, engineering and consulting services, and insurance.

55.2 Documents Evidencing an Agreement to Create a Quiet Zone.

A memorandum of understanding (MOU) shall be prepared by the General Counsel, or outside counsel selected by the Board, which delineates the roles and responsibilities of each participating agency with regard to the creation of the Quiet Zone. The MOU shall contain the following essential terms and conditions, including, but not limited to:

- a. essential indemnification and insurance language to cover MTS operations, the Board, and appropriate other entities. The required amount of insurance necessary to adequately protect for Quiet Zone operations shall be set by the Board's insurance consultant and General Counsel;
- b. provide that MTS shall not incur any costs associated with studies or risk-analysis documentation, construction, equipment procurement, or contractor expenses;
- c. provide that MTS LRT operations shall not be adversely impacted by any construction required for the Quiet Zone, including maintaining the status quo of operations as it pertains to gate bell activation and nearside gate hold-off features;
- d. require that specialized track detection loops, if installed, be maintained by a certified or licensed contractor to be paid for by the requesting agency;

- e. require the requesting agency to pay for a reasonable spare-parts inventory for special equipment necessary for the Quiet Zone;
- f. expressly acknowledge that establishing a Quiet Zone shall require all railroad operators to cease sounding their horns; and
- g. any other term or condition as recommended by experts in the field.

55.3 Environmental Review

The requesting member agency shall be responsible for conducting all environmental review processes, shall act as the lead agency for any applicable environmental review, including, but not limited to, any review under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The requesting member agency shall be responsible for publishing all notices, conducting all hearings, and paying all costs associated with any such environmental review.

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Original Policy approved on 6/28/07.