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

Summary of Submission

- The collection of information associated with this Final Rule is a **revised** submission. FRA is amending 49 CFR Part 234 by adding a new Subpart F. (*Note: Some Crossing Inventory information previously provided by railroads voluntarily to FRA will be required under this rule once it goes into effect*.)

- It should be noted that this collection of information is entirely associated with the final rulemaking being published 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 Final Rule in the **Federal Register** titled National Highway-Rail Crossing Inventory Requirements on January 6, 2014. See 80 FR 746.

- Total number of burden **hours requested** for this submission is **15,433 hours**.

- Total number of burden hours **previously approved** for this submission is **8,054 hours**.

- **Program changes** increased the burden by **7,379 hours**. There were **no** adjustments.

- Total number of **responses requested** for this submission is **444,204**.

- Total number of **responses previously approved** for this submission is **265,429**.

- Total program changes amount to/have increased the burden by **7,379 hours**.

- **The answer to question **number 12** itemizes the hourly burden associated with each requirement of this rule (See pp. 26-45).

- ** The table in answer to question **number 15** itemizes all program changes (See pp. 47-50). Cost to respondents pertaining to this information collection is $**1,198,174**.

1. Circumstances that make collection of the information necessary.

The final 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 whenever a railroad carrier sells all, or a portion of, a highway-rail or pathway crossing. However, in the interim, Section 20160 provides that the Secretary may enforce the Crossing Inventory policy, procedures, and instructions in effect in effect at the time of Section 20160's enactment (Oct. 16, 2008). The Secretary delegated the responsibility for carrying out the mandates of Section 20160 to the FRA Administrator. 49 CFR 1.49(oo).

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*." DOT intended this Report to Congress 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. 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 Crossing Inventory was developed through the cooperative efforts of FHWA, FRA, the Association of American Railroads (AAR), individual States, and individual railroads. 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. These procedures and standards for submission of the information were defined in the "Highway-Rail Crossing Inventory Instructions and Procedures Manual," dated December 1996. A revised policy and set of instructions, "Policy, Procedures and Instructions for States and Railroads," were subsequently issued in August 2007.

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.

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.

The Crossing Inventory is a national database that contains data on highway-rail crossings, which has been voluntarily submitted by States and railroads. Due to the voluntary nature of the crossing data that has been submitted to the Crossing Inventory, FRA estimates that the Crossing Inventory contains up-to-date information for approximately 50 percent of the highway-rail crossings that have been reported.

In an effort to improve the accuracy of existing data in the Crossing Inventory and to implement the statutory mandate contained in Section 204(a) of the RSIA, this rule requires primary operating railroads (i.e., generally, the railroads that either own or maintain the track through the highway-rail or pathway crossing, or operate the most trains through the crossing) to assign Inventory Numbers to previously unreported and new highway-rail and pathway crossings and, in most cases, to provide the assigned Inventory Number to the other railroads that operate through the crossing. In addition, primary operating railroads will be required to submit completed Inventory Forms (or the electronic equivalent) for previously unreported and new highway-rail and pathway crossings to the Crossing Inventory. While FRA recognizes that this rule requires primary operating railroads to submit some crossing data that have been traditionally maintained by State agencies, FRA strongly encourages primary operating railroads to work with the appropriate State agencies to obtain this information. However, in the

event that the primary operating railroad is unable to obtain certain crossing data that have been traditionally maintained by State agencies (e.g., highway system class, highway speed limit, estimated percent of truck traffic, and the average number of school buses per day), despite having submitted a timely written request for the data, FRA will not hold the primary operating railroad liable for failure to timely submit the requested data to the Crossing Inventory.

This final rule also requires primary operating railroads to submit periodic updates to the Crossing Inventory every three (3) years. In order to minimize the burden associated with the submission of periodic updates, the final rule only requires the primary operating railroad to submit updated crossing data for the specific data fields on the Inventory Form that have been assigned to railroads for updating. These data fields, which are identified in Appendix B to the Inventory Guide, have traditionally been completed by railroads and consist of information that railroads are able to identify and supply on their own (e.g., the total number of daily train movements and the speed of the train at the crossing).

Primary operating railroads will also be required to submit interim updates to the Crossing Inventory to report the closure of a highway-rail or pathway crossing within three (3) months. In addition, primary operating railroads will be required to report changes in crossing surface or changes in warning devices at public highway-rail grade crossings within three (3) months. Also, any railroad that sells all, or part, of a highway-rail or pathway crossing must report the crossing sale to the Crossing Inventory within three (3) months.

The statutory authority for this rulemaking, contained in Section 204(a) of the RSIA as previously mentioned, specifically directs FRA to issue regulations that will require railroads to submit crossing data to the Crossing Inventory, yet does not address reporting or updating by State agencies. Thus, in the absence of specific statutory authority to impose reporting or updating requirements on State agencies, FRA cannot do so. However, FRA strongly encourages railroads to work with appropriate State agencies to obtain crossing data maintained by the State. As reflected by the detailed and thoughtful comments submitted by our State partners during the course of this rulemaking, State agencies generally share FRA's interest in ensuring that Crossing Inventory records are up-to-date and accurate to the extent permitted by existing resources.

2. <u>How, by whom, and for what purpose the information is to be used</u>.

This is a revised collection of information. All 50 States and some 618 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 2011 to 2013, there was an average of 264,470 changes were voluntarily submitted by the States and railroads. An average of 4,212 of these changes per year used the Inventory Form as the method of updating. Over the last 10 years, FRA received an average of 4,072 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 27-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, 2006, and 2013. 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 97% of the updates are provided electronically by these methods. [*Note: 2013, the last full year of data, is referenced here*. ***Also, the GX-32 software is being replaced by a Web-based Inventory Form***.]

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 24-27 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 – August 2014

Year	Inventory Forms	Mass Update / Printouts	Electronic (non-GX32)	"GX32" Electronic	Special *	Total
As of 08/ 2014	1,961	2,686	100,879	5,097	428	111,051
2013	2,806	4,013	143,134	20,767	69,218	239,938
2012	3, 008	3,012	172,966	33,227	12,161	224,374
2011	6,823	5,373	228,038	53,540	34,379*	329,099
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	180,395	532,349	1,948,400	625,458	691,626	3,978,228

Most recent 10-Year Average is 199,758 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- Aug. 2014, 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 will be 30 minutes.*

TABLE 3-2

COMPARISON of CROSSING INVENTORY RECORD UPDATE METHODS FROM 1990 to 2013

Year	2013		2006		1998		1990	
UPDATE METHOD	Records Updated	Percentage	Records Updated	Percentage	Records Updated	Percentage	Records Updated	Percentage
Inventory Forms	2,806	1%	1,954	1%	8,004	6%	13,104	28%
Mass Update Printout **	4,013	2%	7,972	3%	23,950	18%	25,538	55%

Disc/Tape (non-GX32)	143,134	60%	128,122	51%	3,369	2%	7,691	17%
GX32 Electronic	20,767	9%	18,472	7%	30,054	22%	N/A	0%
Special Mass Updates	69,218	28%	93,840	37%	70,708	52%	N/A	0%
Total	**239,938**	**100%**	**250,360**	**100%**	**136,085**	**100%**	**46,333**	**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 final rule.

TABLE 4-1
Inventory of Highway-Rail Intersections

Number of Open Highway-Rail Intersections			
Type	**At-Grade**	**Grade Separated**	**Total**
Public	129,646	34,542	164,188
Private	80,152	2,852	83,004
Pedestrian	2,186	1,386	3,572
Total	211,984	38,780	250,764

Statistics as of 12 Oct. 2014.

5. Efforts to minimize the burden on small businesses.

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 final rule directly affects Class I, Class II, and Class III railroads that own or operate over at-grade or grade-separated crossings.

"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 using this definition for this rulemaking.

There are a total of 756 regulated railroads. 152 railroads are not affected by the rulemaking because they do not own any crossings. There are seven (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. There are also 11 transit operators. FRA typically does not regulate transit operators; however, some transit operators have crossings which will need to be included in the Crossing Inventory.

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 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 will be considered to be small entities impacted by this rule.

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 Larger Class III railroad and any Class III railroad with 40 or less crossings to be a Smaller Class III railroad. Crossing specialists in FRA's Office of Safety anticipate that the majority of the Larger Class III railroads use FRA's web based program to submit their inventories to the FRA. FRA assumes that the Larger Class III railroads will continue to use a web-based program to input their crossing inventories into the national database. FRA believes that the Smaller Class III railroads will manually fill out and 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 rule.

In the regulatory evaluation, FRA determined that there are 322 Larger Class III railroads. FRA estimates that each Larger Class III railroad will initially task one person for approximately one week to review and update its inventory. Subsequently, FRA estimates that it will take one person two days to update a Larger Class III railroad inventory every year. The initial cost associated with Larger Class III railroads will be around $1,945 per railroad. The cost to periodically update their inventory is estimated to be about $780 per railroad. FRA believes that, although the Larger Class III railroads will be burdened by the regulation, none of these small entities will be significantly impacted.

In the regulatory evaluation, FRA determined that there are 247 Smaller Class III railroads. FRA estimates that each Smaller Class III railroad will initially need one

person to work 16 hours to review and update each inventory. Subsequently, the periodic inventory update cost will be the same, requiring one person to work eight (8) hours each year. The initial cost associated with Smaller Class III railroads will be $778 per railroad. The cost to periodically update their inventory is $389 per railroad. Again, FRA believes that, although all of the Smaller Class III railroads will be affected by the regulation, none of these small entities will be significantly impacted.

During the public comment period following the NPRM, FRA did not receive any comments discussing the Initial Regulatory Flexibility Analysis or Executive Order 13272. FRA certifies that the final rule will not have any significant economic impact on the competitive position of small entities, or on the small entity segment of the railroad industry as a whole.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Although a substantial number of small railroads will be affected by the final rule, none of these entities will be significantly impacted.

6. <u>Impact of less frequent collection of information</u>.

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 (4) 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 have 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 rule. Since FRA needs access to these records for auditing purposes, the agency has specified that these records be kept for four (4) 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.

On October 18, 2012, FRA published its Notice of Proposed Rulemaking titled National Highway-Rail Crossing Inventory Reporting Requirements in the **Federal Register**. See 77 FR 64077. In response, FRA received a variety of comments from different parties. There were no specific comments on burden hour or burden cost estimates provided by the agency in the NPRM.

One comment concerned the scope or applicability of the final rule's requirements. The Association of American Railroads (AAR) submitted comments asserting that transit operators, as opposed to general system railroads, should be required by the final rule to submit information about transit operations. The California Public Utilities Commission (CPUC) and Denver RTD, a transit agency that provides passenger rail service, also submitted comments seeking clearer guidance as to the applicability of the reporting and updating requirements contained in this Subpart to transit agencies. In its comments, Denver Regional Transit District (RTD) noted that rapid transit operations within an urban area that are not connected to the general railroad system of transportation are generally not considered to be "railroads" that are subject to FRA regulations. The CPUC submitted comments questioning whether transit agencies may submit crossing

data for crossings which are not subject to train movements by railroads that are part of the general railroad system of transportation.

After considering these comments, FRA revised the definition of "operating railroad" in the final rule to clarify that the reporting and updating requirements of this Subpart apply to railroads, as well as rail transit operators that operate trains through highway-rail and pathway crossings that are on, or connected to, the general railroad system of transportation. It should be noted that rail transit operators are distinguished from commuter railroads that serve an urban area, its suburbs, and more distant outlying communities in the greater metropolitan area. Commuter railroads, whose primary function is moving passengers back and forth between their places of employment in the city and their homes within the greater metropolitan area, are considered by FRA to be part of the general railroad system of transportation and are, therefore, required to comply with the requirements of this Subpart.

The term "operating railroad" includes rail transit operators that operate trains through highway-rail and pathway crossings which are located on the same track used by railroads that are part of the general railroad system of transportation. Examples of these types of operations include transit train movements that are subject to temporal separation, as well as transit train movements that constitute simultaneous joint use with train movements by general system railroads.

The term "operating railroad" also includes rail transit operators that operate trains through highway-rail and pathway crossings located within a common corridor or right-of-way with railroads that are part of the general railroad system of transportation. Thus, for purposes of this Subpart, rail transit operators that operate trains on separate tracks through highway-rail and pathway crossings, which are located within a common corridor or right-of-way with railroads that are part of the general railroad system of transportation and are served by the same set of crossing warning devices, are considered to be operating railroads.

Rail transit operators that operate through highway-rail and pathway crossings which are not on, or connected to, the general system of railroad transportation are not required to submit crossing data to the Crossing Inventory for those crossings. However, rail transit operators are encouraged to voluntarily submit (and update) crossing data to the Crossing Inventory for highway-rail and pathway crossings that are not on, or connected to, the general system of railroad transportation, in order to improve the accuracy of crossing data reflected in the Crossing Inventory.

Denver RTD also submitted comments requesting guidance on whether an entity that has a long-term contract with a public transit agency to operate and maintain that agency's rail network would be considered the operating railroad, independent of the transit agency.

In response to these comments, FRA would like to clarify that, if a third-party entity has a long-term contract with a public transit agency to operate and maintain that agency's rail network, the public transit agency will be considered the operating railroad for purposes of this Subpart and will, therefore, be required to comply with all applicable requirements imposed on operating railroads.

FRA also received comments on the nature of crossing data required to be collected. In the proposed rule, FRA requested comments on whether the current practice of allowing railroads to assign a single Inventory Number to a group of crossings in a railroad yard, passenger station, or an area belonging to a private company, port, or a dock area should be retained. The agency received comments on this issue from a private citizen, the AAR, the CPUC, Interstate Commerce Commission (ICC) staff, Denver RTD, and the Brotherhood of Railroad Signalmen (BRS). The AAR recommended that FRA retain the current practice of allowing railroads to assign a single Inventory Number to a group of crossings in a railroad yard or an area belonging to a private company, a port, or a dock. While noting there are a number of private restricted access facilities that have railroad crossings, the AAR asserted that railroads are often granted limited access into these facilities, due to security concerns. Therefore, the AAR argued that there continues to be a need for a flexible approach, which would allow the assignment of a single Inventory Number to multiple crossings located within such facilities. In addition, the AAR noted that assigning a single Inventory Number to a group of crossings in a railroad yard or area belonging to a private company, a port, or a dock would be consistent with FRA requirements to place and maintain only one Emergency Notification System (ENS) sign at each vehicular entrance to a railroad yard or port or dock facility. As for crossings within passenger stations, Denver RTD submitted comments recommending that the Inventory Guide should be revised to specifically state that one Inventory Number can be assigned to multiple crossings within a passenger station.

However, FRA also received comments from the CPUC, ICC staff, and the BRS asserting that the practice of assigning a single Inventory Number to a group of crossings should cease. The BRS expressed concern that the practice of assigning a single Inventory Number to multiple crossings could hinder accurate reporting of crossing malfunctions, stalled vehicles at crossing locations, and grade crossing accidents. While noting that large ports may have hundreds of crossings, the CPUC asserted that assigning a single DOT Inventory number to an entire port area would make it nearly impossible to identify the location of accidents and safety issues at a particular crossing within the facility. Since each crossing may have independent characteristics and accident history, the CPUC recommended that each crossing should be assigned an individual DOT identification number. In the alternative, the CPUC recommended that FRA should consider limiting the assignment of a single Inventory Number to multiple crossings that are located within a very small area, which is privately owned and subject to strictly limited access. ICC staff submitted comments recommending that each unique pathway crossing within a passenger station should be assigned an individual DOT identification number.

After taking these comments into consideration, FRA has decided to retain the current practice of allowing railroads to assign one Inventory Number to multiple crossings that are located within an area belonging to a private company, a port or a dock area. FRA notes that crossing malfunctions and other crossing incidents are often reported directly to the facility or to an authorized facility representative who has knowledge of, or is otherwise familiar with, the location of crossings on the property. Therefore, the current practice of assigning a single Inventory Number to a group of crossings located on private property, or in a dock or port area does not appear to have a negative impact on emergency response to crossing malfunctions or other types of crossing incidents. The statutory authority underlying this rulemaking, which is contained in section 204(a) of the RSIA, directs the Secretary of Transportation to issue regulations that require railroads to submit crossing data to the Crossing Inventory. Therefore, while it might otherwise be reasonable and appropriate to require private property owners to obtain an individual Inventory Number for each highway-rail and pathway crossing on their property, the responsibility for obtaining an Inventory Number for crossings located on private property or in ports or dock area has been placed on the railroad which may have limited access to the crossings at issue.

FRA has also decided to retain the current practice of allowing railroads to assign one Inventory Number to multiple crossings that are located in a railroad yard or passenger station for the same reason cited above.

FRA also received comments regarding the deadline for the railroad requirement to provide data to the Crossing Inventory for previously unreported crossings. FDOT and NC DOT submitted comments recommending that the reporting requirements contained in the final rule should allow for a 12-month transition period to accommodate changes to database code and validation rules. On the other hand, ICC staff submitted comments recommending that the final rule should allow for a 24-month period after the final rule effective date before the electronic submission of crossing data to the Crossing Inventory should be required, in order to provide sufficient time within which to modify existing crossing database systems or to develop new systems to retain crossing data.

After consideration of these comments, paragraph (a)(2) of section 234.405 was revised to include an extended reporting period for the initial reporting of previously unreported crossings, in order to provide additional time for primary operating railroads, as well as State agencies to modify existing or to develop new systems. This reporting period extends from the final rule effective date to [**DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], regardless of whether the crossing data are submitted electronically or by hard-copy. FRA recognizes that some Class II and Class III railroads may elect to retain their crossing data on an electronic data base, yet submit their crossing data to the Crossing Inventory on hard-copy Inventory Forms.

FRA also received a number of comments related to the requirement in paragraph (a)(2)(i) of section 234.405 that primary operating railroads must submit a completed Inventory

Form (or its electronic equivalent) to the Crossing Inventory for previously unreported crossings. The AAR submitted comments recommending that the final rule should only require railroads to report railroad-maintained crossing data to the Crossing Inventory and should leave State agencies responsible for reporting State-maintained crossing data (such as highway system class, highway speed limit, estimated percent of truck traffic, and the average number of school buses per day). Similar comments were submitted by NC DOT. The Virginia Department of Transportation (VDOT) submitted comments recommending that State agencies should be responsible for updating crossing data because railroads do not have staff in every State. The Florida Department of Transportation (FDOT) submitted comments recommending that primary operating railroads should be required to coordinate with State agencies, in order to obtain State-maintained crossing data before they submit this data to the Crossing Inventory for previously unreported highway-rail and pathway crossings. ICC staff submitted comments recommending that State agencies should be permitted to submit crossing data to the Crossing Inventory for previously unreported crossings, if the primary operating railroad fails to do so in a timely fashion.

In response to these comments, FRA has retained the requirement that primary operating railroads must submit completed Inventory Forms (or the electronic equivalent) to the Crossing Inventory for previously unreported highway-rail and pathway crossings in order to ensure that the Crossing Inventory will have complete records for these crossings. Section 204(a) of the RSIA specifically directed the Secretary of Transportation (and by delegation, FRA) to require railroad carriers to submit crossing data to the Crossing Inventory for previously unreported crossings. However, the RSIA does not impose a similar reporting requirement on State agencies. Therefore, the final rule does not require State agencies to submit crossing data for previously unreported crossings to the Crossing Inventory. However, FRA strongly encourages primary operating railroads to work with State agencies in order to obtain crossing data. FRA notes that paragraph (d) of this section has been added to the final rule to establish a procedure for providing official notification to FRA if the primary operating railroad is unable to timely submit a complete Inventory Form (or its electronic equivalent) to the Crossing Inventory because it requested State-maintained crossing data from the State agency that has not yet been received.

Additionally, FRA received comments related to § 234.405 notification requirement. FRA received a number of comments that were critical of the requirement contained in paragraph (c) of this section that each operating railroad must notify the FRA Associate Administrator when a completed Inventory Form, or its electronic equivalent, has not been timely submitted to the Crossing Inventory by the primary operating railroad. The AAR and staff for the ICC submitted comments asserting that this requirement is burdensome. The AAR further asserted that FRA could implement the statutory mandate contained in section 204(a) of the RSIA, without imposing reporting requirements on secondary railroads, by giving entities other than the primary operating railroad the ability to submit crossing data to the Crossing Inventory. For example, the AAR noted

that the proposed rule already contained provisions that would allow reporting by other entities on behalf of the primary operating railroad, which appear to be consistent with other assignment provisions that appear in the rail safety regulations.

Section 204(a) of the RSIA contains specific language requiring that each railroad carrier must ensure that crossing data for previously unreported crossings has been reported to the Crossing Inventory by another railroad carrier that operates through the crossing. Paragraph (a) of this section requires the primary operating railroad to submit a completed Inventory Form, or its electronic equivalent, for previously unreported highway-rail and pathway crossings. However, if the primary operating railroad fails to do so in a timely manner, paragraph (c) of this section is specifically intended to implement the statutory requirement contained in section 204(a) of the RSIA, by simply requiring each operating railroad to provide written notification to the FRA Associate Administrator that a previously unreported highway-rail or pathway crossing has not been timely reported to the Crossing Inventory. When compared with an alternative approach of requiring one of the other operating railroads to volunteer to submit a completed Inventory Form (or its electronic equivalent) to the Crossing Inventory on behalf of the primary operating railroad, it seemed less burdensome to require each operating railroad to provide written notification to the FRA Associate Administrator that a previously unreported highway-rail or pathway crossing has not been timely reported to the Crossing Inventory.

The AAR also submitted comments asserting that requiring operating railroads to notify the FRA Associate Administrator when crossing data has not been timely submitted to the Crossing Inventory would require operating railroads to differentiate between crossings through which they operate trains and crossings through which they simply have trackage rights (but do not operate trains), in order to determine whether they must follow up on a primary railroad's reporting responsibility.

FRA acknowledges that the final rule will require railroads to differentiate between crossings through which they operate trains and crossings for which they simply have trackage rights, in order to determine the extent of their reporting and updating responsibilities under this final rule. If a railroad or rail transit operator simply has trackage rights (but does not operate trains) over a highway-rail or pathway crossing that is on, or connected to, the general railroad system of transportation, the railroad or rail transit operator will not be considered an "operating railroad" with respect to that crossing. Therefore, the railroad or rail transit operator will not be required by this Subpart to submit or update crossing data to the Crossing Inventory for the highway-rail or pathway crossing for which it simply has trackage rights but does not operate trains.

Paragraph (d) of this section has been added to the final rule, in order to allow the primary operating railroad to provide written notification that certain crossing data have been requested from the appropriate State agency responsible for maintaining highway-rail and pathway crossing data and not yet provided. This paragraph has been added to

the final rule in response to comments noting that, under the proposed rule, the primary operating railroad and all other operating railroads could be held responsible for the timely submission of crossing data, which can only be obtained from the State agency that maintains highway-rail and pathway crossing data. As noted earlier, the AAR submitted comments asserting that railroads should only be required to report railroad-maintained crossing data to the Crossing Inventory, thus leaving the responsibility for reporting State-maintained crossing data to State agencies. Denver RTD also submitted comments recommending that railroads should only be liable for failing to submit or update crossing information in the Crossing Inventory, if the State timely provided the information requested and the railroad nevertheless failed to timely update the Crossing Inventory. ICC staff submitted comments recommending that the final rule should contain a mechanism for any party to inform the FRA Associate Administrator of the failure of the State agency (or the primary operating railroad) to submit data in a timely manner.

Paragraph (d) will allow the primary operating railroad to submit a written statement to the FRA Associate Administrator, by certified mail, return receipt requested, certifying that it requested certain crossing data from the appropriate State agency responsible for maintaining highway-rail and pathway crossing data at least 60 days earlier, which has not yet been provided. In order to take advantage of this provision, the crossing data requested must be limited to one or more of the data fields for which the responsibility for submitting 3-year periodic updates has been assigned by Appendix B in the Inventory Guide to State agencies. The written certification statement must be mailed to the FRA Associate Administrator no later than [**DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**] and it must include a list of each data field for which crossing information was requested from the appropriate State agency, as well as the date on which the crossing data was requested. Copies of the written certification statement must also be mailed to each operating railroad that operates through the highway-rail or pathway crossing and to the State agency responsible for maintaining highway-rail and pathway crossing data.

FRA also received comments concerning the requirement for reporting data to the Crossing Inventory for new crossings under § 234.407 as well as the deadline for this requirement. ICC staff, the Iowa Department of Transportation and the CPUC recommended that new crossings should not be added to the Crossing Inventory unless crossing data have been submitted by railroads, as well as State agencies. ICC staff and the Brotherhood of Railroad Signalmen recommended that the timeframe for reporting new crossings to the Crossing Inventory should be changed to 90 days from the date on which a new crossing is established. In their comments, ICC staff explained that this recommended change would standardize the time period for reporting new crossings and changes in crossing characteristics.

Section 204(a) of the RSIA specifically directs the Secretary of Transportation (and FRA by delegation) to issue regulations that will require railroad carriers to report current

information about new crossings through which they operate. Thus, in the absence of statutory authority to require State agencies to submit crossing data to the Crossing Inventory for new crossings, paragraph (a)(2) of this section requires primary operating railroads to submit completed Inventory Forms (or their electronic equivalent) to the Crossing Inventory for new crossings through which they operate. However, FRA strongly encourages primary operating railroads to work with State agencies to obtain crossing data for new crossings, in order to complete the Inventory Forms (or their electronic equivalent). It should be noted that the requirement to report new crossings within six months of the date on which the crossing becomes operational has been retained in the final rule, as this six-month period was imposed by section 204(a) of the RSIA, which provides the underlying statutory authority for this rulemaking.

FRA received a number of comments that contained recommendations on the appropriate party that should be required to submit periodic updates of crossing data to the Crossing Inventory under § 234.409. The BRS submitted comments expressing strong support for requiring the primary operating railroad to submit updated crossing data to the Crossing Inventory, especially in light of the fact that FRA has noted its lack of oversight authority with regard to the reporting of crossing data by State agencies. Florid DOT submitted comments recommending that railroads should be required to coordinate with State agencies to obtain information for data fields that have been assigned by the Inventory Guide to State agencies for updating. North Carolina DOT submitted comments recommending that State agencies should be asked to voluntarily submit crossing data to the Crossing Inventory for data fields on the Inventory Form that have historically been completed by State agencies within three to six months after the primary operating railroad submits crossing data to the Crossing Inventory. Tavla Solutions submitted comments recommending that the GCIS system should be designed to facilitate electronic communication with State agencies, especially with respect to data fields on the Inventory Form that have traditionally been completed by State agencies.

ICC staff submitted comments recommending that railroads should be required to continue to provide crossing data updates to the appropriate State agencies for incorporation into the Crossing Inventory. In the alternative, ICC staff noted that a mechanism could be developed to provide notice to the appropriate State agency that an update has been submitted to the Crossing Inventory by the primary operating railroad. ICC staff noted that a similar mechanism could be developed to notify the primary operating railroad whenever State agencies submit updated crossing data to the Crossing Inventory. ICC staff asserted that this process would be preferable to that which was outlined in the proposed rule because the appropriate State agency will be made aware whenever a new crossing is added to the Crossing Inventory.

FRA also received comments from the CPUC recommending that notifications should be sent to the appropriate State agency with jurisdiction over grade crossing safety and the operating railroad(s) responsible for submitting crossing data to the Crossing Inventory whenever updated data are posted to the Crossing Inventory. In the alternative, the

CPUC recommended that the GCIS system should allow Crossing Inventory users to generate reports that show all changes made during a specified time period, such as the last month, quarter, or year.

After consideration of these comments, FRA has decided to retain the process set forth in the proposed rule wherein the primary operating railroad (and, as further discussed below, other operating railroads) submit updated crossing data directly to the Crossing Inventory. While FRA encourages primary operating railroads to send copies of their crossing data to the appropriate State agency responsible for grade crossing safety when they submit crossing data to the Crossing Inventory, a requirement that the primary operating railroad must coordinate with the appropriate State agency responsible for grade crossing safety would impose an additional burden on the railroad industry. However, as reflected in Appendix B to the Inventory Guide, data fields on the Inventory Form that have historically been completed by State agencies have generally been assigned by the Inventory Guide to State agencies for updating on a voluntary basis. Therefore, State agencies are encouraged to submit updates to these data fields at least every three years.

The current version of the GCIS system has not been designed to provide e-mail notification or to facilitate electronic communication between State agencies and the primary operating railroad whenever crossing data related to a highway-rail or pathway crossing is submitted to the Crossing Inventory. However, FRA intends to continue working with operating railroads that use the GCIS system to submit crossing data to the Crossing Inventory, in order to help improve current processes for submitting and updating crossing data. In the meantime, the GCIS system has been configured to allow Crossing Inventory users to download crossing data for multiple crossings or individual crossings. This functionality will allow State agencies and operating railroads to verify that new or previously unreported crossings have been reported to the Crossing Inventory and that required updates have been submitted by the primary operating railroad. In addition, the GCIS system has been designed to allow Crossing Inventory users to generate reports showing all changes that have been made in the Crossing Inventory during a specified time period.

FRA also received comments regarding the reporting requirement for submission of updated information to the Crossing Inventory under § 234.411. In the preamble to the proposed rule, FRA solicited comments on the proposed requirement to report changes in crossing surface and changes in warning devices to the Crossing Inventory. The AAR submitted comments in support of the proposed requirement to report changes in crossing surface and changes in warning devices, as well as crossing closures, to the Crossing Inventory within three months of the date on which either the change is made or the crossing is closed. The CPUC submitted comments recommending that the proposed requirement to report changes in crossing surface and changes in warning devices should be revised to require the primary operating railroad to report these changes to the appropriate State agency within 30 days. The CPUC then recommended that the State

agency should be given 60 days within which to report the change to the Crossing Inventory. ICC staff recommended that the reporting of changes to crossing characteristics should be expanded to include changes to any data field element that feeds into the national risk assessment tool (PCAPS) utilized by FRA.

On the other hand, FRA received comments from North Carolina DOT recommending that the final rule should be revised to provide a 6-month timeframe for the reporting of crossing closures, changes in crossing surface, and changes in warning device at highway-rail and pathway crossings. In making this recommendation, NCDOT asserted that the proposed 3-month timeframe will not provide sufficient time to generate the required reports for the Crossing Inventory and may result in an undue financial burden, especially with respect to State agencies that agree to submit crossing data to the Crossing Inventory on behalf of operating railroads. In addition, Denver RTD submitted comments recommending that the final rule should be revised so that the primary operating railroad will not be held liable for failing to timely report changes in crossing characteristics, if the appropriate State agency fails to notify the primary operating railroad of a change that has been made to the crossing.

After considering these comments, FRA decided to retain the requirement that the primary operating railroad must report changes in crossing surface and changes in warning devices directly to the Crossing Inventory within three months. FRA again notes that the underlying statutory authority for this rulemaking, which was contained in section 204(a) of the RSIA, specifically directs the Secretary (and FRA by delegation) to issue regulations that will require railroad carriers to submit crossing data to the Crossing Inventory, yet does not address reporting by State agencies. Thus, in the absence of specific statutory authority to impose reporting requirements on State agencies, FRA is reluctant to do so at this time. However, FRA has revised to the Inventory Guide to clarify that the primary operating railroad is required to submit up-to-date and accurate crossing data to the Crossing Inventory for each data field that has been assigned to railroads for updating in Appendix B to the Inventory Guide after a change in crossing surface or change in warning devices at a public highway-rail grade crossing.

The three-month period for reporting changes in crossing surface and changes in warning devices by the primary operating railroad has also been retained in the final rule, for the sake of consistency with the requirement contained in paragraph (a) of this section to report the sale of all, or part, of a highway-rail or pathway crossing to the Crossing Inventory within three months. FRA notes that changes in crossing surface and changes in warning devices are generally planned well in advance and require coordination between the crossing owner and the State agency during the planning process. Therefore, it is recommended that State agencies which agree to submit crossing data on behalf of operating railroads should include an additional step in their planning processes for the reporting of changes in crossing surface and changes in warning devices to the Crossing Inventory, in order to ensure the timely reporting of these changes.

With regard to the concern expressed by Denver RTD related to FRA enforcement activity in response to situations in which a State or local government has installed or removed a yield or stop sign at a highway-rail or pathway crossing without notifying the primary operating railroad, FRA will exercise enforcement discretion if the primary operating railroad fails to submit updated crossing data to the Crossing Inventory within three months of a change in crossing warning device, if the change in warning device consists of the addition or removal of a yield or stop sign by a State or local entity without notification to the primary operating railroad. However, the primary operating railroad must submit up-to-date and accurate crossing data to the Crossing Inventory for each data field that has been assigned to railroads for updating in Appendix B to the Inventory Guide within three months of the date on which the primary operating railroad becomes aware that the State or local government has installed (or removed) a yield or stop sign at the crossing

FRA also received comments concerning the recordkeeping requirement under § 234.413. Denver RTD submitted comments on the provisions contained within this section in the proposed rule recommending that FRA should defer to State laws governing the public's right of inspection of public records, with respect to the accessibility, format, and timeframes for retaining railroad records of compliance with the requirements of this subpart.

The recordkeeping requirements contained in this section reflect the exercise of FRA's longstanding statutory authority to require railroads to produce, and make available for FRA inspection, relevant records of compliance with Federal safety regulations. While FRA does not intend to preempt State laws governing the public's right of inspection of public records through issuance of this final rule, the recordkeeping requirements contained in this section are intended to require operating railroads to make their records of compliance reasonably available to FRA inspectors for inspection and enforcement purposes.

Finally, FRA received comments related to submission of data to the Crossing Inventory electronically. In the proposed rule, FRA requested comments on whether additional railroads should be required to submit crossing data electronically to the Crossing Inventory. The BRS recommended that all parties who are required to submit data to the Crossing Inventory should be required to submit their data electronically. By applying this requirement to all parties, the BRS asserted that FRA would be better able to track crossing data and there would be no issues with the legibility of the data entered on the hard copy Inventory Form. ICC staff recommended that the scope of the electronic submission requirement should be expanded to require all primary operating railroads and States with more than 5,000 crossings to submit their crossing data electronically to the Crossing Inventory. Denver RTD submitted comments recommending that all crossing data should be electronically submitted to the Crossing Inventory, whether submitted by a State agency or an operating railroad. On the other hand, the North Carolina DOT submitted comments asserting that it would be impractical and cost

burdensome to require all railroads to submit crossing data electronically to the Crossing Inventory because some Class III railroads do not have electronic databases for their crossing records.

FRA encourages Class II and Class III railroads, as well as rail transit operators and State agencies, to submit their data electronically to the Crossing Inventory. However, the final rule does not require Class II or Class III railroads or rail transit operators to do so (unless they are a parent corporation submitting crossing data to the Crossing Inventory on behalf of a subsidiary railroad in accordance with paragraph (e) of § 234.403), in order to minimize the burdens associated with the reporting and updating requirements of this Subpart. As noted previously, the statutory mandate contained in section 204(a) of the RSIA specifically directs FRA to issue regulations that will require railroads to submit crossing data to the Crossing Inventory, yet does not address reporting by State agencies. Thus, in the absence of specific statutory authority to impose reporting requirements on State agencies, FRA is reluctant to do so at this time.

9. Payments or gifts to respondents.

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.

Note: The respondent universe for this collection of information is estimated to be approximately 51 States/entities and 618 railroads. The number of open highway-rail at-grade crossings is estimated to be approximately 242,717.

§ 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 highway-rail, 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 data to the Crossing Inventory, generally.

(a) Highway-rail, and pathway crossing data shall be submitted to the Crossing Inventory on the Inventory Form. Except as provided in paragraph (c) of this section, the Inventory Form may be submitted in hard copy or electronically.

(b) The Inventory Form, or its electronic equivalent, 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, SE, Washington, DC 20590. A copy of this guide can also be viewed or downloaded from the FRA's Safety Data Web under the Forms/Publications tab.

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

Based on its most current crossing inventory data over the last three years, FRA estimates that railroads will complete and submit approximately 4,212 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 2,106 hours.

51 States/entities and 618 Railroads

Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	4,212 forms
Annual Burden:	2,106 hours

Calculation: 4,212 forms x 30 min. = 2,106 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.

51 States/entities and 618 Railroads

Burden time per response:	30

minutes

Frequency of Response: On occasion
Annual number of Responses: 257 lists (4,133 updated records)
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 2011-2013, an average of 181,359 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 1,234 lists submitted annually in the 2011-2013 period. It is estimated that each list takes 30 minutes to create. The annual burden for this update method is 617 hours.

51 States/entities and 618 Railroads
Burden time per response:

30 minutes

Frequency of Response: On occasion
Annual number of Responses: 1,234 lists (181,359 updated records)
Annual Burden: 617 hours

Calculation: 1,234 lists x 30 min. = 617 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 the 2011-2013 period, an average of 35,845 records were received by FRA annually, 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 131 lists submitted annually in the 2011-2013 period. Total annual burden for this method of updating is an average of 3,585 hours.

51 States/entities and 618 Railroads

Burden time per response:	6 minutes
Frequency of Response:	On occasion
Annual number of Responses:	35,845 records
Annual Burden:	3,585 hours

Calculation: 35,845 records x 6 min. = 3,585 hours

Types and Methods of Survey Responses:

A three-year average will be used for the most recent years 2011 to 2013 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
2011 - 2013 Average Annual Processing Statistics

Update Method	Records	Updated Percent
Inventory Forms	4,212	1.6%
Mass Update/Printouts	4,133	1.6%
Excel Electronic	181,359	68.7%
GX32 Electronic	35,845	13.5%
Special Mass Updates	38,586	14.6%
Total 3 year Average	264,135	100.0 %

TABLE 12.E-1

2011-2013 CROSSING RECORD UPDATES SUBMITTED
and
ESTIMATED TIME AND COST REQUIRED TO PROCESS

Unit Files	Update Method	Records Updated	Per Unit Labor Time	Total Hours
1.				N/A
	Inventory Forms	4,212	.50 hr/Form	2,106
2.	Mass Update Printouts	257* 4,133	.50	

			hr/list	129	
3.					1,234*
					Disc/Tape (non-GX32)
					181,359
					.50 hr/disk
					617
4.	N/A* hr/record	GX32	Electronic	35,845	.10
				3,585	
5.	N/A hr/record	Special Mass Changes		38,586	.00
				-0-	
		TOTAL			264,135
					6,437

***-**estimate

Additionally, FRA estimates that approximately 10 States/railroads will make written requests to FRA for a copy of the Inventory Guide annually under the requirement in § 234.403(b) above. It is estimated that it will take approximately 15 minutes to complete each written request. Total annual burden for this requirement is three (3) hours.

51 States/entities and 618 Railroads

Burden time per response: 15 minutes

Frequency of Response: On occasion

Annual number of Responses: 10 written requests

Annual Burden: 3 hours

Calculation: 10 written requests x 15 min. = 3 hours

(d) *Reporting by State Agencies on Behalf of Operating Railroads.* A State agency may submit crossing data to the Crossing Inventory on behalf of an operating railroad. The State agency and the operating railroad must provide written notice to the FRA Associate Administrator that the State agency has agreed to submit and update crossing data for all of the operating railroad's highway-rail and pathway crossings within the State. (**New Requirement**)

FRA estimates that approximately 20 written notices will be provided to FRA by States/operating railroads that the State agency has agreed to submit and update crossing data for all of the operating railroad's highway-rail and pathway crossings within the state under the requirement in (b) above. It is estimated that it will take approximately 30 minutes to complete each written notice. Total annual burden for this requirement is 10 hours.

51 States/entities and 618 Railroads

Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	20 written notices
Annual Burden:	10 hours

Calculation: 20 written notices x 30 min. = 10 hours

(e) *Reporting by the Parent Corporation on Behalf of Subsidiary Railroads.* (1) In order to satisfy the reporting requirements of this section, a parent corporation may submit crossing data to the Crossing Inventory on behalf of one or more of its subsidiary railroads. The parent corporation and the subsidiary railroad(s) must provide written notice to the FRA Associate Administrator that the parent corporation has assumed reporting and updating responsibility for all of the subsidiary railroad's highway-rail and pathway crossings. The written notification must include the following: (**New Requirement**)

(A) A list of all subsidiary operating railroads for which the parent corporation will assume reporting and updating responsibility;

(B) An explanation as to how the parent corporation and the subsidiary operating railroad(s) operate as a single, seamless, integrated United States railroad system; and

(C) A statement signed by the chief executive officer of the parent corporation, in which the chief executive officer shall consent, on behalf of the parent corporation, to guarantee any monetary penalty assessments or other liabilities owed to the United States government that are incurred by the named subsidiaries for violating the reporting or updating requirements set forth in this Subpart.

FRA estimates that approximately 250 written notices will be provided to FRA each year by parent corporations and subsidiary operating railroads under the above requirement. It is estimated that it will take approximately 30 minutes to complete each written notice. Total annual burden for this requirement is 125 hours.

51 States/entities and 618 Railroads

Burden time per response: 30 minutes

Frequency of Response: On occasion

Annual number of Responses: 250 written notices

Annual Burden: 125 hours

Calculation: 250 written notices x 30 min. = 125 hours

(2) The parent corporation must provide immediate written notification to the FRA Associate Administrator of any change in the list of subsidiary operating railroads for which it has assumed reporting and updating responsibility. (**New Requirement**)

(3) The parent corporation shall submit the data required by paragraph (a) of this section to the Crossing Inventory electronically.

FRA estimates that approximately 75 immediate written notices will be provided to FRA each year by the parent corporations of any change in the list of subsidiary operating railroads under the above requirement. It is estimated that it will take approximately 30 minutes to complete each written notice. Total annual burden for this requirement is 38 hours.

51 States/entities and 618 Railroads

Burden time per response: 30 minutes

Frequency of Response: On occasion

Annual number of Responses:	75 immediate written notices
Annual Burden:	38 hours
Calculation:	75 immediate written notices x 30 min. = 38 hours

Total annual burden for this entire requirement is 6,613 hours (2,106 + 129 + 617 + 3,585 + 3 + 10 + 125 + 38).

§ 234.405 Submission of initial data to the Crossing Inventory for previously unreported crossings.

(a) *Duty of Primary Operating Railroad.* (1)(A) With the exception of highway-rail and pathway crossings that are located in a railroad yard, passenger station, or within a private company, port, or dock area, each primary operating railroad shall assign an Inventory Number to each previously unreported highway-rail and pathway crossing through which it operates.

(B) A primary operating railroad shall assign one or more Inventory Numbers to previously unreported highway-rail and pathway crossings through which it operates that are located in a railroad yard, passenger station, or within a private company, port, or dock area.

(C) An Inventory Number shall not be assigned to a temporary crossing, nor shall an Inventory Form be submitted to the Crossing Inventory for a temporary crossing.

(2) With the exception of highway-rail and pathway crossings that are located within a private company, port, or dock area, the primary operating railroad shall provide the assigned Inventory Number to each operating railroad that operates one or more trains through the previously unreported highway-rail or pathway crossing no later than [**INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. (**New Requirement**)

FRA estimates that approximately 99 percent of all highway-rail and pathway crossings have been reported to FRA by primary operating railroads. Thus, approximately one percent of the total number of crossings listed in FRA's current inventory database or approximately 2,120 crossings (1% of 211,984 crossings) will be assigned Inventory Numbers under the above requirement. It is estimated that it will take approximately five (5) minutes to assign each Inventory Number. Total annual burden for this requirement is 177 hours.

	51 States/entities and 618 Railroads
Burden time per response:	

5 minutes

Frequency of Response: On occasion

Annual number of Responses: 2,120 assigned Inventory Numbers
Annual Burden: 177 hours

Calculation: 2,120 assigned Inventory Numbers x 5 min. = 177 hours

Additionally, FRA estimates that primary operating railroads will provide these 2,120 assigned inventory numbers to approximately two railroads each that operate through each of these previously unreported crossings and to approximately 40 States. Thus, a total of approximately 4,180 provided assigned Inventory Numbers (2 x 2,120 + 40) will be supplied to operating railroads under the above requirement. It is estimated that it will take approximately five (5) minutes to assign each Inventory Number. Total annual burden for this requirement is 348 hours.

51 States/entities and 618 Railroads
Burden time per response: 5 minutes

Frequency of Response: On occasion

Annual number of Responses: 4,180 provided assigned Inventory Numbers
Annual Burden: 348 hours

Calculation: 4,180 provided assigned Inventory Numbers x 5 min. = 348 hours

(3) Each primary operating railroad must submit accurate and complete Inventory Forms, or their electronic equivalent, to the Crossing Inventory for the previously unreported highway-rail and pathway crossings through which it operates, no later than [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL**

REGISTER]. The Inventory Form, or its electronic equivalent, shall reference the assigned Inventory Number for the crossing(s) and shall be completed and submitted in accordance with § 234.403. (**New Requirement**)

FRA estimates that approximately 2,120 crossing Inventory Forms will be completed under the above requirement. It is estimated that it will take approximately 30 minutes to each Inventory Form. Total annual burden for this requirement is 1,060 hours.

51 States/entities and 618 Railroads

Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	2,120 crossing Inventory Forms
Annual Burden:	1,060 hours

Calculation: 2,120 crossing Inventory Forms x 30 min. = 1,060 hours

(b) *Duty of Operating Railroad when operating railroads operate on separate track*. For each previously unreported highway-rail and pathway crossing where operating railroads operate trains on separate tracks through the crossing, each operating railroad (other than the primary operating railroad) shall submit accurate crossing data specified in the Inventory Guide to the Crossing Inventory no later than [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. The Inventory Form, or its electronic equivalent, which contains the crossing data shall reference the Inventory Number assigned to the crossing by the primary operating railroad and shall be completed and submitted in accordance with § 234.403. (**New Requirement**)

The burden for this requirement is already included under that of § 234.405(a)(2)(i) above. Consequently, there is no additional burden associated with this requirement.

(c) *Duty of All Operating Railroads.* Unless a written certification statement has been provided by the primary operating railroad in accordance with paragraph (d) of this section, each operating railroad, other than the primary operating railroad, that operates through a previously unreported highway-rail 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) 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 highway-rail or pathway crossing for which a completed Inventory Form, or its electronic equivalent, has not been submitted to the Crossing Inventory in accordance with paragraph (a) of this section. (**New Requirement**)

FRA estimates that railroads will submit approximately 450 written notifications under the above requirement. It is estimated that it will take approximately 30 minutes to complete each written notification. Total annual burden for this requirement is 225 hours.

51 States/entities and 618 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

(d) *Incomplete Submission – State Agency Data.* (1)(A) If a primary operating railroad requests State-maintained crossing data from the appropriate State agency responsible for maintaining highway-rail and pathway crossing data and does not receive the requested data within 60 days, the primary operating railroad may provide a written statement to the FRA Associate Administrator certifying that it requested crossing data from the appropriate State agency responsible for maintaining highway-rail and pathway crossing data at least 60 days prior, but has not yet received the data. If a written statement is provided to the FRA Associate Administrator pursuant to this subsection by certified mail, return receipt requested, the primary operating railroad will not be held liable for failure to timely submit an accurate and complete Inventory Form, or its electronic equivalent, as required by § 234.405(a)(3). If the primary operating railroad receives the requested crossing data subsequent to the mailing of a certified statement under this section, the primary operating railroad shall submit the crossing data to the Crossing Inventory within 60 days of receipt.

(B) Any written statement provided pursuant to this subsection shall certify that the primary operating railroad requested crossing information for one or more data fields that have been assigned by the Inventory Guide to the State for updating purposes and the requested information has not yet been provided. The written certification statement shall be mailed no later than [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. Copies of this written certification statement shall also be mailed to each operating railroad that operates through the crossing and to the State agency responsible for maintaining highway-rail and pathway crossing data.

(2) The written certification statement must include the following:

(A) A list of each data field for which crossing information has been requested from the appropriate State agency; and

(B) The date on which this crossing information was requested from the appropriate State agency.

FRA estimates that approximately 35 written certifications will be sent to the FRA Associate Administrator by the primary operating railroad under the above requirement. It is estimated that it will take approximately 45 minutes to complete each written certification. Total annual burden for this requirement is 26 hours.

51 States/entities and 618 Railroads

Burden time per response:	45 minutes
Frequency of Response:	On occasion
Annual number of Responses:	35 written certifications
Annual Burden:	26 hours

Calculation: 35 written certifications x 45 min. = 26 hours

Additionally, FRA estimates that approximately 105 written certification statement copies will mailed to each operating railroad that operates through the crossing and to the State agency responsible for maintaining highway-rail and pathway crossing data (i.e., 35 statement copies x 2 railroads + 40 State agencies) under the above requirement. It is estimated that it will take approximately two (2) minutes to complete/mail each written certification copy. Total annual burden for this requirement is four (4) hours.

51 States/entities and 618 Railroads

Burden time per response:

2 minutes

Frequency of Response: On occasion
Annual number of Responses: 105 written certification copies
Annual Burden: 4 hours

Calculation: 105 written certification copies x 2 min. = 4 hours

Total annual burden for this entire requirement is 1,840 hours (177 + 348 + 1,060 + 225 + 26 + 4).

§ 234.407 Submission of initial data to the Crossing Inventory for new crossings.

(a) *Duty of Primary Operating Railroad.* (1)(A) With the exception of highway-rail and pathway crossings that are located in a railroad yard, a passenger station, or within a private company, port, or dock area, each primary operating railroad shall assign an Inventory Number to each new highway-rail and pathway crossing through which it operates.

(B) A primary operating railroad shall assign one or more Inventory Numbers to new highway-rail and pathway crossings through which it operates, which are located in a railroad yard, passenger station, or within a private company, port, or dock area.

(C) An Inventory Number shall not be assigned to a temporary crossing, nor shall an Inventory Form be submitted to the Crossing Inventory for a temporary crossing.

FRA estimates that approximately 100 Inventory Numbers will be assigned by primary operating railroads to each new highway-rail and pathway crossing through which it operates under the above requirement. It is estimated that it will take approximately five (5) minutes to assign an Inventory Number. Total annual burden for this requirement is eight (8) hours.

51 States/entities and 618Railroads
Burden time per response:

5 minutes

Frequency of Response: On occasion
Annual number of Responses: 100 assigned Inventory Numbers
Annual Burden: 8 hours

Calculation: 100 assigned Inventory Numbers x 5 min. = 8 hours

(2) With the exception of highway-rail and pathway crossings that are located within a private company, port, or dock area, the primary operating railroad shall provide the assigned Inventory Number to each operating railroad that operates one or more trains through the new highway-rail or pathway crossing no later than four (4) months after the crossing becomes operational or [**INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], whichever occurs later.

Additionally, FRA estimates that approximately half of the estimated 100 new crossings or approximately 50 new crossings will have other railroads operating over them. The agency estimates that approximately two (2) railroads will be operating over each of these 50 crossings and thus primary operating railroads will need to provide 100 assigned Inventory Numbers for these new crossings to these operating railroads. It is estimated that it will take approximately five (5) minutes to provide the assigned Inventory Number to each operating railroad. Total annual burden for this requirement is eight (8) hours.

51 States/entities and 618 Railroads

Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	100 provided assigned Inventory Numbers
Annual Burden:	8 hours

Calculation: 100 provided assigned Inventory Numbers x 5 min. = 8 hours

(3) Each primary operating railroad shall submit accurate and complete Inventory Forms, or their electronic equivalent, to the Crossing Inventory for new highway-rail and pathway crossings through which it operates, no later than six (6) months after the crossing becomes operational or [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], whichever occurs later. The Inventory Form, or its electronic equivalent, shall reference the assigned Inventory Number for the crossing(s) and shall be completed and submitted in accordance with § 234.403.

FRA estimates that approximately 100 completed crossing Inventory Forms (paper or electronic) will be submitted to FRA by railroads for each new highway-rail and pathway crossing (except a temporary crossing) through which it operates under the above requirement. It is estimated that it will take approximately 30 minutes to complete and submit each form and additional 60 minutes to generate a new form at every highway-rail grade crossing). Total annual burden for this requirement is 150 hours.

51 States/entities and 618 Railroads

Burden time per response:	1.5 hours
Frequency of Response:	On occasion
Annual number of Responses:	100 Inventory forms
Annual Burden:	150 hours
Calculation:	100 forms x 1.5 hrs. = 150 hours

(b) *Duty of Operating Railroad when operating railroads operate on separate tracks.* For each new highway-rail and pathway crossing where operating railroads operate trains on separate tracks through the crossing, each operating railroad shall submit the accurate crossing data specified in the Inventory Guide to the Crossing Inventory no later than [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. The Inventory Form, or its electronic equivalent, which contains this crossing data shall reference the Inventory Number assigned to the crossing by the primary operating railroad and shall be completed and submitted in accordance with § 234.403.

The burden for this requirement is already included under that of § 234.407(a) (2)(i) above. Consequently, there is no additional burden associated with this requirement.

(c) *Duty of All Operating Railroads.* Unless a written certification statement has been provided by the primary operating railroad in accordance with paragraph (d) of this section, each operating railroad, other than the primary operating railroad, that operates through a new highway-rail 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) of this section shall notify the FRA Associate Administrator in writing of this oversight. Written notification provided by the operating railroad must include, at a minimum, the latitudinal and longitudinal coordinates for each new and unreported highway-rail or pathway crossing for which a completed Inventory Form, or its electronic equivalent, has not been submitted to the Crossing Inventory in accordance with paragraph (a) of this section.

FRA estimates that a completed Inventory Form, or its electronic equivalent, will be submitted for each new highway-rail or pathway crossing and thus zero (0) written certification statements will need to be completed. Consequently, there is no additional burden associated with this requirement.

(d) *Incomplete Submission – State Agency Data.* (1)(A) If a primary operating railroad requests State-maintained crossing data from the appropriate State agency responsible for maintaining highway-rail and pathway crossing data and does not receive the requested data within 60 days, the primary operating railroad may provide a written statement to the

FRA Associate Administrator certifying that it requested crossing information from the appropriate State agency responsible for maintaining highway-rail and pathway crossing data at least 60 days prior, but has not yet received the data. If a written statement is provided to the FRA Associate Administrator pursuant to this subsection by certified mail, return receipt requested, the primary operating railroad will not be held liable for failure to timely submit an accurate and complete Inventory Form, or its electronic equivalent, as required by § 234.405(a)(3). If the primary operating railroad submits the requested crossing data subsequent to the mailing of a certified statement under this section, the primary operating railroad shall submit the crossing data to the Crossing Inventory within 60 days of receipt.

(B) Any written certification statement provided pursuant to this subsection shall certify that the primary operating railroad requested crossing information for one or more data fields that have been assigned by the Inventory Guide to the State for updating purposes and the requested information has not yet been provided. The written certification statement shall be mailed no later than six (6) months after the crossing becomes operational or [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], whichever occurs later. Copies of this written certification statement shall also be mailed to each operating railroad that operates through the crossing and to the State agency responsible for maintaining highway-rail and pathway crossing data.

(2) The written certification statement must include the following:

(A) A list of each data field for which crossing information has been requested from the appropriate State agency; and

(B) The date on which this crossing information was requested from the appropriate State agency.

FRA believes that railroads and States will work very closely together regarding the estimated 100 new crossings that will come into existence each year. Crossing information then will be provided by States to primary operating railroads in a timely way and thus FRA estimates that there will be zero (0) written certification statements sent to FRA under the above requirement. Consequently, there is no additional burden associated with it.

Total annual burden for this entire requirement is 166 hours (8 + 8 + 150).

§ 234.409 Submission of Periodic Updates to the Crossing Inventory

(a) *Duty of Primary Operating Railroad.* Each primary operating railroad shall submit up-to-date and accurate crossing data to the Crossing Inventory for each highway-rail and pathway crossing (except for a grade-separated or closed highway-rail or pathway

crossing) through which it operates, in accordance with the Inventory Guide. Updated crossing data shall be submitted to the Crossing Inventory at least every three (3) years from the date of the most recent submission of data by the primary operating railroad (or on behalf of the primary operating railroad) for the crossing or [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], whichever occurs later. For hard-copy submissions to Crossing Inventory, this three-year period shall be measured from mailing date of the most recent submission of data by the primary operating railroad (or on behalf of the primary operating railroad). According to FRA's database, there are approximately 211,984 highway-rail and pathway crossings in the United States. Periodic updates must be submitted to the Crossing Inventory at least once every three years. Consequently, FRA estimates that approximately 80,775 updates (211,984 crossings divided by three) will be submitted by primary operating railroads to the Crossing Inventory each year under the above requirement. It is estimated that it will take approximately 2.5025 minutes to complete the data updates on the Crossing Inventory form. Total annual burden for this requirement is 3,369 hours.

51 States/entities and 618 Railroads

Burden time per response:	2.5025 minutes
Frequency of Response:	Annually
Annual number of Responses:	80,775 Crossing Inventory updates
Annual Burden:	3,369 hours

Calculation: 80,775 Crossing Inventory updates x 2.5025 min. = 3,369 hours

(b) *Duty of Operating Railroad when operating railroads operate on separate tracks.* For each highway-rail and pathway crossing where operating railroads operate trains on separate tracks through the crossing, each operating railroad shall submit up-to-date and accurate crossing data for certain specified data fields on the Inventory Form, or its electronic equivalent, to the Crossing Inventory at least every three (3) years from the date of the most recent submission of data by that operating railroad (or on behalf of that operating railroad) for the crossing or [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], whichever occurs later. For hard-copy submissions to Crossing Inventory, this three-year period shall be measured from mailing date of the most recent submission of data by the primary operating railroad (or on behalf of the primary operating railroad). The Inventory Form, or its electronic equivalent, shall be partially completed in accordance with the Inventory Guide and submitted in accordance with § 234.403.

The burden for this requirement is already included above under that of § 234.409(a).

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

(c) *Duty of All Operating Railroads.* Each operating railroad, other than the primary operating railroad, that operates through a highway-rail or pathway crossing for which up-to-date information has not been timely submitted to the Crossing Inventory in accordance with paragraph (a) 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 Inventory Number for each highway-rail and pathway crossing 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.

	618 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

Total annual burden for this entire requirement is 3,686 hours (3,369 + 317).

§ 234.411 Changes requiring submission of updated information to the Crossing Inventory.

(a) *Crossing sale.* (1) Any railroad that sells all or part of a highway-rail or pathway crossing shall submit to the Crossing Inventory an Inventory Form, or its electronic equivalent, which reflects the crossing sale. The updated Inventory Form, or its electronic equivalent, must be submitted to the Crossing Inventory in accordance with § 234.403 no later than three (3) months after the date of sale or [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], whichever occurs later.

FRA estimates that there will be approximately 650 instances every year where an operating railroad transfers/sells all or part of a highway-rail or pathway crossing and completes an updated crossing form under the above requirement. It is estimated that it will take approximately 30 minutes to complete the updated Crossing Inventory form and

work between the two railroads will take an additional 1.5 hours. Total annual burden for this requirement is 1,300 hours.

618 Railroads
Burden time per response: 2 hours (30 min. + 90 min.)
Frequency of Response: Annually
Annual number of Responses: 650 updated Crossing Inventory forms
Annual Burden: 1,300 hours

Calculation: 650 updated Crossing Inventory forms x 2 hrs. = 1,300 hours

(b) *Crossing Closure.* Within three (3) months after the closure of any highway-rail or pathway crossing reported to the Crossing Inventory or [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], whichever occurs later, the primary operating railroad must submit an Inventory Form, or its electronic equivalent, that reflects closure of the crossing to the Crossing Inventory, in accordance with the Inventory Guide and § 234.403.
FRA estimates that there will be approximately 85 crossing closures of highway-rail grade crossings each year and thus approximately 85 crossing Inventory forms will be submitted to FRA by primary operating railroads to reflect that change under the above requirement. The whole form will not have to be completed and thus it is estimated that it will take approximately five (5) minutes to complete the updated Crossing Inventory form. Total annual burden for this requirement is seven (7) hours.

618 Railroads
Burden time per response: 5 minutes
Frequency of Response: Annually
Annual number of Responses: 85 Crossing Inventory forms (closures)
Annual Burden: 7 hours

Calculation: 85 updated Crossing Inventory forms (closures) x 5 min. = 7 hours

(c) *Changes in Crossing Characteristics.* (1) Within three (3) months of any change in crossing surface or change in warning device at any public highway-rail grade crossing or [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], whichever occurs later, the primary operating railroad must submit an Inventory Form, or its electronic equivalent, that reflects up-to-date and accurate crossing data for the crossing (including the change in crossing surface or change in warning device) to the Crossing Inventory, in accordance with the Inventory Guide and § 234.403.

(2) For purposes of this Subpart, a "change in warning device" means the addition or removal of a crossbuck, yield or stop sign, flashing lights, or gates at a public highway-rail grade crossing. The installation of a crossbuck, yield or stop sign, flashing lights, or gates that will be in place for less than six months does not constitute a "change in warning device" for purposes of this Subpart.

FRA estimates that approximately 650 crossing Inventory forms will be submitted to FRA by primary operating railroads to reflect changes in crossing surface or change in warning device at any public highway-rail grade crossing under the above requirement. It is estimated that it will take approximately 30 minutes to complete the updated Crossing Inventory form. Total annual burden for this requirement is 325 hours.

618 Railroads
Burden time per response: 30 minutes
Frequency of Response: Annually
Annual number of Responses: 650 Crossing Inventory forms
Annual Burden: 325 hours

Calculation: 650 updated Crossing Inventory forms x 30 min. = 325 hours

Total annual burden for this entire requirement is 1,632 hours (1,300 + 7 + 325).

§ 234.413 Recordkeeping.

(a) Each railroad subject to this Subpart must keep records in accordance with this section. Records may be kept either on paper or by electronic means in a manner that conforms with § 234.415.

(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 5,901 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 98 hours.

618 Railroads
Burden time per response: 1 minute
Frequency of Response: On occasion
Annual number of Responses: 5,901 duplicate copies
Annual Burden: 98 hours

Calculation: 5,901 duplicate copies x 1 min. = 98 hours

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

Based on its earlier estimate in section 234.409(a) of this document, FRA estimates that railroads will keep approximately 80,775 copies of FRA confirmation after electronic submission of crossing data to the Crossing Inventory under this requirement. It is estimated that it will take approximately one (1) minute to make/keep each copy. Total annual burden for this requirement is 1,346 hours.

618 Railroads
Burden time per response: 1 minute
Frequency of Response: On occasion
Annual number of Responses: 80,775 copies of FRA confirmations
Annual Burden: 1,346 hours

Calculation: 80,775 copies of FRA confirmations x 1 min. = 1,346 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.

(d) Each operating railroad shall retain for at least four (4) years from the date of submission to the Crossing Inventory all records referred to in paragraphs (a) and (b) of this section. Records required to be kept under this Subpart shall be made available to FRA as provided by 49 U.S.C. 20107.

FRA estimates that each of the 618 railroads will record identification information and designation information under § 234.413(c) above. It is estimated that it will take approximately five (5) minutes to complete each list. Total annual burden for this requirement is 52 hours.

	618 railroads	
Burden time per response:		
		5 minutes
Frequency of Response:		On occasion
Annual number of Responses:	618 lists	
Annual Burden:	52 hours	
Calculation:	618 lists x 5 min. = 52 hours	

Total annual burden for this requirement is 1,496 hours (98 + 1,346 + 52).

§ 234.415 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 in accordance with the recordkeeping requirements contained in § 234.413.

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The burden is already included in §§ 234.403 and 234.413 above. Consequently, there is no additional burden associated with this requirement.

Total annual burden for this entire information collection submission is 15,433 hours.

13. <u>Estimate of total annual costs to respondents</u>.

As noted in the regulatory impact analysis accompanying the Crossing Inventory final 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 final 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 $2.8 million with a present value (PV, 7 percent) of $2.0 million. The final 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 final rule.

In the Regulatory Evaluation, FRA has explained what the likely benefits for the final rule, and provided a break-even analysis. The main benefit derived from the rule is improved crossing inventory data. This more precise information will better enable FRA, railroads, and any other entity to accurately analyze pertinent data, detect trends, and if needed, initiate crossing-related safety initiatives. In this analysis, FRA determined that, if there were a decrease of 0.015 percent of crossing accidents over the 20-year period, the costs associated with the rule will break-even. In the last decade, there were over 26,000 collisions at grade crossings. This break-even analysis expects that, over a 20-year period, there will be at least three fewer incidents due to the 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 final 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 final rulemaking.

Cost for Rulemaking	
Initial Update of Inventory	$1,178,701
Periodic Update of Inventory	$819,473
Total	**$1,998,174**

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 **7,379 hours** from the last approved submission. The change in burden is due solely to **program changes** resulting from the final rule's new requirements on railroads. Previously, crossing inventory data were provided **voluntarily** both by railroads and States. 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)
234.403 – Submission of Data to Crossing Inventory: Forms	(Formerly **voluntary)** 6,942 forms 30 minutes)	(Now **required**) 4,212 forms 30 minutes	3,471 hours	2,106 hours	--1,365 hours --2,730 resp.
- Non GX-32 Crossing Inventory Updates	163,373 records (1,111 lists) 30 minutes	181,359 records (1,234 lists) 30 minutes	556 hours	617 hours	+ 61 hours +17, 986 resp.
-GX 32 Crossing Inventory Updates	38,982 records 6 minutes	35,845 records 6 minutes	3,898 hours	3,585 hours	-- 313 hours -- 3,137 resp.
- Mass Update Printouts	4,364 records (257 unit files) @.5 hr.	4,133 rcds. (257 unit files) @.5 hr.	129 hours	129 hours	+ 0 hours -- 231 resp.
- Special Mass Changes	51,768 updated records 0 hours	38,586 updated records 0 hours	0 hours	0 hours	+ 0 hours --13,182 resp.
- Written requests by State/RRs for FRA Crossing Inv. Guide (**New**)	N/A	10 requests 15 minutes	N/A	3 hours	+ 3 hours + 10 responses
- Reporting Crossing Inv. Data by State Agencies	N/A	20 notices 30 minutes	N/A	10 hours	+ 10 hours + 20 responses

on behalf of RRs: Written Notices to FRA (**New**)					
- Consolidated Reporting by Parent Corp. on behalf of Its Subsidiary RRs: Written Notice to FRA (**New**)	N/A	250 notices 30 minutes	N/A	125 hours	+ 125 hours + 250 responses
- Immediate Written Notification by Parent Corp. of any changes in list of subsidiary RRs (**New**)	N/A	75 notifications 30 minutes	N/A	38 hours	+ 38 hours + 75 responses
234.405(a)(1) – Initial Submission for Previously Unreported Crossings through which they operate by primary operating RR: Providing Assigned Crossing number to each RR that operates 1 or more trains through crossing (**New**)	N/A	2,120 assigned Inv. numbers 5 minutes 4,180 provided assigned number 5 minutes	N/A N/A	177 hours 348 hours	+ 177 hours + 2,120 resp. + 348 hours + 4,180 resp.
(a)(2)(i) -- Completed Crossing Inv. forms for each previously unreported crossing (**New**)	N/A	2,120 forms 30 minutes	N/A	1,060 hours	+ 1,060 hours + 2,120 resp.
- (c) RR Duty: Notification to FRA of previously previously unreported crossing through which it operates (**New**)	N/A	450 notifications 30 minutes	N/A	225 hours	+ 225 hours + 450 resp.
- (d) Written certification by primary operating RR that State has not provided	N/A	35 certification statements 45 minutes	N/A	26 hours	+ 26 hours + 35 resp.

requested crossing information (**new**) - Copies of written certification statements to other operating RRs & State agencies (**New)**	N/A	105 mailed certification copies 2 minutes	N/A	4 hours	+ 4 hours + 105 resp.
234.407 (a) -- Submission of initial data for New Crossings: Providing Assigned Crossing number to each RR that operates 1 or more trains through crossing (**New**) (a)(2)(i) -- Completed Inv. form for each New Crossing (**New**)	N/A N/A	100 assigned numbers & 5 minutes 100 provided assigned numbers 5 minutes 100 forms 90 minutes	N/A N/A N/A	8 hours 8 hours 150 hours	+ 8 hours + 100 responses + 8 hours + 100 responses + 150 hours + 100 responses
234.409(a) – Crossing Inventory Updates (c) – Written notification by operating RR to FRA that accurate & up-to-date information has not been timely submitted for each highway-rail or pathway crossing	0 updates 0 minutes 0 notifications 0 minutes	80,775 updates 2.5025 minutes 950 notifications 20 minutes	0 hours 0 hours	3,369 hours 317 hours	+ 3,369 hours + 80,775 resp. + 317 hours + 950 responses
234.111 (a) – Updated Crossing Inventory Forms (b) – Primary operating RR submission of Inventory Form after closure of highway-rail or pathway crossing (c) – Primary	0 forms 0 hours 0 forms 0 minutes 0 forms	650 forms 2 hours 85 forms 5 minutes 650 forms	0 hours 0 hours 0 hours	1,300 hours 7 hours 325 hours	+ 1,300 hours + 650 responses + 7 hours + 85 responses + 325 hours

operating RR submission of Inventory Form that reflects changes in crossing characteristics	0 minutes	30 minutes			+ 650 responses
234.413(a)(b)(1) – Operating RR duplicate copy of each hard copy of Inventory Form	0 copies 0 minutes	5,901 copies 1 minute	0 hours	98 hours	+ 98 hours + 5,901 resp.
(b)(2) – RR copy of FRA electronic confirmation after electronic submission of crossing data to the Crossing Inventor	0 copies 0 minutes	80,775 copies 1 minute	0 hours	1,346 hours	+ 1,346 hours + 80,775 resp.
(c) – Railroad Identification of locations (lists) where a copy of any required record is accessible for inspection and copying by FRA	0 lists 0 minutes	618 lists 5 minutes	0 hours	52 hours	+ 52 hours + 618 responses

Program changes above *increased* the burden by *7,379 hours* and *increased* responses by *178,775* from the last approved submission.

The current OMB inventory shows a total burden of 8,054 hours, while the present submission exhibits a total burden of 15,433 hours. Hence, there is a total increase of 7,379 hours.

As noted in the regulatory impact analysis accompanying this final rule and in the answer to question number 13 above, the cost to respondents has increased by **$1,998,174**, and results from a **program change** associated with the mandatory requirements of this final 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 (e.g., 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.