



## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2020-0038]

### Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on December 11, 2020, the City of San Clemente, California, (the City) and Southern California Regional Rail Authority (Metrolink) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 222, Use of Locomotive Horns at Public Highway-Rail Grade Crossings. FRA assigned the petition Docket Number FRA-2020-0038.

Specifically, the City and Metrolink jointly seek relief from the requirements of 49 CFR 222.59(a)(1), to allow use of a Pedestrian Audible Warning System (PAWS), which is similar to a wayside horn, when approaching seven highway-rail grade crossings, instead of a locomotive horn. The City also requests a waiver of certain provisions found in appendix E to 49 CFR part 222, Paragraphs 4 and 6, to allow a minimum sound level of 80 dB(A) and direction of the PAWS. The seven crossings that are the subject of this waiver are:

- Dije Court – US DOT Number 922847D – MP 203.95 – pedestrian – 3 PAWS
- El Portal – US DOT Number 922848K – MP 204.04 – pedestrian – 2 PAWS
- Corto Lane – US DOT Number 026977D – MP 204.56 – pedestrian – 3 PAWS
- Pier Service Road – US DOT Number 026997P – MP 204.73 – private – 4 PAWS
- T Street – US DOT Number 922849S – MP 205.16 – pedestrian – 3 PAWS
- Lost Winds – US DOT Number 922850L – MP 205.56 – pedestrian – 2 PAWS

- Calafia – US DOT Number 026637S – MP 206.00 – pedestrian – 2 PAWS

On April 14, 2015, FRA granted the City and Metrolink regulatory relief from the requirements of § 222.59(a)(1), and part 222, appendix E, as described above, for a five-year period. *See* Docket Number FRA-2014-0081. By letter dated April 27, 2020, the City sought a five-year extension of the previously granted relief, which FRA denied in a letter dated November 24, 2020. FRA’s letter noted the City’s late request, the lack of a joint request with Metrolink as required by 49 CFR 222.15, and concerns regarding the operation of the PAWS, the condition of the pedestrian swing gates, and sediment buildup at nearby fencing. *See* FRA-2020-0038-0004.

The current joint petition seeks a five-year extension of relief from the above-stated requirements, and the City and Metrolink have provided maintenance and communication plans to support their petition.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov). The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

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 parties desire an opportunity for oral comment and a public hearing, 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 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 (DOT), 1200 New Jersey Ave., SE, W12-140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Ave., SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can 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 document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of [regulations.gov](http://www.regulations.gov).  
Issued in Washington, DC.

**John Karl Alexy,**  
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*Chief Safety Officer.*