SUPPORTING JUSTIFICATION
NATIONAL HIGHWAY-RAIL CROSSING INVENTORY REPORTING REQUIREMENTS; OMB No. 2130-0017; RIN 2130-AC26

Summary of Submission

- FRA is amending 49 CFR Part 234 by adding a new Subpart F. The collection of information associated with this Notice of Proposed Rulemaking (NPRM) is a **revised** submission.

- It should be noted that this collection of information is entirely associated with the proposed rulemaking and the relevant text for each information collection requirement is exactly included in paperwork requirements listed in answer to question number 12 of this document.

- FRA is publishing this Notice of Proposed Rulemaking (NPRM) in the **Federal Register** titled National Highway-Rail Crossing Inventory Requirements on October 18, 2012. See 77 FR 64077. As with every proposed rulemaking, FRA will respond to any comments received in response to the NPRM both in the final rule and the associated information collection.

- Total number of burden hours requested for this **revised** submission is **9,313 hours.**

- Total number of responses requested for this **revised** submission is **277,384**.

- Total program changes amount to/have increased the burden by **1,259 hours**.

- **The answer to question **number 12** itemizes the hourly burden associated with each requirement of this rule (See pp. 16-27).

1. Circumstances that make collection of the information necessary.

The proposed rule – and associated collection of information – is intended specifically to help implement Section 204(a) of the Rail Safety Improvement Act of 2008 (RSIA), Public Law No. 110-432, Division A, which was enacted October 16, 2008, and generally to increase safety at highway-rail and pathway grade crossings. See 49 U.S.C. 20160. Section 20160 of title 49 of the United States Code (Section 20160) requires the Secretary of Transportation (Secretary) to establish reporting requirements for railroad carriers related to public and private highway-rail grade crossings and pathway crossings. Specifically, Section 20160 mandates that the Secretary issue regulations requiring railroad carriers to report certain information, including current information about warning devices and signage, related to new and previously unreported public, private, and pathway crossings to the Crossing Inventory. In addition, Section 20160 mandates

that the Secretary issue regulations requiring railroad carriers to periodically update certain information submitted to the Secretary about public, private, and pathway crossings through which they operate or public, private, and pathway crossings that are located on trackage over which they operate. In accordance with Section 20160, additional updates would also be required, pursuant to such regulations, whenever a railroad carrier sells all, or a portion of, a public, private, or pathway crossing. However, until these implementing regulations are issued, Section 20160 provides that the Secretary may enforce the Crossing Inventory policy, procedures, and instructions that were in effect on October 16, 2008. The Secretary delegated the responsibility for carrying out the mandates of Section 20160 to the FRA Administrator. 49 CFR 1.49(oo).

The goal of the U.S. DOT National Highway-Rail Crossing Inventory Program is to provide information to Federal, State, and local governments, and the railroad industry, for the improvement of safety at highway-rail intersections. The U.S. DOT National Highway-Rail Crossing Inventory Data File contains a record of each and every highway-rail intersection (grade crossing) in the nation which includes location, physical, and operational characteristics. This crossing information is reported to the FRA on the U.S. DOT Crossing Inventory Form (Form FRA F 6180.71). This File is maintained by the Federal Railroad Administration (FRA), as custodian, for the railroads and States. This arrangement also acts as a clearinghouse for the exchange of crossing data between these entities. This information is valuable for the administration and statistical analysis of highway-rail crossing information, and is useful for the improvement of crossing safety.

Each State and railroad is responsible for maintaining its own inventory file for its respective crossings. In order for the files to serve as an effective data base, the States and railroads, maintaining their own files, need to exchange their data with each other and immediately update the crossing data records as conditions and changes occur. Good management practices necessitate maintaining the National File with current information. The National File will continue to be useful only if maintained and updated as crossing inventory changes occur.

In August 1972, the U.S. Department of Transportation (DOT) submitted a report to Congress entitled, "*Railroad-Highway Safety Part II: Recommendations For Resolving The Problem*." The primary goal of this report was to provide recommendations for actions that would lead to a significant reduction in accidents, fatalities, personal injuries, and property damage at highway-rail intersections. In this report to Congress, DOT recommended the establishment of an information system consisting of a national database of all highway-rail crossings in the Nation. Although various local, State, and Federal agencies had collected and maintained information about highway-rail crossings, most information systems or databases were fragmented and incomplete because all information was submitted on a voluntary basis. However, site-specific information was needed to provide for a systematic approach for the planning and evaluation of highway-rail crossing safety improvement programs at both the State and Federal level. Therefore, DOT recommended that FRA: (1) issue requirements for the railroads to assign and

display identification numbers at all highway-rail crossings based on a uniform national standard to be prescribed by DOT, (2) arrange with the railroads to provide site-specific inventory data for all crossings on their respective lines, and (3) update the inventory periodically by following the procedures and standards established jointly by FRA and the Federal Highway Administration (FHWA) in conjunction with railroad and State representatives.

Following the submission and acceptance of the report to Congress, the Federal Railroad Administration assumed principal responsibility for the development of the National Highway-Rail Crossing Inventory File and Information System. The railroad companies, under the direction and guidance of the Association of American Railroads (AAR) and the American Short Line and Regional Railroad Association (ASLRRA), were assigned the responsibility for making a site-specific inventory of each highway-rail crossing. Each highway-rail crossing was surveyed – public and private, grade-separated and at-grade – and data were recorded on an inventory form. The resulting inventory contained data on the location of the crossing, the amount and type of highway and train traffic, traffic control devices, and other physical elements of the crossing. The railroad companies were also responsible for installing the unique U.S. DOT Crossing Inventory Identification Number (ID) which identifies a specific crossing at each location of a highway-rail intersection. The railroads became – and are now – responsible for the maintenance of the Crossing ID Number and for the periodic update of certain railroad-oriented inventory information. Further, the State highway departments were -- and are now -- required to provide site-specific highway-type information, such as highway traffic counts, location, and use data. Each State Highway Department or State Department of Transportation is responsible for the updating highway-type data items. This is all defined in the new policy, which will be incorporated into a new updated "Instructions and Procedures Manual" within the next year.

As a result of these efforts, the Crossing Inventory has become a national database of highway-rail crossings, both at-grade and grade-separated, that is used by railroads, States, and others to obtain information about the physical and operating characteristics of individual crossings. The Crossing Inventory is intended to provide a uniform inventory database which can be merged with highway-rail crossing collision files and used to analyze information for planning and implementation of crossing improvement programs by public and private agencies responsible for highway-rail crossing safety, as well as the railroad industry and academia. However, in order for the Crossing Inventory to serve as an effective database, States and railroads need to exchange information with each other and promptly update the crossing data records as changes occur. Therefore, FRA has historically acted as a clearinghouse for the exchange of crossing data between these entities.

The Crossing Inventory receives information from individual railroads and States to form a composite record for each crossing. This composite record has many purposes, as it can be used to predict the likelihood of an accident at a specific crossing. Armed with

this information, States, law enforcement organizations, the Federal Government, and others can focus their efforts on crossings that have a high risk of collisions and implement measures, such as improved warning systems, enhanced enforcement, and community awareness.

As with any information system from which decisions are made, the incorporation of accurate and timely data into the Crossing Inventory is key. If the data are suspect, then verification is usually required before resources may be committed. Verification requires additional resources and may delay the implementation of improvements that could reduce the probability of a collision. Therefore, an instructions and procedures manual (commonly referred to as the "Inventory Guide") was issued and then revised over the years, as changes were made to the inventory form, in order to establish procedures for submitting data to the Crossing Inventory.

The U.S. Congress, in the Federal-Aid Highway Safety Act of 1973 (Section 203), required that each State highway agency maintain an inventory of all crossings. However, FHWA does permit States to maintain just the National Crossing Inventory File in lieu of maintaining their own separate crossing inventory file. According to the implementing instructions contained in the Federal-Aid Policy Guide (FAPG), maintaining the National Highway-Rail Crossing Inventory File will satisfy this legislative requirement so that a State would not have to maintain its own separate Crossing Inventory File if it does not chose to do so (see 23 CFR Part 924 (a) (1)).

The primary purpose of the National Crossing Inventory File is to provide for the existence of a uniform inventory data base which can be merged with accident files and used to analyze information for planning and implementation of crossing improvement programs by public and private agencies responsible for highway-rail crossing safety. Currently, the Federal program that provides funding for safety improvement projects at highway-rail crossings is the Section 130 Program. This Program provides a total of $220 million per year under the SAFETY-LU legislation passed by Congress in December 2005. The States are required to maintain an accurate and up-to-date inventory of all crossings in order to utilize the Federal funding provided under Section 130. Since the apportionment formula for dividing and distributing the Section 130 funds is based on the number of open crossings within a State, FHWA requires that this information be provided to the National Crossing Inventory File so that the total number of crossing in each State is available for the apportionment.

In this rulemaking then, FRA is proposing to require railroads to submit information to the U.S. DOT National Highway-Rail Crossing Inventory about highway-rail crossings and pathway crossings over which they operate. These amendments, which again are required by section 204 of the Rail Safety Improvement Act of 2008, would require railroads to submit information about previously unreported and new public and private highway-rail crossings and pathway crossings to the U.S. DOT National Highway-Rail Crossing Inventory and to periodically update the Inventory.

2. **How, by whom, and for what purpose the information is to be used.**

This is a revised collection of information. All 50 States and some 607 railroads use the Inventory Form to provide new crossing information or to update data in the Inventory. Without updating, the Inventory's value would rapidly decline. In the most recent calendar years 2006 to 2008, there was an average of 154,000 changes were voluntarily submitted by the States and railroads. An average of 3,800 of these changes per year used the Inventory Form as the method of updating. Over the last 10 years, FRA received an average of 3,062 Inventory Form updates per year.

FRA maintains two types of data files: the Inventory Data File and the Accident Data File. The Inventory Data File is a record of grade crossing location, physical, and operational characteristics which provides information for the administration and statistical analysis of highway-rail crossings. This information is reported to FRA on the U.S. DOT Crossing Inventory Form. Each State and railroad is responsible for maintaining its respective inventory file and the National File. In order for the files to serve as an effective database, the States and railroads must update them on a regular basis. Also, States may maintain only the National Inventory File in lieu of maintaining their own State Inventory File. About 10 percent of the States maintain only the National Inventory File, and do not have a State Inventory File. Almost all States regularly get a copy of their data from FRA, or they download the data from the FRA Office of Safety Website at http://safetydata.fra.dot.gov/officeofsafety for their own use. A complete list of useful Website Addresses can be found in *Appendix E*.

The Accident Data File contains the records of all train-related accidents, injuries, and fatalities at highway-rail crossings. By law, FRA requires the reporting of all train-related accidents and incidents. FRA further requires that the DOT Crossing Identification (ID) Number be placed on the Accident Report. This Crossing ID Number is assigned by the railroads by placing the Number on a completed U.S. DOT Crossing Inventory Form for that specific crossing. This information is then entered into the National Inventory File. (*See* "Assignment of Crossing Inventory Numbers" in *Appendix F*.)

Routinely, the Accident Data File is integrated together with the Inventory Data File, and the information from the combination is used by the Federal Government, States, and railroads for a variety of purposes. These include: developing Federal crossing safety improvement programs; funding crossing safety improvements; funding studies related to railroad safety programs; assessing the effectiveness of warning devices; analyzing needed crossing safety improvements along high-speed rail corridors; determining accident costs; and fostering public awareness, driver training, and other safety program and research opportunities. This information is published annually in the "Railroad Safety Statistics" (formerly "Highway-Rail Crossing Accident/Incident and Inventory Bulletin"), which is distributed to all States, railroads, and interested researchers (copy

enclosed for Calendar Year 2006, the last published year currently available; *see Attachment G).*

This combined data is also used for the DOT Accident Prediction Formula and Resource Allocation Procedure. This information is made available to States and railroads on a CD entitled "PCAPS" (Personal Computer Accident Prediction System), and is available on FRA's Website under the name WBAPS (Web Based Accident Predication System). These computer models require data and information from both the U.S. DOT National Highway-Rail Crossing Inventory File and the Accident Data File. The calculations and printouts prioritize crossings based on an accident prediction value to assist State program managers in optimizing the selection of crossing safety improvement projects, i.e., identifying crossings with the highest risk for having an accident.

These accident prediction models are widely used by almost all States and railroads for prioritizing the use of limited funds for crossing safety improvement projects. The major portion of funding for these projects comes from the Federal-aid Highway Safety Program, Section 130, which provides up to 90% of the funds for the cost of crossing safety improvement projects. As mentioned earlier, the total Congressional appropriation is currently $220 million per year and is apportioned among the States with one factor being the total number of crossings within the State as determined from the National Crossing Inventory File.

The Inventory database is also used for program assessment, management, research, and historical analysis by many public and private entities. Requests for data have originated from States, local governments, railroads, railroad industry suppliers, safety advocates, interest groups, news media, lawyers, research organizations, Federal agencies, and Congressional offices. The most common request is for the crossing inventory and accident data history. Such requests can be fulfilled by obtaining the information from the "FRA Safety Date Website," which is currently receiving over 440,000 visits per year.

3. <u>Extent of automated information collection</u>.

The original inventory was compiled between 1973 and 1975. An "Inventory Procedures Manual" was issued in 1974 and an "Update Manual" was issued in January 1976. These manuals described the original Inventory Form, and established procedures and responsibilities for both States and railroads when processing this Form. Following a series of workshops sponsored by the Association of American Railroads (AAR) in 1979, a "Supplement" to the "Update Manual" was issued in July 1980. This publication provided procedures for other methods of submitting updates using the most current technology at the time. The "Mass Update (fill-in-the-blanks lists)" method of updating the file by using computer generated lists for updating one or more specific data elements and a "Magnetic Tape" format for submitting large numbers of updates became an option for submitting updates. These procedures were promulgated as alternatives to the

preparation and submission of individual Inventory Forms for crossings where changes needed to be reported. The "Supplement" also allowed for some variations in submission procedures and responsibilities to accommodate existing railroad-State relationships.

Table 3-1 provides a 25-year history of the number and types of updates submitted to FRA for entering data into the National File. In 1991, nearly 40% of the changes received were in the "Mass Update (fill-in-the-blanks)" format and 50% were on Magnetic Tape. These changes not only reduced the time required to prepare and submit changes by using the hardcopy Inventory Form, but it also allowed FRA to obtain more current information by increasing the overall amount of updating.

Revising and improving the updating process further, FRA developed a process system and computer program in 1991 designated as "GX32" ("GX" for Grade Xing or Grade Crossing and "32" for A Windows 32 bit operating system) which allows States and railroads to generate updates on an IBM compatible personal computer, similar to using income tax software, and submit them on magnetic diskettes or via the Internet or email. This computer program (widely available since 1992) was FRA's move forward into eGovernment Information Technology for the highway-rail crossing inventory updating system. FRA provides this program at no cost to States and railroads for use in accessing and maintaining their crossing inventory records. The program utilizes a facsimile of the Inventory Form which is displayed on a monitor screen and permits data elements to be entered in the same manner as on the paper version. With this system, both the Federal Government and State/railroad respondents benefit from a reduction in paper forms. When requested, the user receives a computer program package, including a file of all crossings, which can be used for updating the user's crossing records. Thus, in addition to reducing the need for large numbers of paper updates, the use of this computer program makes updating simple and easy.

The "GX32" software is a self-contained package allowing users to retrieve and update records, to print records and summary reports, and to produce an "upload file" with current updated information for submittal to the National File. Each "GX32" package contains a custom database that includes the user's crossings and reference files. Table 3-2 presents a comparison of update records received for the various methods that are used to update the National Inventory File for the years 1990, 1998, and 2006. This Table shows how the various update methods have changed over this time period. By 1998, 51% of the updates were submitted on either a "GX32" formatted diskette or by another type of electronic magnetic disc format, and by 2006, the percentage increased to 58%, not including an additional 37% that was updated electronically by the FRA data processing contractor using the "Special Mass Update" process from information received from the States and Railroads. Electronic media can be provided via e-mail or uploaded to a data-receiving Website. Currently, over 96% of the updates are provided electronically by these methods.

The two Tables 3-1 and 3-2 show the efforts made by FRA to automate and simplify the data collection process by reducing the use of paper submissions (U.S. DOT Crossing Inventory Form and Mass Update Printouts) over the last 22 years. It also shows the increase in submitting updates on magnetic media (discs) and, more recently, electronically via the Internet, e-mail, or up-loading to special data-receiving Websites. FRA is a strong believer in using the principles of eGovernment and Information Technology, wherever possible, to reduce burden of using the paper Inventory Form.

TABLE 3-1

Highway-Rail Crossing Inventory Program
Summary of Updates Received
1987 - 2011

Year	Inventory Forms	Mass Update Printouts	Disc/Tape (non-GX32)	"GX32" Electronic	Special *	Total
2011	6,823	5,373	228,038	53,540	34,379*	328,153
2010	9,710	7,719	195,791	42,608	120,799*	376,627
2009	4,294	4, 529	66,290	20,798	126	96,037
2008	1,878	1,892	94,109	13,820	16,197	128,616
2007	7,628	4,023	64,768	6,251		82,670
2006	1,954	7,972	128,122	18,472	93,840*	250,360
2005	1,374	5,356	51,193	9,628		67,649
2004	1,249	1,805	185,962	13,194		202,210
2003	2,441	7,323	57,354	11,540		80.491
2002	2,383	3,147	121,431	6,958		133,945
2001	2,056	5,433	84,648	11,322		103,459
2000	3,408	5,195	91,742	32,525	245,190*	378,110
1999	6,244	8,319	----	98,451##		113,014
1998	8,004	23,950	3,369	30,054	70,708 *	136,085
1997	10,258	10,139	0	43,222		63,619

1996	5,239	23,477	2,840	26,875	28,580 *	87,011
1995	5,950	17,785	3,700	35,854		63,289
1994	10,213	31,347	14,810	58,680		115,050
1993	5,340	27,550	3,892	12,677		49,459
1992	8,546	42,377	10,057	18,874		79,854
1991	10,525	39,856	51,901	1,024		103,306
1990	13,104	25,538	7,691			46,333
1989	9,690	43,500	9,039			62,229
1988	24,872	103,382	39,807			168,061
1987	9,437	65,651	13,921			89,009
Total	172,620	522,638	1,531,421	566,367	609,819	3,402,865

Most recent 10-Year Average is 124,304 Updates per Year.
* Special Updates are specific Mass Conversions, e.g., railroad contacts, ownership because of mergers, FRA requests: street (PRIVATE ROAD) for private crossings, FRA QZ updates 2009-2011 etc.
NOTE: QZ Counts where QZ Field was set to 0 are not included on 2006 processing records ~ 425,000.

****Note: With this rulemaking, FRA intends to discontinue use of the GX32 software program for submitting electronic data to the Crossing Inventory. FRA proposes to replace the GX32 software program with a secure web-based application. FRA also proposes to allow railroads and states to use multiple submission formats (.xml, .mdb, .xls, and .xlsx), in addition to the web-based application.*

*****Note: With this rulemaking, FRA intends to revise Form FRA F 6180.71. A draft of the revised form is included in this submission. FRA expects that the time to complete the form (15 minutes) will remain unchanged.*

TABLE 3-2

COMPARISON of CROSSING INVENTORY RECORD UPDATE METHODS FROM 1990 to 2011

Year	2011		2006		1998		1990	
UPDATE METHOD	Records Updated	Percentage	Records Updated	Percentage	Records Updated	Percentage	Records Updated	Percentage
Inventory Forms	6,823	2%	1,954	1%	8,004	12%	13,100	28%
Mass Update Printout **	5,373	2%	7,972	3%	23,950	37%	25,500	55%
Disc/Tape (non-GX32)	228,038	69%	128,122	51%	3,369	5%	7,700	17%
GX32 Electronic	53,540	16%	18,472	7%	30,054	46%	N/A	0%
Special Mass Updates	34,379	10%	93,840	37%	N/A	0%	N/A	0%
Total	**328,153**	**100%**	**250,360**	**100%**	**65,377**	**100%**	**46,300**	**100%**

** (Mass Update and Computer Printouts combined)_____

4. Efforts to identify duplication.

Only FRA maintains a nationwide inventory of highway-rail crossings, which is historical in nature, containing a record of every crossing that was ever placed in the File and every update for a specific crossing that was ever submitted. As a result, the File contains about 2.4 million records, each containing about 150 pieces of data. There have been over 5 million visits to the FRA Website for data since its inception in 1998. There is no other database containing this information. The current total number of open inventoried highway-rail crossings nationally is shown in Table 4-1.

Some States and railroads had their own crossing inventory prior to the establishment of the National Inventory File in 1975. Others have started maintaining an inventory since 1975. Still others completely depend on the National File and FRA for a copy of their portion of the Inventory. Most of the State and railroad inventory systems are patterned after the National Inventory using the same Form and format for collecting this important information. Consequently, both the national and State/railroad files can move from one computer to another using the computer diskette, Excel, or other electronic format as the transfer medium. However, States and railroads report different data, each reporting their respective information within their sphere. These data in their entirety are not available from any other source.

FRA is not aware of any relevant Federal rules – and associated information collections – that may duplicate, overlap or conflict with the proposed rule.

TABLE 4-1
Inventory of Highway-Rail Intersections

Number of Open Highway-Rail Intersections			
Type	**At-Grade**	**Grade Separated**	**Total**
Public	130,249	33,768	164,017
Private	80,880	2,809	83,689
Pedestrian	1,986	1,247	3,233
Total	213,115	37,824	250,939

Statistics as of 21 May 2012.

5. Efforts to minimize the burden on small businesses.

"Small entity" is defined in 5 U.S.C. 601. Section 601(3) defines a "small entity" as having the same meaning as "small business concern" under Section 3 of the Small Business Act. This includes any small business concern that is independently owned and operated, and is not dominant in its field of operation. Section 601(4) likewise includes within the definition of "small entities" not-for-profit enterprises that are independently owned and operated, and are not dominant in their field of operation. The SBA stipulates in its size standards that the largest a railroad business firm that is "for profit" may be and still be classified as a "small entity" is 1,500 employees for "Line Haul Operating Railroads" and 500 employees for "Switching and Terminal Establishments." Additionally, 5 U.S.C. 601(5) defines as "small entities" governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000.

Federal agencies may adopt their own size standards for small entities in consultation with SBA and in conjunction with public comment. Pursuant to that authority, FRA has published a final statement of agency policy that formally establishes "small entities" or "small businesses" as being railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR 1201.1-1, which is $20 million or less in inflation-adjusted annual revenues; and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less. See 68 FR 24891, May 9, 2003, codified at Appendix C to 49 CFR, part 209. The $20 million-limit is based on the Surface Transportation Board's revenue threshold for a Class III railroad. Railroad revenue is adjusted for inflation by applying a revenue deflator formula in accordance with 49 CFR 1201.1-1. FRA is proposing to use this definition for this rulemaking. Any comments received pertinent to its use will be addressed in the final rule.

The “universe” of the entities to be considered generally includes only those small entities that are reasonably expected to be directly regulated by this action. This proposed rule would affect all railroads that own or maintain public or private highway-rail crossings or pathway crossings.

There are a total of 756 regulated railroads. FRA is excluding 150 railroads from the rulemaking because they do not own any crossings. There are 7 Class I railroads and 12 Class II railroads, all which are not considered to be small. There are a total of 29 commuter/passenger railroads, including Amtrak, with 19 that would be affected by this rule. However, all the affected commuter railroads are part of larger public transportation agencies that receive Federal funds and serve major jurisdictions with populations greater than 50,000.

The level of costs incurred by each railroad should generally vary in proportion to the number of crossings they maintain. For instance, railroads with fewer crossings should have lower overall costs associated with implementing the proposed standards. There are 710 Class III railroads, and of those railroads, only 569 are affected by the rule. However, 113 of these railroads are owned by large holding companies, and are, therefore, not considered to be small entities for the purposes of this analysis. Hence, there are 456 railroads which would be considered to be small entities impacted by this proposed rule. The impact on these small railroads is discussed in the following section.

For the purpose of this analysis, FRA broke Class III railroads into two categories. We considered any Class III railroad that had more than 40 crossings to be a Large Class III and any Class III railroad with 40 or less crossings to be a Small Class III railroad. Crossing specialists in FRA’s Office of Safety anticipate that the majority of the Large Class III railroads use FRA’s web based program to submit their inventories to the FRA. FRA assumes that the Large Class III railroads would continue to use a web-based program to input their crossing inventories into the national database. FRA believes that the Small Class III railroads would manually send their inventory forms, by either mail or e-mail, to FRA. FRA also estimates that 50 percent of all railroads in the industry are already in compliance with the proposed rule.

There are 240 Large Class III railroads that would be considered small entities. FRA estimates that each Large Class III railroad would initially task one person for approximately one week to review and update their inventory. Subsequently, FRA estimates that it would take one person two days to update a Large Class III railroad inventory every year. The initial cost associated with Large Class III railroads would be around $900 per railroad. The cost to periodically update their inventory is estimated to be about $350 per railroad. FRA believes that, although the Large Class III railroads would be burdened by the proposed regulation, none of these small entities would be significantly impacted.

There are 216 Small Class III railroads that would be considered small entities. FRA estimates that each Small Class III railroad would initially need one person to work eight (8) hours to review and update each inventory. Subsequently, the periodic inventory update cost would be the same, requiring one person to work eight (8) hours each year. The initial cost associated with Small Class III railroads would be $173 per railroad. The cost to periodically update their inventory is $173 per railroad. Again, FRA believes that, although all of the Small Class III railroads would be affected by the proposed regulation, none of these small entities would be significantly impacted.

In conclusion, FRA believes that both the Large Class III railroads and the Small Class III railroads – thus a substantial number of small entities (small railroads) – would be impacted by the proposed regulation. However, FRA has found that these entities that are directly burden by the regulation would not have an economic significant impact. FRA believes that the costs associated with the proposed rule are reasonable and would not cause any significant financial impact on their operations.

6. Impact of less frequent collection of information.

Failure to collect this information or to collect it less frequently would seriously jeopardize FRA's safety program because the agency would not have the necessary information to monitor the nation's most heavily traveled, dangerous, and high risk highway-rail intersections. As a result, FRA and the railroad industry (including the State and railroad stakeholders) would not know which railroad crossings present the greatest hazards, or which crossings experience one or more accidents/incidents, and would not be able to devise and implement appropriate safety improvement programs (installation of flashing lights and gates) for these sites. The likely consequence would be an increase in the number and severity of accidents/incidents, and a corresponding increase in the number casualties and fatalities. With current and constantly updated data, FRA can verify that the information is accurate and reliable, and can ensure that States and railroads establish suitable safety measures and improvement programs at highway-rail intersections where the need is most pressing.

The frequency of reporting has not been subject to FRA control, nor could FRA require a specific time period for collection of data. From the beginning in 1975 until October 2008 when Congress passed the Rail Safety Improvement Act of 2008 (RSIA 2008), this has been a voluntary program for submitting updates to the National File. Even so, most States and Railroads did submit updates to the National File as changes occurred. Most States and railroads have established frequencies which fit their seasonal workload, available resources, program planning, and assessment needs. For example, most railroads and States report a change in crossing warning devices only when those changes occur, whereas a change in the highway vehicle traffic counts by States were be reported only once every few years.

However, since the passage of RSIA 2008, updating the National File is now mandatory on both the States and Railroads. All States and Railroads are required to update all of their inventory records by October 16, 2010, and then annually thereafter by September 30 of each year. This legislation requires that every crossing, public, private, and pedestrian – both at-grade (level) and grade-separated – have a crossing Inventory Number (ID) assigned. It further requires that every crossing inventory record be updated annually and that the data to be provided on the Inventory Form FRA F 6180.71 (11/99), or electronically in the format and data file structure for this Form.

7. Special circumstances.

Section 234.407(d) would require that each operating railroad retain for at least four years (from the date of submission to the Crossing Inventory) either a duplicate copy of the Inventory Form that was submitted in hard copy by the railroad to the Crossing Inventory or a copy of the e-mail confirmation received from FRA after new or updated crossing data has been electronically submitted to the Crossing Inventory. Records required to be kept must be made available to FRA as provided by statute (49 U.S.C. 20107).

Periodic updates to the Crossing Inventory are required every three (3) years under the proposed rule. Since FRA needs access to these records for auditing purposes, the agency has specified that these records be kept for four years. Also, these records may provide very useful information to FRA/NTSB staff investigating train-vehicle accidents/incidents at highway-rail grade crossings.

8. Compliance with 5 CFR 1320.8.

FRA is publishing a Notice of Proposed Rulemaking (NPRM) in the Federal Register regarding Highway-Rail Crossing Inventory on October 18, 2012. See 77 FR 64077. In this publication, FRA is soliciting public comments on the proposed rule and its accompanying information collection requirements and associated burden. FRA will respond to any comments it receives in the agency final rulemaking and accompanying Supporting Justification.

FRA is proposing amendments to 49 CFR Part 234 which would require railroads to submit information to the U.S. DOT National Highway-Rail Crossing Inventory (Crossing Inventory) about highway-rail and pathway crossings over which they operate. These proposed amendments are intended to further FRA's efforts to improve existing data on the characteristics of the Nation's public, private, and pathway crossings. Specifically, these proposed amendments are intended to implement section 204(a) of the Rail Safety Improvement Act of 2008 (RSIA), Public Law 110-432, Division A, which was signed into law on October 16, 2008. These proposed amendments would require railroads to submit initial reports, including current information about warning devices and signage, for each previously unreported and new public and private highway-rail grade crossing and pathway crossing to the Crossing Inventory. The submission of

periodic updates, including the submission of updated ownership information after the sale of a crossing, to existing crossing information in the Crossing Inventory would also be required.

The proposed rule is intended specifically to implement Section 204(a) of the RSIA, Public Law 110-432, Division A, which was enacted October 16, 2008, and generally to increase safety at highway-rail and pathway crossings. See 49 U.S.C. 20160. (National crossing inventory). Section 20160 of title 49 of the United States Code (Section 20160) requires the Secretary of Transportation (Secretary) to establish reporting requirements for railroad carriers related to public and private highway-rail grade crossings and pathway crossings. The Secretary delegated this responsibility to the FRA Administrator. 49 CFR 1.49(oo).

Section 20160 of title 49 of the United States Code (§ 20160) authorizes the Secretary/FRA Administrator to issue regulations that would require railroad carriers to report certain information, including current information about warning devices and signage, related to new and previously unreported public, private, and pathway crossings to the Crossing Inventory. Section 20160 provides additional authorization to the Secretary to issue regulations that would require railroad carriers to periodically update the relevant information submitted to the Secretary about public, private, and pathway crossings through which they operate or public, private, and pathway crossings that are located on trackage over which they operate. In accordance with Section 20160, additional updates would also be required, pursuant to such regulations, whenever a railroad carrier sells all, or a portion of, a public, private, or pathway crossing. However, until these implementing regulations are issued, Section 20160 provides that the Secretary may enforce the Crossing Inventory policy, procedures, and instructions that were in effect on October 16, 2008.

9. <u>Payments or gifts to respondents</u>.

There are no payments, gifts, or other types of remuneration to respondents. However, FRA does provide respondents at no charge (upon request) with copies of Inventory data. While not a gift or payment by FRA, Congress has provided a limited amount of remuneration to States for their efforts and costs associated with the collection of data and maintenance of Inventory database systems. Under the statutory SAFETEA-LU legislation, Section 1401, "all previous eligibilities under 23 U.S.C. 130 continue and up to two (2) percent of the funds apportioned to a State may be used for compilation and analysis of data for the required annual report to the Secretary (DOT) on the progress being made to implement the railway-highway crossing program. States are also eligible for funding under the broader eligibilities of the FHWA Highway Safety Improvement Program (HSIP)."

Since the total authorization for the Section 130 program, funds set aside for the reduction of hazards and installation of warning devices at crossings is $220 million per

year. Thus, the funds apportioned for the purpose of updating the Crossing Inventory Databases (both State and National) is about $4.4 million total.

10. Assurance of confidentiality.

There is no confidentiality required because the data collected are not of a sensitive or confidential nature. They are available to the States, railroads, and the general public. The data are currently available for downloading from FRA's Office of Safety Website at http://safetydata.fra.dot.gov , and thus are available to anyone. Normally, it is FRA's policy to furnish railroads and States with only their respective data. Usually, these are the only data that are of interest to them. However, if there are other requests for data, FRA would supply that information consistent with its responsibilities under the Freedom of Information Act (FOIA) and other applicable statutes. Requests for data are normally quite specific (involving a particular crossing or set of crossings), and are usually for tabulated or summary data. Such requests do not violate any confidentiality, and FRA readily accedes to them.

11. Justification for any questions of a sensitive nature.

There are no questions of a sensitive or private nature involving this regulation.

12. Estimate of burden hours for information collected.

§ 234.1 Scope.

(a) This part prescribes minimum—

(1) Maintenance, inspection, and testing standards for highway-rail grade crossing warning systems;

(2) Standards for the reporting of failures of highway-rail grade crossing warning systems and for the actions that railroads must take when such systems malfunction;

(3) Requirements for particular identified States to develop State highway-rail grade crossing action plans;

(4) Requirements that certain railroads establish systems for receiving toll-free telephone calls reporting various unsafe conditions at highway-rail grade crossings and pathway grade crossings, and for taking certain actions in response to those calls; and

The burden for grade crossing action plans is covered under OMB no. 2130-0589. The burden for telephonic reporting of unsafe conditions at highway-rail grade crossings action plans is covered under OMB no. 2130-0591. Consequently, there is no additional burden associated with these requirements.

(5) Requirements for reporting to, and periodically updating, information contained in the U.S. DOT National Highway-Rail Crossing Inventory for public, private, and pathway crossings.

The burden for this requirement is included below under the U.S. DOT Crossing Inventory Form (Section 234.403). Consequently, there is no additional burden associated with this requirement.

§ 234.403 Submission of information to the Crossing Inventory.

(a) Public, private, and pathway crossing data shall be submitted to the Crossing Inventory on the Inventory Form pursuant to the requirements set forth in § 234.405 of this part. Except as provided in paragraph (c) of this section, the Inventory Form shall be submitted in hard copy or, alternatively, by electronic submission, in accordance with the Inventory Guide.

(b) The Inventory Form shall be completed in accordance with the Inventory Guide. A copy of this guide may be obtained from the Office of Railroad Safety, RRS-23, Federal Railroad Administration, 1200 New Jersey Avenue, S.E., Washington, D.C., 20590. A copy of this guide can also be viewed or downloaded from the FRA website at (www.fra.dot.gov)

(c) Each Class I railroad shall submit data required by paragraph (a) of this section to the Crossing Inventory electronically.

FRA estimates that railroads will complete and submit approximately 6,942 paper forms annually under the above requirements. It is estimated that it will take approximately 30 minutes to complete and submit each form. Total annual burden for this requirement is 3,471 hours.

50 States and 607 Railroads

Burden time per response:		30 minutes
Frequency of Response:		On occasion
Annual number of Responses:	6,942 forms	
Annual Burden:	3,471 hours	

Calculation: 6,942 forms x 30 min. = 3,471 hours

FRA estimates that railroads will submit Mass Updates using printouts in some scenarios. The Mass Update Method consists of lists of data, usually hardcopy printouts, generated

by the States or railroads themselves. These are used to update designated data elements, such as closing all crossings along an abandoned rail line or transferring ownership when a rail line is sold. With this method of updating, several hundred records with the same type of repetitive correction can be updated in approximately 30 minutes. The annual burden for this update method is 129 hours.

50 States and 607 Railroads

Burden time per response:		30 minutes
Frequency of Response:		On occasion
Annual number of Responses:	257 lists	
Annual Burden:	129 hours	

Calculation: 257 lists x 30 min. = 129 hours

FRA estimates that some railroads will submit information to the Crossing Inventory by Excel Electronic format. Class I railroads will be required to use this method; other railroads have the option to use this method. Based on data from 2009-2011, an average of 163,373 records per year were received by FRA, though we do not know the number of submissions those records were contained in. In the last iteration of this document, each submission contained an average of 147 records. Assuming that is close to an accurate estimate for the current records, FRA will assume an average of 1,111 lists submitted annually in the 2009-2011 period. It is estimated that each list takes 30 minutes to create. The annual burden for this update method is 556 hours.

50 States and 607 Railroads

Burden time per response:		30 minutes
Frequency of Response:		On occasion
Annual number of Responses:	1,111 lists	
Annual Burden:	556 hours	

Calculation: 1,111 lists x 30 min. = 556 hours

Utilization of the "GX32 Computer Program" (introduced in 1991) is the most accurate and efficient way to submit changes and corrections via a computer diskette. The respondent can make the changes on a personal computer in a format that looks like the Inventory Form. Use of the "GX32" Program ensures that contradictory data are not

entered because of internal edit check software in the program. While use of this method removes the requirement to fill out a paper form, it still may take several minutes to enter all the correct information for a specific crossing record. However, the program also contains a mass updating feature whereby many crossings (for example, 1,000 or more) can have identification names corrected in a few minutes. Depending on the nature of the updating being performed, it may be necessary to make a site visit to the crossing, which then would take additional time. All corrections are automatically placed on a diskette, which is then forwarded to FRA's data processing contractor for input into the National Inventory File. Especially important, this method saves the need for a data entry clerk to keypunch the received information, thereby negating any input errors that might occur.

The "GX32" Computer Program accepts the input for new crossings. Normally when a new crossing is opened, the Inventory Form (FRA F 6180.71) is used to report the new inventory data. Both the railroad and State need to provide information. The National File will not accept the new crossing information unless both entities have processed the Form.

For 2009-2011, an average of 38,982 records per year were received by FRA, though we do not know the number of submissions those records were contained in. In the last iteration of this document, each submission contained an average of 273 records. Assuming that is close to an accurate estimate for the current records, FRA will assume an average of 143 lists submitted annually in the 2009-2011 period. The annual burden for this method of updating is an average of 3,898 hours.

50 States and 607 Railroads

Burden time per response:	6 minutes
Frequency of Response:	On occasion
Annual number of Responses:	38,982 records
Annual Burden:	3,898 hours
Calculation:	38,982 records x 6 min. = 3,898 hours

Types and Methods of Survey Responses:

A three-year average will be used for the most recent years 2006 to 2008 in order to estimate the time, cost, and resulting burdens for collecting and processing inventory update data and Forms. The average, per year, for these three years is as follows:

TABLE 12. D-1
2009 - 2011 Average Annual Processing Statistics

Update Method	Records	Updated Percent
Inventory Forms	6,942	2.6%
Mass Update Printouts	4,364	1.6%
Excel Electronic	163,373	61.1%
GX32 Electronic	38,982	14.6%
Special Mass Updates	51,768	19.4%
Total 3 year Average	265,429	100.0 %

§ 234.405 Submission of initial data and periodic updates to the Crossing Inventory.

(a) Initial Submission for Previously Unreported Crossings.

(1) *Duty of primary operating railroad*. Each primary operating railroad shall submit a completed Inventory Form, or its electronic equivalent, for each previously unreported public, private, and pathway crossing (except a temporary crossing) through which it operates, no later than (**INSERT DATE 6 MONTHS AFTER EFFECTIVE DATE OF FINAL RULE**). The completed Inventory Form, or its electronic equivalent, must reference the assigned Inventory Number for the crossing and the Inventory Form, or its electronic equivalent, must be completed and submitted in accordance with § 234.403 of this part.

The burden for this requirement is included above under the U.S. DOT Crossing Inventory Form (Section 234.403). Consequently, there is no additional burden associated with this requirement.

(2) *Duty of operating railroads*. Each operating railroad, other than the primary operating railroad, which operates through a previously unreported public, private, or pathway crossing (except a temporary crossing) for which a completed Inventory Form, or its electronic equivalent, has not been submitted to the Crossing Inventory in accordance with paragraph (a)(1) of this section, shall notify the FRA Associate Administrator in writing of this oversight. Written notification provided by the operating railroad shall include, at a minimum, the latitudinal and longitudinal coordinates for each previously unreported public, private, or pathway crossing for which a completed Inventory Form, or its electronic equivalent, has not been timely submitted to the Crossing Inventory.

FRA estimates that railroads will submit approximately 450 written notifications each year under this requirement. It is estimated that it will take approximately 30 minutes to

complete each report. Total annual burden for this requirement is 225 hours.

607 Railroads

Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	450 written notifications
Annual Burden:	225 hours
Calculation:	450 written notifications x 30 min. = 225 hours

(3) *Reporting by Other Entities on behalf of the Primary Operating Railroad.* In order to satisfy the reporting requirements of paragraph (a)(1) of this section, an entity other than the primary operating railroad may submit a completed Inventory Form, or its electronic equivalent, to the Crossing Inventory, provided both the reporting entity and the primary operating railroad provide written notice to the FRA Associate Administrator of the entity assuming reporting responsibility. Any such notification must include a positive identification of the locations that will be covered. [*Note: The burden for completed Inventory Forms is included under the U.S. DOT Crossing Inventory Form (Section 234.403 above). Consequently, there is no additional burden associated with this part of the requirement.]*

FRA estimates that railroads will submit approximately 175 written notifications each year under this requirement. It is estimated that it will take approximately 30 minutes to complete each report. Total annual burden for this requirement is 88 hours.

50 States and 607 Railroads

Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	175 written notifications
Annual Burden:	88 hours
Calculation:	175 written notifications x 30 min. = 88 hours

(b) Initial Submission for New Crossings.

(1) *Duty of primary operating railroad*. Each primary operating railroad shall submit a completed Inventory Form, or its electronic equivalent, to the Crossing Inventory for each new public, private, or pathway crossing (except a temporary crossing) through which it operates no later than six (6) months after the crossing becomes operational. The completed Inventory Form, or its electronic equivalent, must reference the assigned Inventory Number for the crossing and the Inventory Form, or its electronic equivalent, must be completed and submitted in accordance with § 234.403.

The burden for this requirement is included above under the U.S. DOT Crossing Inventory Form (Section 234.403). Consequently, there is no additional burden associated with this requirement.

(2) *Duty of operating railroads*. An operating railroad, other than the primary operating railroad, which operates through a new public, private, or pathway crossing (except a temporary crossing) for which a completed Inventory Form has not been submitted to the Crossing Inventory within six (6) months after the crossing becomes operational shall notify the FRA Associate Administrator, in writing, of this oversight. Written notification provided by the operating railroad shall include, at a minimum, the latitudinal and longitudinal coordinates for each new and unreported public, private, or pathway crossing through which it operates.

FRA estimates that railroads will submit approximately 65 written notifications each year under this requirement. It is estimated that it will take approximately 30 minutes to complete each report. Total annual burden for this requirement is 33 hours.

607 Railroads

Burden time per response: 30 minutes

Frequency of Response: On occasion

Annual number of Responses: 65 written notifications

Annual Burden: 33 hours

Calculation: 65 written notifications x 30 min. = 33 hours

(3) *Joint Reporting by Multiple Operating Railroads*. Two or more operating railroads may agree to assume joint responsibility for the reporting requirement set forth in paragraph (b)(1) of this section by providing written notification in accordance with the current Inventory Guide.

FRA estimates that railroads will submit approximately 12 written notifications each year under this requirement. It is estimated that it will take approximately 30 minutes to

complete each report. Total annual burden for this requirement is 6 hours.

607 Railroads

Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	12 written notifications
Annual Burden:	6 hours

Calculation: 12 written notifications x 30 min. = 6 hours

(4) *Reporting by Other Entities on behalf of the Primary Operating Railroad*. In order to satisfy the reporting requirements of paragraph (b)(1) of this section, an entity other than the primary operating railroad may submit a completed Inventory Form, or its electronic equivalent, to the Crossing Inventory, provided both the reporting entity and the primary operating railroad provide written notification to the FRA Associate Administrator of the entity assuming reporting responsibility. Any such notification must include positive identification of the locations that will be covered.

The burden for this requirement is included above under the U.S. DOT Crossing Inventory Form (Section 234.403). Consequently, there is no additional burden associated with this requirement.

FRA estimates that railroads will submit approximately 10 written notifications each year under this requirement. It is estimated that it will take approximately 30 minutes to complete each report. Total annual burden for this requirement is 5 hours.

50 States and 607 Railroads

Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	10 written notifications
Annual Burden:	5 hours

Calculation: 10 written notifications x 30 min. = 5 hours

(c) Periodic Updates.

(1) *Duty of primary operating railroad.* Each primary operating railroad shall submit up-to-date and accurate crossing data to the Crossing Inventory for each public, private, and pathway crossing (other than a temporary crossing or a grade-separated crossing) through which it operates, in accordance with the Inventory Guide. Updated crossing data shall be submitted to the Crossing Inventory at least every 3 years from the date of the most recent railroad submission or (INSERT DATE 6 MONTHS AFTER EFFECTIVE DATE OF FINAL RULE), whichever occurs later.

The burden for this requirement is included under the U.S. DOT Crossing Inventory Form (Section 234.403). Consequently, there is no additional burden associated with this requirement.

(2) *Duty of operating railroads*. An operating railroad, other than the primary operating railroad, that operates through a public, private, or pathway crossing (other than a temporary crossing or a grade-separated crossing) for which up-to-date and accurate information has not been timely submitted to the Crossing Inventory in accordance with paragraph (c)(1) shall notify the FRA Associate Administrator, in writing, of this oversight. Written notification provided by the operating railroad in accordance with this paragraph shall include, at a minimum, the Inventory Number for each public, private, or pathway crossing(s) that has not been updated.

FRA estimates that railroads will submit 950 written notifications each year under this requirement. It is estimated that it will take approximately 20 minutes to complete each report. Total annual burden for this requirement is 317 hours.

607 Railroads	
Burden time per response:	20 minutes
Frequency of Response:	On occasion
Annual number of Responses:	950 written notifications
Annual Burden:	317 hours
Calculation:	950 written notifications x 20 min. = 317 hours

(3) *Joint Updating by Multiple Operating Railroads*. Two or more operating railroads may assume joint responsibility for submission of the periodic updates required by paragraph (c)(1) of this section by providing written notification of this agreement in accordance with the current Inventory Guide.
FRA estimates that railroads will submit approximately 650 written notifications each year under this requirement. It is estimated that it will take approximately 20 minutes to

complete each report. Total annual burden for this requirement is 217 hours.

607 railroads
Burden time per response: 20 minutes
Frequency of Response: On occasion
Annual number of Responses: 650 written notifications
Annual Burden: 217 hours

Calculation: 650 written notifications x 20 min. = 217 hours

(4) *Submission of Periodic Updates by Other Entities on behalf of the Primary Operating Railroad.* In order to satisfy the periodic updating requirements of paragraph (c)(1) of this section, an entity other than the primary operating railroad may submit up-to-date and accurate crossing data to the Crossing Inventory, provided both the reporting entity and the primary operating railroad provide written notification to the FRA Associate Administrator of the entity assuming the periodic updating responsibility. Any such notification shall include positive identification of the locations that will be covered.

The burden for this requirement is included above under the U.S. DOT Crossing Inventory Form (Section 234.403). Consequently, there is no additional burden associated with this requirement.

FRA estimates that railroads will submit approximately 525 written notifications each year under this requirement. It is estimated that it will take approximately 20 minutes to complete each report. Total annual burden for this requirement is 175 hours.

50 States and 607 Railroads
Burden time per response: 20 minutes
Frequency of Response: On occasion
Annual number of Responses: 525 written notifications
Annual Burden: 175 hours

Calculation: 525 written notifications x 20 min. = 175 hours

(d) *Changes requiring submission of updated information to the Crossing Inventory*. Any railroad that sells all or part of a public, private, or pathway crossing shall submit an Inventory Form, or its electronic equivalent, which reflects the crossing sale to the Crossing Inventory. The updated Inventory Form, or its electronic equivalent, shall be submitted to the Crossing Inventory, no later than three (3) months after the date of sale, in accordance with § 234.403 of this subpart.

The burden for this requirement is included under the U.S. DOT Crossing Inventory Form (Section 234.403). Consequently, there is no additional burden associated with this requirement.

(e) Changes requiring submission of updated information to the Crossing Inventory, Changes in crossing characteristics. (1) Within three (3) months of any crossing closure, change in crossing surface, or change in warning device at any public, private, or pathway crossing, the primary operating railroad shall submit an Inventory Form, or its electronic equivalent, that reflects the change in crossing characteristics to the Crossing Inventory, in accordance with § 234.403 of this subpart. A "change in warning device" means the addition of a crossbuck, yield or stop sign, flashing lights, or gates at a public, private, or pathway crossing.

The burden for this requirement is included under the U.S. DOT Crossing Inventory Form (Section 234.403). Consequently, there is no additional burden associated with this requirement.

(2) *Submission of updated information to the Crossing Inventory by Other Entities on behalf of the Primary Operating Railroad.* In order to satisfy the reporting requirements of paragraph (e)(1) of this section, an entity other than the primary operating railroad may submit an Inventory Form, or its electronic equivalent, that reflects the change(s) in crossing characteristics to the Crossing Inventory, provided both the reporting entity and the primary operating railroad provide written notification to the FRA Associate Administrator of the entity assuming reporting responsibility. Any such notification shall include positive identification of the location(s) that will be covered.

The burden for this requirement is included above under Section 234.405 (c)(4). Consequently, there is no additional burden associated with this requirement.

Total annual burden for this requirement is 1,066 hours (225 + 88 + 33 + 6 + 5 + 317 + 217 + 175).

§ 234.407 Recordkeeping.

(a) Each railroad subject to this subpart shall keep records in accordance with this section. Records may be kept either on paper forms provided by the railroad or by electronic means in a manner that conforms with § 234.409.

(b) Each operating railroad, including the primary operating railroad, responsible for submitting information to the Crossing Inventory in accordance with this subpart shall, at a minimum, maintain the following information for each required Inventory Form:

(1) A duplicate copy of each Inventory Form submitted in hard copy to the Crossing Inventory; or
FRA estimates that railroads will make approximate 5,674 copies per year under this requirement. It is estimated that it will take approximately one (1) minute to make each copy. Total annual burden for this requirement is 95 hours.

607 Railroads
Burden time per response: 1 minute
Frequency of Response: On occasion
Annual number of Responses: 5,674 copies
Annual Burden: 95 hours

Calculation: 5,674 copies x 1 min. = 95 hours

(2) A copy of the confirmation document received from FRA after electronic submission of crossing data to the Crossing Inventory.

FRA estimates that railroads will make approximate 2,837 copies per year under this requirement. It is estimated that it will take approximately one (1) minute to make each copy. Total annual burden for this requirement is 47 hours.

607 Railroads
Burden time per response: 1 minute
Frequency of Response: On occasion
Annual number of Responses: 2,837 copies
Annual Burden: 47 hours

Calculation: 2,837 copies x 1 min. = 47 hours

(c) Each railroad shall identify the locations where a copy of any record required to be retained by this subpart is accessible for inspection and photocopying by maintaining a list of such establishment locations at the office where the railroad's reporting officer conducts his or her official business.

FRA estimates that each railroad will record identification information and designation information under this requirement. It is estimated that it will take approximately five (5) minutes to complete each list. Total annual burden for this requirement is 51 hours.

	607 railroads	
Burden time per response:		5 minutes
Frequency of Response:		On occasion
Annual number of Responses:	607 lists	
Annual Burden:	51 hours	
Calculation:	607 lists x 5 min. = 51 hours	

Total annual burden for this requirement is 193 hours (95 + 47 + 51).

§ 234.409 Electronic recordkeeping.

(a) If a railroad subject to this subpart maintains records required by this subpart in electronic format in lieu of paper, the system for keeping the electronic records must meet all of the following conditions:

(1) The railroad adequately limits and controls accessibility to the records retained in its electronic database system and identifies those individuals who have such access;

(2) The railroad has a terminal at the office where the railroad's reporting officer conducts his or her official business and at each location designated by the railroad as having a copy of any record required to be retained by this subpart that is accessible for inspection and photocopying;

(3) Each such terminal has a computer and either a facsimile machine or a printer connected to a computer to retrieve and produce information in a usable format for immediate review by FRA representatives;

(4) The railroad has a designated representative who is authorized to authenticate retrieved information from the electronic system as a true and accurate copy of the electronically kept record; and

(5) The railroad provides FRA representatives with immediate access to the record(s) for inspection and copying during normal business hours and provides a printout of such record(s) upon request.

(b) If a record required by this subpart is in the form of an electronic record kept by an electronic recordkeeping system that does not comply with paragraph (a) of this section, then the record must be kept on paper.

The burden is already included in §§ 234.403 and 234.407 above. Consequently, there is no additional burden associated with this requirement.

Total annual burden for this entire information collection submission is 9,313 hours.

13. Estimate of total annual costs to respondents.

As noted in the regulatory impact analysis accompanying the Crossing Inventory proposed rule, there will be additional costs to respondents related to this collection of information besides those detailed in the answer to question number 12 above.

This proposed rule would require railroads to submit inventory records for public and private highway-rail grade crossings (both at-grade and grade-separated), as well as inventory records for pathway crossings. Any new crossings or crossings that are transferred to a railroad are also to be included in the national file. The railroads would also be required to submit updates of their inventory records periodically.

For the 20-year period analyzed, the estimated quantified cost that would be imposed on railroads totals $2.1 million with a present value (PV, 7 percent) of $1.5 million. The proposed rule is expected to improve railroad safety by ensuring that all highway-rail and pathway grade crossings are submitted to a national file that will allow FRA to greatly enhance its analyses of these highway-rail grade crossings. FRA anticipates that this rulemaking will increase the accuracy, precision, completeness, and utility of railroad crossing records, and, correspondingly, of FRA's national highway-rail grade crossing inventory. This will allow FRA to identify certain highway-rail grade crossings that are not currently captured in FRA's highway-rail grade crossing inventory, which is currently gathered using FRA's voluntary highway-rail grade crossing form. FRA believes that such clarification in the inventory will aid in offsetting costs associated with the rulemaking generally by simplifying the reporting process. Costs would be further offset when FRA is able to analyze a complete, national highway-rail grade crossing inventory, examining trends and outlier crossings in the data set, and proactively take actions to address problematic crossings or trends. FRA believes the value of the anticipated benefits will meet or exceed the cost of implementing the proposed rule.

Based on the break even analysis shown in this regulatory evaluation, if 0.02 of a statistical life or the equivalent number of injuries was prevented every year, over a period of 20 years, the safety benefits would at least equal the likely implementation and maintenance costs associated with the promulgation of this proposed rule. Based on this and information from highway-rail grade crossing train accidents, FRA expects this

rulemaking to result in a reduction of fatalities and/or injuries that should exceed the break-even amount.

The table below presents the estimated costs associated with the proposed rulemaking.

Cost for Proposed Rulemaking	
Initial Update of Inventory	$874,280
Periodic Update of Inventory	$646,856
Total	**$1,521,136**

Dollars are discounted using a 7 percent discount rate, and are for a 20-year period.

14. Estimate of Cost to Federal Government.

There is no additional cost to the Federal Government in connection with these information collection requirements. Railroad carrier records are examined by FRA inspectors on a routine basis as part of their regular enforcement activities that monitor carrier compliance with Federal rail safety regulations.

The following costs noted in the last approved submission still apply and are determined from actual contractor expenses and from salary records of contractor employees:

TABLE 14-1
COST TO GOVERNMENT:

Data Processing Contractor	**$ 250,000/year**
Government salaries	**96,000**
Computer Equipment	**20,000**
TOTAL Cost to Government	**$ 366,000**

15. Explanation of program changes and adjustments.

The total burden has increased by **1,259 hours** from the last approved submission. The change in burden is due solely to **program changes** resulting from the proposed rule's new requirements. The following table reflects program changes:

TABLE FOR Program Changes

Part 234 Section	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
234.405(a)(2) – Initial Submission for Previously Unreported Crossings: Written Notifications by RR Other than Primary Operating RR	0 notifications 0 minutes	450 notifications 30 minutes	0 hours	225 hours	+ 225 hours + 450 responses
234.405(a)(3) – Reporting by Other Entities on Behalf of Primary Railroad: Written Notifications by Primary Operating RR & Other Entity	0 notifications 0 minutes	175 notifications 30 minutes	0 hours	88 hours	+ 88 hours + 175 responses
234.405(b)(2) – Initial Submission for New Crossings: Written Notifications by RR Other than Primary Operating RR	0 notifications 0 minutes	65 notifications 30 minutes	0 hours	33 hours	+ 33 hours + 65 responses
234.405(b)(3) – Joint Reporting by Multiple Operating RRs: Written Notice	0 notifications 0 minutes	12 notifications 30 minutes	0 hours	6 hours	+ 6 hours + 12 responses
234.405(b)(4) – Reporting by Other Entities for Primary RR: Written Notifications by Primary Operating RR & Other Entity	0 notifications 0 minutes	10 notifications 30 minutes	0 hours	5 hours	+ 5 hours + 10 responses
234.405(c) (2)– Periodic Updates: Written Notifications by	0 notifications 0 minutes	950 notifications 20 minutes	0 hours	317 hours	+ 317 hours + 950 responses

Operating RR Other than Primary Operating RR					
234.405(c)(3) – Joint Updating by Multiple Operating RRs: Written Notifications by Two or More RRs	0 notifications 0 minutes	650 notifications 20 minutes	0 hours	2 17 hours	+ 217 hours + 650 responses
234.405(c)(4) – Submission of Periodic Updates by Other Entities on Behalf of Primary Operating RR: Written Notifications by Reporting Entity & Primary Operating RR	0 notifications 0 minutes	525 notifications 20 minutes	0 hours	175 hours	+ 175 hours + 525 responses
234.407 (b)(1) – Recordkeeping: Duplicate Copy of Each Inventory Form Submitted in Hard Copy to the Crossing Inventory	0 copies 0 minutes	5,674 copies 1 minute	0 hours	95 hours	+ 95 hours + 5,674 resp.
234.407 (b)(2) – Recordkeeping: Copy of FRA Confirmation Document After Electronic Submission of Crossing Data to Crossing Inventory	0 copies 0 minutes	2,837 copies 1 minute	0 hours	47 hours	+ 47 hours + 2,837 resp.
234.407 (c) – Recordkeeping: RR Identification of Locations Where Records are Kept for Copying	0 copies 0 minutes	607 lists 5 minutes	0 hours	51 hours	+ 51 hours + 607 responses

Program changes above <u>*increased*</u> the burden by *1,259 hours* and <u>*increased*</u> responses by *11,955* from the last approved submission. [*Note: As in the last approved submission, the total number of responses for the voluntary updating of Crossing Inventory records (now section 234.403) stayed the same at 265,429 (see Table 12-D above*.]

The current OMB inventory shows a total burden of 8,054 hours, while the present submission exhibits a total burden of 9,313 hours. Hence, there is a total increase of 1,259 hours.

As noted in the answer to question number 13, the cost to respondents has increased by $1,521,136, and results from a **program change** associated with this proposed rule.

16. Publication of results of data collection.

FRA has no plans to publish this information.

17. Approval for not displaying the expiration date for OMB approval.

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

18. Exception to certification statement.

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 the proposed collection of information , FRA's safety program would be seriously jeopardized because the agency would not have the necessary information to monitor the nation's most heavily traveled, dangerous, and high risk highway-rail intersections. As a result, FRA and the railroad industry (including the State and railroad stakeholders) would not know which railroad crossings present the greatest hazards, or which crossings experience one or more accidents/incidents, and would not be able to devise and implement appropriate safety improvement programs (installation of flashing lights and gates) for these sites. The likely consequence would be an increase in the number and severity of accidents/incidents, and a corresponding increase in the number casualties and fatalities.

With current and constantly updated data, FRA can verify that the information is accurate and reliable, and can ensure that States and railroads establish suitable safety measures and improvement programs at highway-rail intersections where the need is most pressing.

In this information collection as in all its information collection activities, FRA seeks to do its very best to fulfill DOT Strategic Goals and to be an integral part of One DOT.