

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

Summary of Submission

- This submission is a request for an extension with change of the previous approval granted by OMB on **August 31, 2016**, which expires on **August 31, 2019**.
- FRA published the required 60-day **Federal Register** Notice on June 14, 2019. See 84 FR 27833. FRA received one comment in response to this Notice.
- The total **burden previously approved** for this information collection amounted to **17,798 hours**.
- The total **burden requested** for this information collection submission is **8,293 hours**.
- **Adjustments** decreased the burden by **9,505 hours**.
- Total number of **responses previously approved** for this information collection amounted to **418,398**.
- Total number of **responses requested** for this submission is **384,292**.
- **Adjustments** decreased the number of **responses** by **34,106**.
- ****The answer to question number 12 itemizes the hourly burden associated with each requirement of this rule (See pp. 12-28).**
- **** The table in answer to question number 15 itemizes all **adjustments** (See pp. 30-34).**

1. Circumstances that make collection of the information necessary.

Background

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.

As noted above in the summary, this submission is a request for an extension with change to the last approved submission. All 50 States and the District of Columbia plus some 692 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 2016 to 2018, there was an average of 257,100 changes voluntarily submitted by the States and railroads. An average of 1,495 of these changes per year used the Inventory Form as the method of updating.

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

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

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 Prediction 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.

Background

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 – 2018**

Year	Inventory Forms	Mass Update / Printouts	Electronic (non-GX32)	“GX32” Electronic	Special *	Total
2018	2,169	942	92,515	85,979	0	181,605
2017	1,468	1,201	139,656	144,978	0	287,303
2016	847	1,100	98,544	173,201	28,700	302,392
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 2018**

<u>Year</u>	<u>2018</u>		<u>2006</u>		<u>1998</u>		<u>1990</u>	
	<u>Records Updated</u>	<u>Percentage</u>	<u>Records Updated</u>	<u>Percentage</u>	<u>Records Updated</u>	<u>Percentage</u>	<u>Records Updated</u>	<u>Percentage</u>
<u>UPDATE METHOD</u>								
Inventory Forms	1,495	1%	1,954	1%	8,004	6%	13,104	28%
Mass Update Printout**	1,081	.3 %	7,972	3%	23,950	18%	25,538	55%
Disc/Tape (non-GX32)	110,238	43%	128,122	51%	3,369	2%	7,691	17%
GX32 Electronic	134,719	52%	18,472	7%	30,054	22%	N/A	0%
<u>Special Mass Updates</u>	<u>9,567</u>	<u>3.7%</u>	<u>93,840</u>	<u>37%</u>	<u>70,708</u>	<u>52%</u>	<u>N/A</u>	<u>0%</u>
Total	257,100	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	127,160	34,299	161,459
Private	77,846	977	78,823
Pedestrian	2,490	26	2,516
Total	207,496	35,302	242,798

Statistics as of 11 Aug. 2019.

5. Efforts to minimize the burden on small businesses.

Background

To ensure the impact of this rulemaking on small entities was 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.).

Under the Regulatory Flexibility Act, an agency is required 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 are affected by the final rule, none of these entities are significantly impacted. The amendments to this final rule provided some relief to small entities by granting them time to comply with changes that are being made in these amendments. However, the amendments to the final rule do not change the overall impact on small entities. Therefore, FRA remains 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 (railroad stakeholders), as well as affected States, 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, etc.) for these sites. The likely consequence would be an increase in the number and severity of highway-rail accidents/incidents, and a corresponding increase in the number of 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) requires 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.

In keeping with the requirements of the 1995 Paperwork Reduction Act (PRA) and 5 CFR 1320 (OMB's Implementing Guidance), FRA published the required 60-day **Federal Register** Notice on **June 14, 2019**. See 84 FR 27833. FRA received one comment in response to this notice.

On August 7, 2019, Ms. Sarah Yurasko, of the Association of American Railroads (AAR) sent a comment on behalf of its member railroads regarding FRA's Crossing Inventory renewal information collection (Part 234; OMB No. 2130-0017). Ms. Yurasko noted that AAR and its member railroads "have worked diligently with FRA since the 2015 publication of the Highway-Rail Crossing Inventory Final Rule to ensure that the information reported via the U.S. Crossing Inventory forms is accurate." She noted that "both railroads and State entities access the site to report information under their respective purviews, and unfortunately, there have been several instances in which a state has over-written railroad-provided information in one of the railroad fields." She observed that such errors lead to confusion, administrative burden to remediate, and "potential FRA enforcement activity." AAR and the railroads are urging FRA to amend its system to lock-off designated sections of the U.S. DOT Crossing Inventory Form to the railroad, and other designated sections to the state entity. Ms. Yurasko advocated that there are several sections of the Inventory Form that both the railroad and the state entity should be able to modify and that, in these instances, "the form should allow all parties to see who made the most recent update to the information in the form." Ms. Yurasko included a color coded copy of the Inventory Form (FRA F 6180.71) to illustrate the categorization of fields that railroads and the state entity would each complete.

FRA just became aware of this issue with the receipt of AAR's comment in response to the 60-day Federal Register Notice that FRA published on June 14, 2019. See 84 FR 27833. The accuracy and reliability of the data that railroads and state entities provide on the FRA Inventory Form is vital to FRA and to its mission of promoting and enhancing national rail safety, particularly at grade crossings. Before FRA issued the Crossing Inventory final rule in 2015, FRA held hearings and meetings at the proposed rule stage to obtain comment and feedback on the sections that the railroads and state entities would complete. FRA believes that agreement and clarity were reached at that time after much public outreach. However, Ms Yurasko's recommendations on behalf of AAR and its member railroads for changes to the Inventory Form to prevent the type of error that she cited in her letter are ones that the agency would welcome at the next revision to the Inventory rule. As FRA just become aware of this issue, they will review the current US Crossing Inventory form to determine if online form permissions can be more efficiently managed and if the system can be updated to allow for such modification controls.

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 692 railroads

Per OMB’s request, FRA has included the dollar equivalent cost for all burden hours included in this renewal collection of information. Based on the 2018 American Association of Railroads (AAR) publication Railroad Facts (p. 57), FRA calculates the average hourly wage rate for professional/ administrative Staff at \$77 per hour. Based on data from the Bureau of Labor

Statistics (BLS), FRA calculates the average hourly wage rate for State employees at \$74 per hour. All wage rates include 75 percent overhead costs.

§ 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 1,495 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 748 hours.

51 States/entities and 692 Railroads
Burden time per response:

Frequency of Response:		30 minute s On occasion
Annual number of Responses:	1,495 forms	
Annual Burden:		748 hours
Annual Cost:		\$55,352 (\$74 p/hr. x 748 hrs.)

Calculation: 1,495 forms x 30 min. = 748 hours

FRA estimates that railroads will submit Mass Updates using printouts in some scenarios. The Mass Update Method consists of lists of data (in this case 67 lists and 1,081 updated records), 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 34 hours.

51 States/entities and 692 Railroads
Burden time per response:

Frequency of Response:		30 minute s On occasion
Annual number of Responses:	67 lists (1,081 updated records)	
Annual Burden:		34 hours
Annual Cost:		\$2,516 (\$74 p/hr. x 34 hrs.)

Calculation: 67 lists x 30 min. = 34 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 2016-2018, an average of 110,238 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 750 lists submitted annually in the 2016-2018 period. It is estimated that each list takes 15 minutes to create. The annual burden for this update method is 188 hours.

51 States/entities and 692 Railroads

Burden time per response:

		15 minute s
Frequency of Response:		On occasion
Annual number of Responses:	750 lists (110,238 updated records)	
Annual Burden:	188 hours	
Annual Cost:		\$13,912 (\$74 p/hr. x 188 hrs.)

Calculation: 750 lists x 15 min. = 188 hours

For the 2016-2018 period, an average of 134,719 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 494 lists submitted annually in the 2016-2018 period. It is estimated that it will take approximately three (minutes) to update each record. Total annual burden for this method of updating is an average of 6,736 hours.

51 States/entities and 692 Railroads

Burden time per response:

		3 minute s
Frequency of Response:		On occasion
Annual number of Responses:	134,719 records	
Annual Burden:	6,736 hours	
Annual Cost:		\$498,464 (\$74 p/hr. x 748 hrs.)

Calculation:

134,719 records x 3 min. = 6,736 hours

Types and Methods of Survey Responses:

A three-year average will be used for the most recent years 2016 to 2018 in order to update data and Forms. The average, per year, for these three years is as follows:

TABLE 12. D-1		
<u>2016 - 2018 Average Annual Processing Statistics</u>		
<u>Update Method</u>	<u>Records</u>	<u>Updated Percent</u>
Inventory Forms	1,495	.58%
Mass Update/Printouts	1,081	1.6%
Excel Electronic	110,238	42.88%
GX32 Electronic	134,719	52.4%
Special Mass Updates	9,567	3.72%
Total 3 year Average	257,100	100.0 %

TABLE 12.E-1

2016-2018 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
				Inventory Forms

				1,495
				.50 hr/Form
2.		67* Printouts hr/list	Mass Update 1,081	748 .50
3.			34	750*
				Disc/Tape (non-GX32)
				110,238
				.25 hr/disk
4.	N/A*	GX32 Electronic hr/record 6,736	134,719	188 .10
5.	N/A	Special Mass Changes hr/record <u>-0-</u>	<u>9,567</u>	.00
		TOTAL		257,100

7,706

*-estimate

Additionally, FRA estimates that approximately five (5) 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 one (1) hour.

51 States/entities and 692 Railroads
Burden time per response:

		15 minute s
Frequency of Response:		On occasion
Annual number of Responses:	5 written requests	
Annual Burden:	1 hour	
Annual Cost:		\$74 (\$74 p/hr. x 1 hr.)

Calculation: 5 written requests x 15 min. = 1 hour

(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 15 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 eight (8) hours.

51 States/entities and 692 Railroads
Burden time per response:

		30 minute s
Frequency of Response:		On occasion
Annual number of Responses:	15 written notices	
Annual Burden:	8 hours	
Annual Cost:		\$592 (\$74 p/hr. x 8 hrs.)

Calculation: 15 written notices x 30 min. = 8 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 692 Railroads

Burden time per response:

		30 minute s
Frequency of Response:		On occasion
Annual number of Responses:	250 written notices	
Annual Burden:	125 hours	
Annual Cost:	125 hrs.)	\$9,625 (\$77 p/hr. x

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 692 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	
Annual Cost:		\$2,926 (\$74 p/hr. x 38 hrs.)

Calculation: 75 immediate written notices x 30 min. = 38 hours

Total annual burden for this entire requirement is 7,878 hours (748 + 34 + 188 + 6,736 + 1 + 8 + 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 more than 99 percent of all highway-rail and pathway crossings have been reported to FRA by primary operating railroads. Thus, it is estimated that approximately 300 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 25 hours.

51 States/entities and 692 Railroads

Burden time per response:

5
minute
s

Frequency of Response:

On
occasio
n

Annual number of Responses: 300 assigned Inventory Numbers
Annual Burden: 25 hours
Annual Cost: \$1,925 (\$77p/hr. x 25 hrs.)

Calculation: 300 assigned Inventory Numbers x 5 min. = 25 hours

Additionally, FRA estimates that primary operating railroads will provide approximately 200 assigned inventory numbers to approximately to railroads/States. It is estimated that it will take approximately five (5) minutes to assign each Inventory Number. Total annual burden for this requirement is 17 hours.

51 States/entities and 692 Railroads

Burden time per response:

5
minute
s

Frequency of Response:

On
occasio
n

Annual number of Responses:	200 provided assigned Inventory Numbers
Annual Burden:	17 hours
Annual Cost:	\$1,309 (\$77 p/hr. x 17 hrs.)

Calculation: 200 provided assigned Inventory Numbers x 5 min. = 17 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 August 9, 2016. 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.

The burden for this requirement is included above under § 234.403. Consequently, there is no additional burden associated with it.

(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 August 9, 2016. 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 200 written notifications under the above requirement. It is estimated that it will take approximately 20 minutes to

complete each written notification. Total annual burden for this requirement is 67 hours.

51 States/entities and 692 Railroads
Burden time per response:

20
minute
s

Frequency of Response:

On
occasio
n

Annual number of Responses: 200 written notifications
Annual Burden: 67 hours
Annual Cost: \$5,159 (\$77 p/hr. x 67 hrs.)

Calculation: 200 written notifications x 20 min. = 67 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:

(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 70 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 two (2) hours.

51 States/entities and 692 Railroads
Burden time per response:

		2 minute s
Frequency of Response:		On occasion
Annual number of Responses:	70 written request copies (to FRA)	
Annual Burden:	2 hours	
Annual Cost:		\$154 (\$77 p/hr. x 2 hrs.)

Calculation: 70 written request copies x 2 min. = 2 hours

Additionally, FRA estimates that approximately 75 written request copies will be electronically sent/e-mailed to each operating railroad that operates through the crossing 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 three (3) hours.

51 States/entities and 692 Railroads
Burden time per response:

		2 minute s
Frequency of Response:		On occasion
Annual number of Responses:	75 written request copies	
Annual Burden:	3 hours	
Annual Cost:		\$231 (\$77 p/hr. x 3 hrs.)

Calculation: 75 written request copies x 2 min. = 3 hours

Total annual burden for this entire requirement is 114 hours (25 + 17 + 67 + 2 + 3).

§ 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 50 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 four (4) hours.

51 States/entities and 692 Railroads	
Burden time per response:	
	5 minute s
Frequency of Response:	On occasion
Annual number of Responses:	50 assigned Inventory Numbers
Annual Burden:	4 hours
Annual Cost:	\$308 (\$77 p/hr. x 4 hrs.)

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 50 new crossings or approximately 25 new crossings will have other railroads operating over them. The agency estimates that approximately two (2) railroads will be operating over each of these 25 crossings and thus primary operating railroads will need to provide 50 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 four (4) hours.

51 States/entities and 692 Railroads	
Burden time per response:	

		5 minute s
Frequency of Response:		On occasion
Annual number of Responses:	50 provided assigned Inventory Numbers	
Annual Burden:	4 hours	
Annual Cost:		\$308 (\$77 p/hr. x 4 hrs.)

Calculation: 50 provided assigned Inventory Numbers x 5 min. = 4 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.

The burden for this requirement is included above under § 234.403. Consequently, there is no additional burden associated with it.

(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:

(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 eight (8) hours (4 + 4).

§ 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 August 9, 2016, 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 burden for this requirement is included above under § 234.403. Consequently, there is no additional burden associated with it.

(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 August 9, 2016, 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 § 234.403. Consequently, there is no additional burden associated with this requirement.

§ 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 June 10, 2016, 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 June 10, 2016, 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 June 10, 2016, 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 400 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 15 minutes to complete the report to the primary operating

railroad. Total annual burden for this requirement is 100 hours.

692 Railroads
Burden time per response:

Frequency of Response:		15 minute s
Annual number of Responses:	400 reports	Annually
Annual Burden:		100 hours
Annual Cost:		\$7,700 (\$77 p/hr. x 100 hrs.)

Calculation: 400 updated Crossing Inventory forms x 15 min. = 100 hours

(b) *Crossing Closure.* The primary operating railroad shall report the closure of any highway-rail or pathway crossing that occurs on or after June 10, 2016, 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.

The burden for this requirement is already included above under that of § 234.403. Consequently, there is no additional burden associated with this requirement.

(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 June 10, 2016, 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.

Total annual burden for this entire requirement is 100 hours.

§ 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 350 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 six (6) hours.

	692 Railroads	
	Burden time per response:	
		1 minute
Frequency of Response:		On occasion
Annual number of Responses:	350 duplicate copies	
Annual Burden:	6 hours	
Annual Cost:		\$462 (\$77 p/hr. x 6 hrs.)

Calculation: 350 duplicate copies x 1 min. = 6 hours

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

FRA estimates that railroads will keep approximately 134,719 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 five (5) seconds to make/keep each copy. Total annual burden for this requirement is 187 hours.

	692 Railroads	
	Burden time per response:	
		5 seconds

Frequency of Response:

		On occasio n
Annual number of Responses:	134,719 copies of FRA confirmations	
Annual Burden:	187 hours	
Annual Cost:	\$14,399 (\$71 p/hr. x 187 hrs.)	

Calculation: 134,719 copies of FRA confirmations x 5
sec. = 187 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.

The burden for these requirements is covered above under § 234.413(a) and § 234.413(b). Consequently, there is no additional burden associated with them.

Total annual burden for this requirement is 193 hours (6 + 187).

§ 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 requested** for this entire information collection submission is **8,293 hours**, and **384,292 responses**. The dollar equivalent cost for these requested burden hours amounts to **\$615,416**.

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 (Completed)	\$0
Periodic Update of Inventory	\$819,473
Total	\$819,473

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 approval submission still apply and are determined from actual contractor expenses and from salary records of contractor employees:

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

15. Explanation of program changes and adjustments.

The total burden has decreased by **9,505 hours** and **34,106 responses** from the last approved submission. The change in burden is due solely to **adjustments**. 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)
234.403(a) – Submission of highway-rail & pathway crossing data to Inventory	4,212 forms 30 minutes	1,495 forms 30 minutes	2,106 hours	748 hours	- 1,358 hours - 2,717 resp.
- Mass updates: lists of data	257 lists (4,133 records) 30 minutes	67 lists (1,081 records) 30 minutes	129 hours	34 hours	- 95 hours - 3,052 resp.
- Electronic updates by Class I railroads: lists of data	1,234 lists (181,359 records) 30 minutes	750 lists (110,238 records) 15 minutes	617 hours	188 hours	- 429 hours - 71,121 resp.
- Records	35,845 records	134,719 records	3,585 hours	6,736 hours	+ 3,151 hours
- Written requests by States/railroads for FRA crossing inventory guide	6 minutes 10 requests 15 minutes	3 minutes 5 requests 15 minutes	3 hours	1 hour	+ 98,874 resp. - 2 hours - 5 responses
- Reporting crossing data by	20 written notices	15 written notices	10 hours	8 hours	- 2 hours

State agencies on behalf of RRs: notices	30 minutes	30 minutes			- 5 responses
234.405(a)(2) – Primary operating railroad assignment of inventory number to previously unreported highway-rail & pathway grade crossings	5,300 assigned numbers 5 minutes	300 assigned numbers 5 minutes	442 hours	25 hours	- 417 hours - 5,000 resp.
- Provision by primary operating railroad of assigned inventory number to other railroads operating through crossings/ 40 States	10,600 provided assigned numbers 5 minutes	200 provided assigned numbers 5 minutes	883 hours	17 hours	- 866 hours - 10,400 resp.
- Primary operating RR submission of accurate inventory forms for previously unreported highway-rail + pathway crossings through which it operates	5,300 inventory forms 30 minutes	<i>already covered under section 234.403</i>	2,650 hours	0 hours	- 2,650 hours - 5,300 resp.
- (c) Duty of all operating RRs: Notification to FRA of previously unreported crossing through which it operates	450 written notifications 30 minutes	200 written notifications 20 minutes	225 hours	67 hours	- 158 hours -250 responses
- (d) Primary operating RR copy to FRA of its written request to State agency for State-maintained crossing data	35 written request copies 2 minutes	70 written request copies 2 minutes	1 hour	2 hours	+ 1 hour + 35 responses
- Copies of written requests to other operating RRs	105 written request copies 2 minutes	75 written request copies 2 minutes	4 hours	3 hours	- 1 hour - 30 responses
234.407(a) – Primary operating	100 assigned numbers	50 assigned numbers	8 hours	4 hours	- 4 hours - 50 responses

RR assignment of Inventory number to each new highway-rail + pathway crossing	5 minutes	5 minutes			
- Primary operating RR provision of assigned Inventory numbers for new highway-rail + pathway crossings to each RR that operates one or more trains through the crossing	100 assigned numbers 5 minutes	50 assigned numbers 5 minutes	8 hours	4 hours	- 4 hours - 50 responses
(3) Primary operating RR submission to FRA of accurate Inventory Forms for new highway – rail + pathway crossings through which it operates	100 Inventory Forms 1.5 hours	<i>already covered above under section 234.408(a)(2)(i)</i>	150 hours	0 hours	- 150 hours - 100 responses
234.409 (a) - Primary operating RR submission of up-to-date crossing data to the Crossing Inventory for each highway-rail + pathway crossing through which it operates	80,775 updates 2.5025 minutes	<i>already covered above under section 234.403</i>	3,369 hours	0 hours	- 3,369 hours - 80,775 resp.
(b) – Duty of operating RR when operating RRs operate on separate tracks: Each RR must submit up-to-date and accurate crossing data for certain specified fields on the Inventory form or its electronic equivalent	950 written notes 20 minutes	<i>already covered above under section 234.403</i>	317 hours	0 hours	- 317 hours - 950 responses

234.411 – (a) Changes requiring submission of updated information to Crossing Inventory: Sale of all or part of a highway-rail or pathway crossing by RR that is not primary operating railroad - (b) Primary operating RR report of closure of highway-rail or pathway crossing after 6/6/16 (c) – Primary operating RR report of any change in crossing surface or change in warning device at public highway \– rail grade crossing after 6/6/16	650 updated forms 2 hours	400 updated forms/reports 15 minutes	1,300 hours	100 hours	- 1,200 hours - 250 responses
	85 forms 5 minutes	<i>already covered above under section 234.403</i>	7 hours	0 hours	- 7 hours - 85 responses
	650 forms 30 minutes	<i>already covered above under section 234.403</i>	325 hours	0 hours	- 325 hours - 650 responses
234.413 – <u>Records</u> – Duplicate copy of each Inventory Form submitted - Copy of electronic confirmation received from FRA after electronic submission of crossing data to Crossing Inventory - RR list of establishment locations where a copy of any required record is kept	5,901 duplicate form copies 1 minute	350 duplicate form copies 1 minute	98 hours	6 hours	- 92 hours - 5,551 resp.
	80,775 copies 1 minute	134,719 copies 5 seconds	1,346 hours	187 hours	- 1,159 hours + 53,944 resp.
	618 lists 5 minutes	<i>already covered above under section 234.413 (a & b)</i>	52 hours	0 hours	- 52 hours - 618 resp.

Adjustments above *decreased* the burden by 9,505 hours and *decreased* responses by 34,106 from the last approved submission.

The current OMB inventory shows a total burden of *17,798 hours* and *418,398 responses*, while the present submission exhibits a total burden of 8,293 hours and 384,292 responses. Hence, there is a total decrease of **9,505 hours** and **34,106 responses**.

The cost to respondents has decreased by **\$1,178,701** from the last submission. The decrease is due to an **adjustment** concerning initial update of the Inventory, which has now been completed. This adjustment decreased burden cost by **\$1,178,701**. The previous estimated cost to respondents amounted to *\$1,998,174*, while the present estimated cost to respondents amounts to *\$819,473*. Hence, there is a decrease in cost to respondents of **\$1,178,701**.

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.