

SUPPORTING JUSTIFICATION
NATIONAL HIGHWAY-RAIL CROSSING INVENTORY REPORTING
REQUIREMENTS; OMB No. 2130-0017; RIN 2130-AC55

Summary of Submission

- The collection of information associated with this Final Rule in response to a petition for reconsideration is a **revised** submission. FRA is amending 49 CFR Part 234 further in response to comments from the Association of American Railroads (AAR).
- FRA is publishing the document titled National Highway-Rail Crossing Inventory Reporting Requirements Final Rule: Response to Petition for Reconsideration in the **Federal Register** on June 10, 2016. See 81 FR 37521.
- Total number of burden **hours requested** for this submission is **17,798 hours**.
- Total number of burden hours **previously approved** for this submission is **15,433 hours**.
- Total change in burden from the last approved submission is **2,365 hours**.
- **Adjustments** increased the burden by **2,390 hours**.
- **Program change(s)** decreased the burden by **25 hours**.
- Total number of **responses requested** for this submission is **418,398**.
- Total number of **responses previously approved** for this submission is **405,618**.
- Total change in the number of **responses** from the last approved submission is **12,780**.
- ******The answer to question **number 12** itemizes the hourly burden associated with each requirement of this rule (See pp. 18-36).

****** The table in answer to question **number 15** itemizes all **adjustments** and one **program change** (See pp. 38-39).

1. Circumstances that make collection of the information necessary.

On October 18, 2012, FRA published a notice of proposed rulemaking (NPRM) as a first step towards the agency's promulgation of Crossing Inventory regulations per the Congressional mandate contained in Section 204(a) of the Rail Safety Improvement Act

of 2008 (RSIA) (codified at 49 U.S.C. 20160). See 77 FR 64077. After careful consideration of comments received in response to the NPRM and testimony received at a February 19, 2013, public hearing, FRA published a final rule on January 6, 2015, requiring railroads that operate one or more trains through highway-rail or pathway crossings to submit initial reports to the Crossing Inventory, including current information about warning devices and signs for previously unreported and new highway-rail and pathway crossings through which they operate. The final rule also requires railroads to periodically update the data in the Crossing Inventory, including the prompt reporting of a crossing sale, crossing closure, or changes in certain crossing characteristics. See 80 FR 746.

The Association of American Railroads (AAR) filed a petition for reconsideration (Petition) of the final rule. In its Petition, AAR asks FRA: (1) for additional time to comply with the final rule; (2) to reconsider the rule's requirement that railroads, in certain instances, submit data to the Crossing Inventory that State agencies have historically submitted voluntarily. Specifically, AAR asks FRA to amend 49 CFR §§ 234.405 and 234.407 to address that issue and issues associated with the assignment of inventory numbers to certain crossings located in private companies', ports', and docks' areas; (3) to amend those same sections, and § 234.409, to remove the requirement that railroads operating trains through highway-rail or pathway crossings, that are not the "primary operating railroad" for those crossings, ensure information the relevant primary operating railroad provides to the Crossing Inventory is submitted and updated; and (4) to revise the Inventory Guide¹ to disallow states from reporting crossing closures to the Crossing Inventory.

The amended rule responds to the AAR petition for reconsideration of FRA's January 6, 2015, final rule addressing U.S. DOT National Highway-Rail Crossing Inventory (Crossing Inventory or Inventory) Reporting Requirements. This document amends and clarifies the final rule in response to the petition for reconsideration and makes certain additional amendments to the rule to address practical implementation problems that arose after publication of the final rule.

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

This is a revised collection of information. All 50 States and some 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 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.

¹ Federal Railroad Administration, Office of Railroad Safety, "Guide for Preparing U.S. DOT Crossing Inventory Forms" (initially published January 6, 2015).

FRA maintains two types of data files: the Inventory Data File and the Accident Data File. The Inventory Data File (National 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 File in lieu of maintaining their own State Inventory File. About 10 percent of the States maintain only the National 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 Inventory Number be placed on the Accident Report. This Crossing Inventory 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 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 National 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 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 Data Website," which is currently receiving over 440,000 visits per year.

3. Extent of automated information collection.

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 provided this program at no cost to States and railroads for use in accessing and maintaining their crossing inventory records. The program utilized a facsimile of the Inventory Form which was displayed on a monitor screen and permitted 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 benefitted from a reduction in paper forms. When requested, the user received a computer program package, including a file of all crossings, which could 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 made updating simple and easy.

The "GX32" software was 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 contained a custom database that included the user's crossings and reference files. Table 3-2 presents a comparison of update records received for the various methods that were 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 discontinued use of the GX32 software program for submitting electronic data to the Crossing Inventory. FRA replaced the GX32 software program with a secure web-based application. FRA also allows 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 revised Form FRA F 6180.71. A 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	
	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 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. 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.

To ensure the impact of this rulemaking on small entities is properly considered, FRA developed these final rule amendments consistent with Executive Order 13272 (“Proper

Consideration of Small Entities in Agency Rulemaking”) and DOT’s procedures and policies to promote compliance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.).

The Regulatory Flexibility Act requires an agency to review regulations to assess their impact on small entities. FRA certified 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. The amendments to this final rule will provide some relief to small entities by granting them time to comply with changes that are being made in these the final rule amendments. However, the amendments to the final rule will not change the overall impact on small entities. Therefore, FRA is confident that its previous certification for the final rule is still valid.

6. Impact of less frequent collection of information.

Failure to collect this information or to collect it less frequently would seriously jeopardize FRA’s safety program because the agency would not have the necessary information to monitor the nation’s most heavily traveled, dangerous, and high risk highway-rail intersections. As a result, FRA and the railroad industry (including the State and railroad stakeholders) would not know which railroad crossings present the greatest hazards, or which crossings experience one or more accidents/incidents, and would not be able to devise and implement appropriate safety improvement programs (installation of flashing lights and gates) for these sites. The likely consequence would be an increase in the number and severity of accidents/incidents, and a corresponding increase in the number casualties and fatalities. With current and constantly updated data, FRA can verify that the information is accurate and reliable, and can help 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 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 their inventory records and then submit periodic updates thereafter. This legislation requires that every crossing, public, private, and pedestrian – both at-grade (level) and grade-

separated – be reported to the Crossing Inventory. It further requires that grade crossing inventory records be updated periodically.

7. Special circumstances.

Section 234.413(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 January 6, 2015, FRA published its Final Rule titled National Highway-Rail Crossing Inventory Reporting Requirements in the **Federal Register**. See 80 FR 745. In response to this document, FRA received a petition for reconsideration from the Association of American Railroads (AAR).

FRA also received notifications from numerous railroads regarding section 234.403. Section 234.403 of the final rule contains the general requirements for submission of information to the Crossing Inventory. Paragraph (e) of this section of the final rule allows a parent corporation to submit crossing data to the Crossing Inventory on behalf of one or more of its subsidiaries, if the parent corporation and subsidiary railroad(s): (1) provide written notice (signed by the chief executive officer of the parent corporation) to FRA that the parent corporation is assuming the reporting and updating responsibility; and (2) operate as a “single, seamless, integrated” railroad system. Since publication of the final rule, many railroads that voluntarily submitted crossing data in the past on behalf of their subsidiaries notified FRA they would like to continue to do so. However, because they do not operate as a “single, seamless, integrated” railroad system they cannot report on behalf of their subsidiaries under the final rule. Railroads also questioned the need for the chief executive officer, as opposed to any railroad official, to sign the written notice the parent corporation submits.

After considering these concerns, which could inadvertently prevent parent corporations from reporting crossing data on behalf of their subsidiaries, FRA is amending § 234.403(e) by removing the requirement that parent corporations and their subsidiary railroads operate as a “single, seamless, integrated” railroad system. As a result, all

railroad parent corporations can now report on behalf of their subsidiaries under paragraph (e).

This final rule also simplifies the notification process a parent corporation must follow if it wants to submit Crossing Inventory data on behalf of one or more of its subsidiary railroads. At least one regulated entity raised concerns about current paragraph (e)(1) of this section of the final rule that requires the chief executive officer of the parent corporation to sign the required notice to FRA that the parent corporation is assuming reporting and updating responsibility for its subsidiaries. In response to those concerns, FRA is amending paragraph (e)(1) to allow any appropriate management official with authority to bind the company to sign the notice. This notice must include a statement that the parent corporation is agreeing to (1) submit and update crossing data for the named subsidiaries and the parent corporation, and (2) be subject to enforcement action for noncompliance with the final rule. FRA is also amending paragraph (e)(1) to require only the parent corporation, instead of the parent corporation and the named subsidiary, to submit the required written notice to FRA.

In its petition for reconsideration, AAR comments on several sections of the final rule. Among them, AAR remarks on section 234.405. Current paragraph (a)(1)(ii) of § 234.405 requires each primary operating railroad that operates through at least one previously unreported crossing within a private company, port, or dock area to assign one or more Inventory Numbers to those crossings. AAR asserts that (1) this requirement is contrary to current practice that allows a single Inventory Number to be assigned to all crossings in these areas, and (2) this new requirement could create reporting confusion if an accident were to occur at a crossing within a private company, port, or dock area. AAR requests that FRA amend this requirement to allow multiple primary operating railroads to share an assigned Inventory Number for one or more previously unreported highway-rail and pathway crossings located within a private company, port, or dock area.

After careful consideration, FRA is not adopting AAR's request to modify the language of § 234.405(a)(1)(ii) for two reasons. First, for purposes of enforcement of this rule's reporting requirements, if the railroads share a single Inventory Number, FRA will not know which railroad is responsible for misreporting or failure to report. Second, if a reportable accident/incident occurs at a previously unreported highway-rail or pathway crossing located within a private company, port, or dock area, it benefits both FRA and the railroads involved for the railroad responsible for reporting the accident/incident under 49 CFR Part 225 to have its own unique Inventory Number it can use in the accident/incident report it files with FRA.

FRA disagrees with AAR's argument that assigning multiple Inventory Numbers to the same highway-rail or pathway crossing could create reporting confusion. It is possible that a railroad that operates over its own track into a private company, port, or dock area may not know if another railroad with its own track leading into the area assigned an Inventory Number to the crossings within the area. By requiring each railroad to assign

its own Inventory Number to the crossings within a private company, port, or dock area, a railroad involved in a crossing collision inside the area will not have to rely on another railroad to provide the Inventory Number so it can report the accident as required under Part 225.

FRA also disagrees with AAR's assertion that requiring each primary operating railroad to assign one or more Inventory Numbers to crossings located within a private company, port, or dock area could result in multiple railroads having multiple signs at each vehicular entrance that provide multiple Inventory Numbers and emergency notification information for the same crossings. However, FRA regulations do not require railroads to post emergency notification signs (ENS signs) at crossings located within a private company. As for port and dock areas, subpart E of 49 CFR Part 234 (subpart E) requires railroads to post at least one ENS sign only at each vehicular entrance if any highway-rail and/or pathway crossings are located within that area (and provided the port or dock area does not meet the definition of "plant railroad" in § 234.5.) See 49 CFR 234.311(a)(2)(ii). Subpart E does not require railroads to post signs at each crossing within such an area. The track owner or lessee that maintains the highway-rail or pathway grade crossing (the "maintaining railroad" under 49 CFR 234.301) is responsible for the placement and maintenance of ENS signs at each vehicular entrance. See 49 CFR 234.311(a)(2)(ii). Under subpart E, if the primary dispatching railroad under 49 CFR 234.306 and the maintaining railroad are not the same entity, the primary dispatching railroad must provide the emergency telephone number to display on the ENS sign to the maintaining railroad. See 49 CFR 234.309(a).

If there is more than one primary operating railroad that operates through highway-rail or pathway crossings in a port or dock area, subpart E does not require multiple signs at each vehicular entrance with multiple Inventory Numbers and emergency notification information for the crossings. Instead, under subpart E, the maintaining railroad (not the primary operating railroad under this final rule) is responsible for posting ENS signs that display the emergency telephone number and the Inventory Number assigned to the crossings in the port or dock area by the primary dispatching railroad.

Paragraph (a)(3) of § 234.405 of the final rule requires primary operating railroads to submit to the Crossing Inventory "accurate and complete [U.S. DOT Crossing] Inventory Forms, or their electronic equivalent," for previously unreported highway-rail and pathway crossings through which the railroads operate. AAR requests that FRA amend this provision (and the corresponding provision in § 234.407(a)(3) addressing new highway-rail and pathway crossings) by removing the requirement that primary operating railroads submit "completed" U.S. DOT Crossing Inventory Forms (Inventory Forms) for such crossings.

AAR also objects to the voluntary process in paragraph 234.405(d) (and the corresponding provision in paragraph 234.407(d) (addressing new highway-rail and pathway crossings). Paragraph 234.405(d) provides that if a railroad requests data

necessary to complete an Inventory Form from a State agency, but does not timely receive that information from the state agency, the railroad may notify FRA in writing of the state's non-responsiveness. AAR asserts that railroads should not be held responsible for supplying state-controlled information not maintained by the railroads. AAR urges FRA to revise this requirement to limit primary operating railroads' reporting responsibilities to crossing data within their control.

FRA acknowledges that State agencies generally maintain the crossing data in Parts III, IV, and V of the Inventory Form. However, the RSIA, as amended by § 11316(g) of the Fixing America's Surface Transportation Act (FAST Act), specifically requires railroads to report "[n]ot later than 1 year after the date of enactment of the RSIA or 6 months after a new crossing becomes operational, whichever occurs later . . . current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing through which it operates with respect to the trackage over which it operates." 49 U.S.C. 20160. Crossing data about warning devices and signage is primarily in Part III of the Inventory Form, under the heading "Highway or Pathway Traffic Control Device Information." Thus, in addition to the crossing data in Parts I and II of the Inventory Form, which railroads have historically collected and maintained in the Crossing Inventory, the RSIA specifically requires railroad carriers to submit additional crossing data "about warning devices and signage" for previously unreported and new crossings.

The RSIA also contains language granting the Secretary of Transportation (and by delegation, FRA) the authority to exercise discretion in determining the scope of the crossing data railroads must submit to the Crossing Inventory. In the final rule, FRA determined that submission of complete Inventory Forms for previously unreported and new public highway-rail grade crossings is needed to increase the accuracy and utility of the Crossing Inventory. FRA continues to maintain that position. Railroads generally work closely with the state agency responsible for grade crossing safety before any new public highway-rail grade crossings become operational. Therefore, any burden associated with obtaining state-maintained crossing data for new public highway-rail grade crossings should be minimal.

Nevertheless, to clarify this requirement, FRA is revising § 234.405(a)(3) (and the corresponding provision in § 234.407(a)(3) on new highway-rail and pathway crossings) to require primary operating railroads to submit "accurate Inventory Forms, or their electronic equivalent," (as opposed to "accurate and complete" Inventory Forms) to the Crossing Inventory for previously unreported highway-rail and pathway crossings through which they operate. Primary operating railroads must fill out these accurate Inventory Forms as the Inventory Guide requires. In other words, primary operating railroads are only required to complete the entire Inventory Form for new and previously unreported public highway-rail grade crossings. The Inventory Guide only requires primary operating railroads to complete Parts I and II of the Inventory Form for new and

previously unreported pathway grade crossings and new and previously unreported private highway-rail grade crossings.

Current paragraph 234.405(d) of the final rule explains how a primary operating railroad that requests State-maintained crossing data from the appropriate state agency responsible for maintaining the data, but does not timely receive the requested data, may notify FRA in writing that the railroad requested the required data, but did not receive the data. Under the final rule, if a railroad properly submits such notification, FRA would not hold the primary operating railroad responsible for failing to complete and submit accurate Inventory Forms (or their electronic equivalent) for previously unreported public highway-rail grade crossings.

In its Petition, AAR asserts that “FRA has taken a relatively straightforward process, whereby primary operating railroads could provide the data which they possess and state agencies could provide the remaining highway traffic and other non-railroad data, and has made it burdensome and complex.” Noting that a primary operating railroad may operate in dozens of states, AAR further asserts that contacting each relevant State agency, tracking the responses of those agencies, and creating a certification process would be an unmerited burden on the industry.

As previously noted, FRA continues to maintain its position that submission of complete Inventory Forms for previously unreported and new public highway-rail grade crossings is needed to increase the accuracy and utility of the Crossing Inventory. To achieve this goal, FRA is requiring primary operating railroads to provide the crossing data they possess and to request any additional required crossing data from the State agency responsible for maintaining that data. FRA anticipates that State agencies will generally respond promptly to railroad requests for State-maintained crossing data. However, primary operating railroads may submit copies of their written requests for state-maintained crossing data to FRA and to each operating railroad that operates through the crossing. This is not mandatory, but, if FRA audits the Crossing Inventory, FRA would know the primary operating railroad made an effort to obtain State data for one or more previously unreported public highway-rail grade crossings.

After considering AAR’s request, FRA is simplifying the written notification process in § 234.405(d). Instead of providing written notice to FRA certifying that state-maintained crossing data was requested at least 60 days earlier and has not yet been received, a primary operating railroad can send a copy of its written request for state-maintained crossing data to FRA and to each operating railroad that operates through the crossing. As long as the primary operating railroad submits the state-maintained crossing data within 60 days of receipt, FRA will consider the written request for State-maintained crossing data to be an affirmative defense to potential liability for failure to timely submit an Inventory Form (or its electronic equivalent) to the Crossing Inventory for a previously unreported public highway-rail grade crossing.

An issue of concern to AAR pertains to paragraphs (a)(3) and (b) of § 234.405 of the final rule, which provide a deadline of March 7, 2016, for operating railroads and primary operating railroads to submit the required Inventory Forms, or their electronic equivalent, for previously unreported highway-rail and pathway crossings. AAR requests that FRA extend the deadline to three years from the final rule's effective date (*i.e.*, until March 9, 2018). AAR asserts this additional time will allow railroads to hire and train additional staff to physically locate and inspect tens of thousands of previously unreported private crossings. AAR also asserts that railroads need this additional time to add newly acquired information to the Crossing Inventory and to modify their IT systems to meet the new requirements.

After careful consideration, FRA is not adopting AAR's request to extend the reporting deadline for new and previously unreported highway-rail and pathway crossings to three years from the final rule's effective date. However, FRA acknowledges that railroads may need additional time to incorporate the changes that FRA is making in this amendment to the final rule as a result of AAR's Petition. Therefore, FRA is revising § 234.405(a)(3) to extend the deadline for primary operating railroads to submit crossing data to the Crossing Inventory for previously unreported highway-rail and pathway crossings to **[DATE 60 DAYS AFTER PUBLICATION DATE]**. Consistent with this extension of time, FRA is also extending the deadline for operating railroads that operate on separate tracks to submit crossing data to the Crossing Inventory to **[DATE 60 DAYS AFTER PUBLICATION DATE]**. FRA is not adjusting any other deadlines in § 234.405(a) and (b).

AAR also comments on paragraph (c) of § 234.405, which requires operating railroads (railroads other than the primary operating railroad that operate through a crossing) to notify FRA if a primary operating railroad has not submitted a completed Inventory Form, or its electronic equivalent, to the Crossing Inventory consistent with the rule for a new or previously unreported crossing the railroad operates through. AAR requests that FRA amend this requirement (along with the corresponding requirement in § 234.407(c) related to new crossings) so operating railroads will not be liable for a primary operating railroad's failure to submit the required crossing data. AAR asserts this provision imposes a significant burden on operating railroads and constitutes an inappropriate shift of regulatory compliance policing responsibility to a private business. AAR asserts that the final rule requires operating railroads to include and validate data for other railroads' crossings in their databases on an ongoing basis to ensure the primary operating railroad properly submitted required crossing data to the Crossing Inventory. AAR further asserts it is unrealistic to require railroads to audit the crossing data of other railroads, in addition to their own crossing data, all within 14 months.

After careful consideration of AAR's request, with respect to the initial reporting of new and previously unreported highway-rail and pathway crossings, FRA cannot legally adopt AAR's request. Paragraph (c) of § 234.405 (and paragraph (c) of § 234.407 related to new crossings) implements the RSIA mandate that each railroad carrier ensure current information about each previously unreported highway-rail or pathway crossing is

reported to the Crossing Inventory. See 49 U.S.C. 20160(a). Congress left FRA no discretion to ignore this mandate. Clearly, Congress thought operating railroads that operate over new and unreported highway-rail and pathway crossings are in the best position to identify crossings that have not been reported to the Crossing Inventory.

In its comments on section 2324.407 of the final rule relating to the submission of initial data to the Crossing Inventory for new crossings, AAR makes similar requests to those it makes in section 234.405 relating to the submission of initial data to the Crossing Inventory for previously unreported crossings. In its response, FRA echoes its earlier position regarding the AAR requests in section 234.405.

AAR's last comments address section 234.409 regarding periodic updates to the Crossing Inventory. As it did for §§ 234.405 and 234.407, AAR requests that FRA amend the compliance deadlines in paragraphs (a) and (b) of §234.409 for three years from the final rule's effective date. This would allow railroads to submit updated crossing data for highway-rail and pathway grade crossings at least every three (3) years from the date of the most recent submission of data by that railroad for the crossing or by March 7, 2018, whichever occurs later.

Consistent with FRA's responses to AAR's requests to amend the compliance deadlines in §§ 234.405 and 234.407 discussed above, FRA is not adopting AAR's request to extend the compliance deadlines for railroads in paragraphs (a) and (b) of § 234.409 by three years. As with the compliance deadlines in §§ 234.405 and 234.407, however, FRA acknowledges that railroads may need time to incorporate the changes that are being made in these amendments to the final rule being made as a result of AAR's Petition. Therefore, FRA is revising §§ 234.409(a) and (b) to extend the deadline for primary operating railroads and operating railroads to submit updated crossing data to the Crossing Inventory for highway-rail and pathway crossings over which they operate to every three (3) years from the date of the most recent submission of data by the railroad (or on behalf of the railroad) for the crossing or **[DATE 60 DAYS AFTER PUBLICATION DATE]**, whichever occurs later.

AAR's final point pertains to § 234.409(c). Paragraph (c) of § 234.409 requires operating railroads (other than primary operating railroads), that operate through a highway-rail or pathway crossing for which up-to-date information has not been timely submitted to the Crossing Inventory to notify FRA of this oversight. Written notification the operating railroad provides must include, at a minimum, the Inventory Number for each highway-rail or pathway crossing that has not been updated.

AAR requests that FRA amend § 234.409(c), so that operating railroads will not be held liable for the primary operating railroad's failure to timely submit updated crossing data to the Crossing Inventory. AAR asserts that this provision imposes a significant burden on operating railroads, which will need to include and validate data for other railroads' crossings in their databases on an ongoing basis to ensure that the primary operating railroad has properly submitted required crossing data to the Crossing Inventory. AAR

further asserts that this language constitutes an inappropriate shift of regulatory compliance policing responsibility to a private business and that it is unrealistic to require railroads to audit the crossing data of other railroads, in addition to their own crossing data, within 14 months.

After considering AAR's request, FRA is removing § 234.409(c). The RSIA requires each railroad carrier to ensure that periodic updates are submitted to the Crossing Inventory for each highway-rail and pathway crossing through which it operates. See 49 U.S.C. 20160(b). However, unlike previously unreported and new crossings that have not yet been reported to the Crossing Inventory, FRA can use the Grade Crossing Inventory System (GCIS) to generate reports that identify out-of-date highway-rail and pathway crossing data. FRA can use these reports to verify that primary operating railroads (and any operating railroads that operate on separate tracks through the crossing) are timely submitting periodic updates to the Crossing Inventory, as required by §§ 234.409(a) and (b). Therefore, FRA is revising the final rule to remove the requirement that operating railroads monitor the Crossing Inventory and provide the agency written notification if a primary operating railroad fails to timely submit updates to the highway-rail and pathway crossing data for which it is responsible.

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 minute s
Frequency of Response:	On occasion
Annual number of Responses:	4,212 forms
Annual Burden:	2,106 hours
<u>Calculation:</u>	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:	

Frequency of Response:		30 minute s 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:

Frequency of Response:		30 minute s 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

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
minute

s

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		
<u>2011 - 2013 Average Annual Processing Statistics</u>		
<u>Update Method</u>	<u>Records</u>	<u>Updated Percent</u>
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

<u>Unit Files</u>	<u>Update Method</u>	<u>Records Updated</u>	<u>Per Unit Labor Time</u>	<u>Total Hours</u>
				1.

					N/A
					Invent ory Forms
					4,212
					.50 hr/For m
2.		257*	Mass Update		2,106
		Printouts	4,133	.50	
3.		hr/list	129		1,234*
					Disc/T ape (non- GX32)
					181,35 9
					.50 hr/disk
4.	N/A*	GX32 Electronic	35,845	.10	617
	hr/record	3,585			
5.	N/A	Special Mass Changes	<u>38,586</u>	.00	
	hr/record	<u>-0-</u>			
	TOTAL				264,13 5

*-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
minute
s

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.

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
minute
s

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) 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 must provide written notice to the FRA Associate Administrator that it 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:

(i) A list of all subsidiary railroads for which the parent corporation will submit and update highway-rail and pathway crossing data;

(ii) A statement signed by an official of the parent corporation affirming that the parent corporation agrees to submit and update all of the highway-rail and pathway crossing data for the named subsidiary railroad(s);

(iii) A statement that the parent corporation agrees to be subject to enforcement action for noncompliance with the reporting or updating requirements of 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
minute
s

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.

(3) The parent corporation must 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 minute s
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 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.

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

(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 January 6, 2016.

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 5,300 crossings (2.5% 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 442 hours.

51 States/entities and 618 Railroads

Burden time per response:

5
minute
s

Frequency of Response:

On
occasio
n

Annual number of Responses: 5,300 assigned Inventory Numbers
Annual Burden: 442 hours

Calculation: 5,300 assigned Inventory Numbers x 5 min.
= 442 hours

Additionally, FRA estimates that primary operating railroads will provide these 5,300 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 10,600 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 883 hours.

51 States/entities and 618 Railroads

Burden time per response:

5

Frequency of Response:		minutes
		On occasion
Annual number of Responses:	10,600 provided assigned Inventory Numbers	
Annual Burden:		883 hours
<u>Calculation:</u>	10,600 provided assigned Inventory Numbers x 5 min. = 883 hours	

(3) Each primary operating railroad must submit accurate 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 60 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 and the Inventory Guide.

FRA estimates that approximately 5,300 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 2,650 hours.

51 States/entities and 618 Railroads		
Burden time per response:		
		30 minutes
Frequency of Response:		On occasion
Annual number of Responses:	5,300 crossing Inventory Forms	
Annual Burden:		2,650 hours
<u>Calculation:</u>	5,300 crossing Inventory Forms x 30 min. = 2,650 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) must submit accurate crossing data specified in the Inventory Guide to the Crossing Inventory no later than **[INSERT DATE 60 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.

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.

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
minute
s

Frequency of Response:

On
occasio
n

Annual number of Responses: 450 written notifications
Annual Burden: 225 hours

Calculation: 450 written notifications x 30 min. = 225 hours

(d) *State-maintained Crossing Data*. If a primary operating railroad requests State-maintained crossing data from the appropriate State agency responsible for maintaining highway-rail and pathway crossing data, the primary operating railroad may send a copy of its written request for State-maintained crossing data to the FRA Associate Administrator and to each operating railroad that operates through the crossing. FRA will consider the written request to be an affirmative defense to potential liability for failure to timely submit an accurate Inventory Form, or its electronic equivalent, as required by paragraph (a)(3) of this section if the primary operating railroad: **(Revised Requirement)**

(1) Provides a copy of its written request for State-maintained crossing data to the FRA Associate Administrator and to each operating railroad that operates through the crossing; and

(2) Submits the requested State-maintained crossing data to the Crossing Inventory within 60 days of receipt.

FRA estimates that approximately 35 written request copies 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 two (2) minutes to complete each copy of the written request and electronically send it to FRA. Total annual burden for this requirement is one (1) hour.

51 States/entities and 618 Railroads

Burden time per response:

2
minute
s

Frequency of Response:

On occasion

Annual number of Responses:

35 written request copies

Annual Burden:

1 hour

Calculation: 35 written request copies x 2 min. = 1 hour

Additionally, FRA estimates that approximately 105 written request copies will be electronically sent/e-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 written request copies x 2 railroads + 40 State agencies) under the above requirement. It is estimated that it will take approximately two (2) minutes to electronically send/e-mail each written request copy. Total annual burden for this requirement is four (4) hours.

51 States/entities and 618 Railroads

Burden time per response:

2
minute
s

Frequency of Response:

On occasion

Annual number of Responses: 105 written request copies

Annual Burden: 4 hours

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

Total annual burden for this entire requirement is 4,205 hours (442 + 883 + 2,650 + 225 + 1 + 4).

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

(a) *Duty of Primary Operating Railroad.* (1)(i) 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.

(ii) 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 618 Railroads

Burden time per response:

5
minute
s

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 January 6, 2016, 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 minute s
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 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. 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

On occasion

Frequency of Response:

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 accurate crossing data specified in the Inventory Guide to the Crossing Inventory no later than six (6) months after the crossing becomes operational. 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 consistent with § 234.403 and the Inventory Guide.

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) *State-maintained Crossing Data.* If a primary operating railroad requests State-maintained crossing data from the appropriate State agency responsible for maintaining highway-rail and pathway crossing data, the primary operating railroad may send a copy of its written request for State-maintained crossing data to the FRA Associate Administrator and to each operating railroad that operates through the crossing. FRA

will consider the written request to be an affirmative defense to potential liability for failure to timely submit an accurate Inventory Form, or its electronic equivalent, as required by paragraph (a)(3) of this section if the primary operating railroad: **(Revised Requirement)**

(1) Provides a copy of its written request for State-maintained crossing data to the FRA Associate Administrator and to each operating railroad that operates through the crossing no later than six (6) months after the crossing becomes operational; and

(2) Submits the requested State-maintained crossing data to the Crossing Inventory within 60 days of receipt.

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) copies of written requests 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, consistent 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 60 DAYS AFTER DATE 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
minute
s

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 60 DAYS AFTER DATE 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 completed consistent with § 234.403 and the Inventory Guide.

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.

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
minute
s

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) If a railroad that is not a primary operating railroad sells all or part of a highway-rail or pathway crossing on or after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, it shall report the crossing sale to the primary operating railroad within three (3) months of the date of sale.

(2) If the primary operating railroad:

(i) Sells all or part of a highway-rail or pathway crossing on or after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for which it has reporting and updating responsibility under this Subpart; or

(ii) Is notified of the sale of all or part of a highway-rail or pathway crossing on or after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** under paragraph (a)(1) of this section, then the primary operating railroad shall submit an Inventory Form, or its electronic equivalent, which reflects the crossing sale to the Crossing Inventory consistent with § 234.403 and the Inventory Guide within three (3) months of the date of sale or three (3) months of notification, respectively.

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 the report 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 reports/updated Crossing Inventory forms

Annual Burden:

1,300 hours

Calculation:

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

(b) *Crossing Closure.* The primary operating railroad shall report the closure of any highway-rail or pathway crossing that occurs on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] to the Crossing Inventory within three (3) months of the date on which the crossing is closed. The primary operating railroad shall submit an Inventory Form, or its electronic equivalent, that reflects closure of the crossing to the Crossing Inventory consistent with § 234.403 and the Inventory Guide.

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
minute
s

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) The primary operating railroad shall report any change in crossing surface or change in warning device at a public highway-rail grade crossing that occurs on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] to the Crossing Inventory within three (3) months of the date of the change. The primary operating railroad shall 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 consistent with § 234.403 and the Inventory Guide.

(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 minute s
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:

Frequency of Response:		minute
Annual number of Responses:	618 lists	s
Annual Burden:		On occasion
		52 hours
<u>Calculation:</u>	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.

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 17,798 hours.

13. Estimate of total annual costs to respondents.

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 forms for public and private highway-rail grade crossings (both at-grade and grade-separated), as well as inventory forms 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

TABLE 14-1	
<u>COST TO GOVERNMENT:</u>	
Data Processing Contractor	\$ 250,000/year
Government salaries	96,000
<u>Computer Equipment</u>	<u>20,000</u>
TOTAL Cost to Government	\$ 366,000

from actual contractor expenses and from salary records of contractor employees:

15. Explanation of program changes and adjustments.

The total burden has increased by **2,365 hours** from the last approved submission. The change in burden is due both to **adjustments** and to one **program change** in response to the petition for reconsideration. The following table reflects adjustments:

TABLE FOR ADJUSTMENTS

Part 234 Section	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
234.405(a)(2) – Assignment of inventory number to previously unreported highway-rail & pathway grade crossings - Provision by primary operating railroad of assigned inventory number to other railroads operating through crossings & 40 States - Submitted Crossing Inventory Forms for previously unreported highway-rail & pathway grade crossings	2,120 assigned numbers 5 minutes	5,300 assigned numbers 5 minutes	177 hours	442 hours	+ 265 hours + 3,180 resp.
	4,180 provided assigned numbers 5 minutes	10,600 provided assigned numbers 5 minutes	348 hours	883 hours	+ 535 hours + 6,420 resp.
	2,120 inventory forms 30 minutes	5,300 inventory forms 30 minutes	1,060 hours	2,650 hours	+ 1,590 hours + 3,180 resp.

Adjustments above increased the burden by *2,390 hours* and increased responses by *12,780* from the last approved submission.

TABLE FOR PROGRAM CHANGE(S)

Part 234 Section	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
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	Submission)	Submission)	Submission)		
234.405(d)(1) – (Revised Requirement) - Primary operating railroad copy of written request for state-maintained crossing data	(Previous requirement) 35 written certification statement (to FRA that it requested state-maintained crossing data) 45 minutes	35 request copies 2 minutes	26 hours	1 hour	-- 25 hours 0 responses

Program change above *decreased* the burden by *25 hours* while there was no change in the number of responses.

The current OMB inventory shows a total burden of **15,433 hours**, while the present submission exhibits a total burden of **17,798 hours**. Hence, there is a total increase of **2,365 hours**.

There is no change in costs to respondents from the last submission..

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.