

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****Petition for Waiver of Compliance**

In accordance with part 211 of title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

The Village of Richton Park, Illinois

[Waiver Petition Docket Number FRA-2010-0137]

The Village of Richton Park, Illinois (Village), seeks a permanent waiver of compliance from a certain provision of the Use of Locomotive Horns at Highway-Rail Grade Crossings, 49 CFR part 222. The Village intends to establish a new quiet zone under the provisions of 49 CFR 222.39. Specifically, the Village is seeking a waiver from the provisions of 49 CFR 222.9, definition of a non-traversable curb, so that a public crossing that will be equipped with flashing lights, gates and medians that complies with all of the requirements necessary to be a "gates with medians" supplemental safety measure (SSM) with non-traversable curbs, except for the fact that the posted highway speed limit is 45 miles per hour (mph) instead of 40 mph as required in the definition, be deemed an acceptable SSM.

49 CFR 222.9, the definition of non-traversable curb, reads as follows, "Non-traversable curb means a highway curb designed to discourage a motor vehicle from leaving the roadway. Non-traversable curbs are used at locations where highway speeds do not exceed 40 mph, and are at least six inches high. Additional design specifications are determined by the standard traffic design specifications used by the governmental entity constructing the curb."

The Village is in the process of establishing a new quiet zone along the Elgin, Joliet, and Eastern Railway's (EJE) Joliet Division, Eastern Subdivision, which would extend from approximately Milepost (MP) 17.82 to MP 20.31. The new quiet zone will consist of three public at-grade crossings: Ridgeland Avenue (DOT #260629R), Central Avenue (DOT #260630K), and Cicero Avenue (DOT #260632Y). The Village seeks a waiver

from the requirement that medians with non-traversable curbing may not be used where highway speeds exceed 40 mph. The Cicero Avenue grade crossing is equipped with standard flashing lights, gates and medians that are 330 feet in length north of the crossing, and 1,300 feet in length south of the crossing. The existing curbing on the medians meets the state requirements for non-traversable curb but not the requirements necessary to serve as a SSM. The Village intends to reconstruct the medians to meet the SSM requirement. The posted highway speed is 45 mph.

The Village provides several reasons why the 5 mph difference in speed limit would not diminish the effectiveness of the SSM, and thus the waiver should be granted. First, the existing medians are much wider (12-foot) than the typical medians used for this application. The medians also exceed the nominal required length (100-foot), as they are 330 feet and 1,300 feet in length. Secondly, the existing curbed median has not contributed to any prior incidents or accidents. No accidents have occurred at the crossing in over 20 years. Thirdly, the Illinois Department of Transportation (IDOT) was asked by the Village to review and lower the speed limit. IDOT conducted a speed assessment and determined that 45 mph is the appropriate, safe speed for Cicero Avenue. Fourthly, the median design to be used by the Village follows the IDOT standard, which allows curbed medians on highways with speed limits of 40 or 45 mph. The Village feels that this standard should be allowable under the clause "Additional design specifications * * *" in the definition.

The Village's waiver petition submission included a letter from the Canadian National Railway Company (CN) supporting the approval of the Village's waiver petition. CN owns the EJE.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2010-0137) and may be submitted by any of the following methods:

- *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 20590.

- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Issued in Washington, DC, on September 28, 2010.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

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