

**1 FEDERAL RAILROAD ADMINISTRATION
State Highway-Rail Grade Crossing Action Plans
(Title 49 Code of Federal Regulations Part 234)
SUPPORTING JUSTIFICATION
RIN 2130-AC72; (OMB Control No. 2130-0589)**

Summary of Submission

- This information collection submission is a request for reinstatement of a previously approved collection of information that was discontinued at the end of August 2016.
- FRA is publishing a Final Rule revising Part 234 titled State Highway-Rail Grade Crossing Action Plans in the Federal Register on December 14, 2020. See 85 FR 80648. FRA received comments as detailed under question 8.
- The total number of burden hours requested for this submission is 5,991 hours.
- Total number of responses requested for this submission is 27.
- There are currently zero (0) hours and zero (0) responses in the OMB inventory associated with this OMB control number.
- Program changes increased the burden by 5,991 hours and by 27 responses.
- There are no adjustments at this time for this information collection submission.
- The answer to question number 12 itemizes the hourly burden.

1. Circumstances that make collection of the information necessary.

This rulemaking is intended to implement the Fixing America's Surface Transportation Act (Public Law 114-94) (FAST Act) mandate that the FRA Administrator promulgate a regulation requiring States to develop and implement (and update, if applicable) State highway-rail grade crossing action plans. See section 11401 of the FAST Act. In the Rail Safety Improvement Act of 2008 (RSIA), Congress directed the Secretary of Transportation to identify the ten States that had the most highway-rail grade crossing collisions, on average, over the previous three years and require those States to develop grade crossing action plans for the Secretary of Transportation's approval. See section 202 of the RSIA. RSIA required the action plans to "identify specific solutions for improving" grade crossing safety and to "focus on crossings that have experienced multiple accidents or are at high risk" for accidents. Using FRA's database of reported highway-rail grade crossing accidents/incidents that occurred at public and private grade crossings, FRA determined the following 10 States had the most reported highway-rail grade crossing accidents/incidents at public and private grade crossings during the three-year period from 2006 through 2008: Alabama, California, Florida, Georgia, Illinois,

Indiana, Iowa, Louisiana, Ohio, and Texas. On June 28, 2010, FRA issued a final rule (2010 final rule) requiring these 10 States to develop highway-rail grade crossing action plans and submit them to FRA for approval (based on the Secretary of Transportation's delegation of authority to the Federal Railroad Administrator in 49 CFR 1.89). See 75 FR 36551 (June 28, 2010) (codified at 49 CFR 234.11).

Section 11401 of the FAST Act tasks the FRA Administrator with promulgating a regulation requiring these 10 States to update the highway-rail grade crossing action plans they previously submitted to FRA under 49 CFR 234.11. This statutory mandate also directs FRA to include a regulatory provision that requires each of these 10 States to submit reports to FRA describing: (a) what the State did to implement its previous highway-rail grade crossing action plan; and (b) how the State will continue to reduce highway-rail grade crossing safety risks. As for the other 40 States and the District of Columbia, the FAST Act mandate also requires the FRA Administrator to promulgate a regulation requiring them to develop and implement State highway-rail grade crossing action plans. See FAST Act section 11401(b)(1)(B).

The FAST Act mandate contains specific requirements for the contents of the highway-rail grade crossing action plans. As set forth in section 11401(b)(2) of the FAST Act, each highway-rail grade crossing safety plan must identify highway-rail grade crossings that: (a) have experienced recent highway-rail grade crossing accidents or incidents; (b) have experienced multiple highway-rail grade crossing accidents or incidents; or (c) are at high-risk for accidents or incidents. Section 11401(b)(2) of the FAST Act further provides that each highway-rail grade crossing action plan must identify specific strategies for improving safety at highway-rail grade crossings, including highway-rail grade crossing closures or grade separations. Each State highway-rail grade crossing action plan must also designate a State official responsible for managing implementation of the plan. See FAST Act section 11401(b)(2).

In addition, the FAST Act mandate also contains requirements related to FRA's review and approval of State highway-rail grade crossing action plans, as well as requirements related to the publication of FRA-approved plans. For example, when FRA approves a State's highway-rail grade crossing action plan, section 11401(b)(4) of the FAST Act requires FRA to make the approved plan publicly available on an "official Internet Web site."

If a State submits a highway-rail grade crossing action plan FRA deems incomplete or deficient, section 11401(b)(6) of the FAST Act requires FRA to notify the State of the specific areas in which the plan is deficient. In addition, section 11401(b)(6) requires States to correct any identified deficiencies and resubmit their corrected plans to FRA within 60 days of FRA's notification of the deficiency. If a State fails to meet this 60-day deadline for correcting deficiencies identified by FRA, section 1401(b)(8) of the FAST Act requires FRA to post a notice on an "official Internet Web site" that the State has an incomplete or deficient highway-rail grade crossing action plan.

FRA personnel, including FRA regional grade crossing managers, inspectors, and specialists and experts from FRA's Highway-Rail Crossing and Trespasser Programs Division, will be available to assist States with developing, implementing, and updating their highway-rail grade crossing action plans. For example, FRA will offer webinars as well as provide GX accident/incident data to States upon request. FRA will also assist State agencies that wish to use FRA's Office of Safety Analysis website (<https://railroads.dot.gov/safety-data>) to generate customized reports of GX accident/incident data.

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

This is a reinstatement to a previously approved OMB control number (OMB No. 2130-0589) corresponding to FRA's state highway-rail grade crossing action plans' regulation under 49 CFR 234.11. The information to be collected under this final rule will be used by FRA to ensure that each of the 40 States and the District of Columbia who currently do not have a highway-rail grade crossing action plan will develop such plans as mandated by section 11401 of the FAST Act. This collection of information will also be used by FRA to ensure that the 10 States who each have an existing highway-rail grade crossing action plan will update such plans and submit reports to FRA describing the actions that they have taken to implement their plans as specified by section 202 of the RSIA and FRA's implementing regulation at 49 CFR 234.11. As Chicagoland Rail Safety Team recommends in its comments, FRA intends to use these implementation reports to identify States that have effective highway-rail grade crossing action plans in place – and to highlight effective elements in these plans for future State planning purposes. The implementation reports will also provide information that FRA needs to prepare its report to Congress as required by section 11401(c) of the FAST Act related to the progress that the initial 10 States have made in implementing their previously submitted action plans.

FRA will review 40 State and District of Columbia highway-rail grade crossing action plans to verify that each State and District plan has identified highway rail-grade crossings that have experienced recent highway-rail grade crossing accidents or incidents, or are at high-risk for accidents or incidents. FRA will also review these plans to confirm that they cover a period of at least five years and that they describe specific strategies for improving safety at highway-rail grade crossings, including highway-rail grade crossing closures or grade separations. Further, FRA will review each State plan to make sure that they include a designated State official who is responsible for managing implementation of the plan.

Additionally, if a State or the District of Columbia (State/DC) submits a highway-rail grade crossing action plan that FRA determines is incomplete or deficient, FRA will notify them of the specific areas in which the plan is deficient. Within 60 days of receipt of the FRA notification of the deficiency, the State/DC must correct any identified deficiencies and resubmit its corrected plan to FRA. FRA will review these revised plans

to make sure that specific areas found deficient in the plan are improved to meet agency safety standards to meet the Congressional goal of reducing highway-rail grade collisions and the injuries, fatalities, and property damage that normally accompany them. If a State/DC fails to meet this 60-day deadline for correcting deficiencies identified by FRA, section 1401(b)(8) of the FAST Act requires FRA to post a notice on an “official Internet Web site” that the State/DC has an incomplete or deficient highway-rail grade crossing action plan.

The information is also used by each of the 50 States and the District of Columbia affected by this final rule. Specifically, development and updating of such plans enhances each State’s ability to view its population of highway-rail grade crossings in a more careful and critical way, interpret historical accident information, evaluate the overall state of highway-rail grade crossing safety, and identify particular areas in need of attention. Collision patterns and causal factors become more readily apparent as a result of the detailed study, assessment, and status reporting involved in the development of the State Action Plan. In each plan, the State/ DC identifies specific solutions for improving safety at crossings, among them, highway-rail grade crossing closures or grade separations, with a special focus on those crossings that have experienced multiple accidents or are at a heightened risk for accidents. States and the District of Columbia may also identify special emphasis corridors of high-risk crossings as a result of the analysis component of the State Action Plan. Furthermore, each State/DC may coordinate its highway-rail grade crossing Action Plan with other State or Federal planning requirements. Consequently, each State/DC may obtain additional benefits through closer integration of grade crossing safety issues into the overall State/DC transportation safety planning efforts.

3. Extent of automated information collection.

FRA strongly supports and highly encourages the use of advanced information technology, wherever possible, to reduce burden on respondents. FRA has championed the use of advanced information technology for many years now. Under this regulation, FRA will require States and the District of Columbia to submit their highway-rail grade crossing action plans and updates electronically through FRA’s website in Portable Document Format. FRA will provide a secure document submission site for States and the District of Columbia to use to upload their highway-rail grade crossing action plans for FRA review and approval. Also, to minimize their reporting burden, FRA envisions that the initial 10 States will fulfill the requirement to submit a report describing to FRA how the State implemented the highway-rail grade crossing action plan that it previously submitted by adding an appendix to their electronically submitted updated plan. The official designated under paragraph (e)(5) will be given primary user access to the secure document submission site, as well as the authority to grant access to secondary users. Accordingly, FRA envisions that the designated official will need to register with the agency to gain primary user access to the secure document submission site.

Under this final rule, then, one hundred percent (100%) of the estimated responses will be submitted electronically.

4. Efforts to identify duplication.

The information collection requirements, to our knowledge, are not duplicated anywhere. Similar data are not available from any other source.

5. Efforts to minimize the burden on small businesses.

“Small entity” is defined in 5 U.S.C. 601 as including a small business concern that is independently owned and operated and is not dominant in its field of operation. The U.S. Small Business Administration (SBA) has authority to regulate issues related to small businesses, and it stipulates in its size standards that a “small entity” in the railroad industry is a for profit “line haul railroad” that has fewer than 1,500 employees, a “short line railroad” with fewer than 500 employees, or a “commuter rail system” with annual receipts of less than 15 million dollars. *See* “Size Eligibility Provisions and Standards,” 13 CFR part 121, subpart A. Additionally, 5 U.S.C. 601(5) defines as “small entities” governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000. Federal agencies may adopt their own size standards for small entities, in consultation with SBA and in conjunction with public comment. Pursuant to that authority, FRA has published a final statement of agency policy that formally establishes “small entities” or “small businesses” as being railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR 1201.1–1, which is \$20 million or less in inflation-adjusted annual revenues, and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less. *See* 68 FR 24891 (May 9, 2003), codified at appendix C to 49 CFR part 209. The \$20-million limit is based on the Surface Transportation Board’s revenue threshold for a Class III railroad. Railroad revenue is adjusted for inflation by applying a revenue deflator formula in accordance with 49 CFR 1201.1–1. FRA is using this definition for this rulemaking.

FRA identified 51 entities (the 50 States and the District of Columbia) that will be affected by this final rule. The final rule will not impact any other entity—public or private. Each of the 50 States and the District of Columbia have a population greater than 50,000. Therefore, the final rule will not directly regulate any small entities.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601(b), the FRA Administrator hereby certifies that this final rule will not have a significant impact on a substantial number of small entities. *(Note: To reduce the compliance burden on the 50 States/DC, FRA will develop and distribute a model State highway-rail grade action plan as required by section 11401(a) of the FAST Act. Further, FRA personnel, including FRA regional grade crossing managers, inspectors, and specialists and experts from FRA’s Highway-Rail Crossing and Trespasser Programs Division, will be available to assist States with developing, implementing, and updating their highway-rail grade crossing*

action plans. Additionally, in conjunction with the Federal Highway Administration, FRA developed a “Highway-Railway Grade Crossing Action Plan and Project Prioritization Noteworthy Practices Guide.” FRA shared this guide with States via letters that included the data requirements as discussed in section 11401 of the Fast Act. The guide is currently available on the Department of Transportation’s website.¹⁾

6. Impact of less frequent collection of information.

If this information were not collected or were collected less frequently, national rail safety would be significantly impaired. Specifically, if FRA were unable to collect the mandated information or were to collect it less frequently, FRA would have had no way to know whether the additional 40 States/DC had developed and implemented highway-rail grade crossing action plans to reduce/eliminate highway-rail grade crossing accidents/incidents and the corresponding injuries, fatalities, and property damage that almost invariably accompany them. Without the generation and implementation of these highway-rail grade crossing action plans, the 40 States/DC would not have identified highway-rail grade crossings that have experienced recent highway-rail grade crossing accidents/ incidents or were at high risk for such accidents/incidents and would not have devised specific strategies or measures to improve safety at these crossings. One of FRA’s top priorities is to reduce the number and severity of accidents/incidents at highway-rail grade crossings throughout the country, especially those with multiple accidents/incidents.

Also, without this collection of information, the initial 10 States with the most reported highway-rail grade crossing accidents/incidents at public and private crossings during the period from 2006 to 2008 would not have updated their highway-rail grade crossing action plans and would not have submitted the required reports describing the actions that they had taken to implement their plans and how they would continue to reduce highway-rail grade crossing safety risks. These updated plans and reports will enable FRA to monitor and assess the implementation progress of these initial 10 States in carrying out their strategies to make these crossings and rail/motor vehicle transportation for the affected communities safer in these States.

Without the information collected, FRA could not be assured that every one of these 10 identified States are focusing on those crossings that have experienced multiple accidents or are at high risk for such accidents, and could not be assured that their plans cover the required five-year time period.

Without this collection of information, a new and essential means of enhancing highway-rail grade safety throughout the 50 States/DC aimed at saving lives would be unavailable to FRA and its Highway-Rail Grade Crossing Division.

¹ United States Department of Transportation, Federal Railroad Administration, “Highway-Railway Grade Crossing Action Plan and Project Prioritization Noteworthy Practices Guide.” Report Number FHWA-SA-16-075. November 2016. <https://www.fra.dot.gov/Elib/Document/16793>.

In sum, the collection of information helps FRA to promote and enhance safe rail transportation throughout the United States.

7. Special circumstances.

All the information collection requirements contained in the rule are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

On November 7, 2019, FRA published a Notice of Proposed Rulemaking (NPRM).² As noted in the summary section, FRA is publishing a Notice of final rule in the *Federal Register* on December 14, 2020, titled State Highway-Rail Grade Crossing Action Plans.³

On February 6, 2020, the Office of Management and Budget filed a comment in ROCIS on the Federal Railroad Administration's (FRA's) proposed rule titled, "State Highway-Rail Grade Crossing Action Plans," concerning the revised information collection request contained within the proposal (OMB control number 2130-0589). In its comment, OMB requested that, prior to publication of the State Crossing Action Plan final rule, FRA provide to OMB a summary of all comments received on the proposed information collection and identify any changes made in response to these comments. This is FRA's summary of comments received on the proposed information collection, as well as a discussion of changes that have been made to FRA's Paperwork Reduction Act analysis in response to those comments.

FRA received multiple comments from State agencies, including the Alaska Department of Transportation and Public Facilities (Alaska DOT&PF), Washington Utilities and Transportation Commission staff, the South Dakota Department of Transportation and the departments of transportation for Idaho, Montana, North Dakota, and Wyoming, recommending that FRA allow States the flexibility to coordinate, integrate, or incorporate their Action Plans with other reports, such as the Strategic Highway Safety Program or the State Transportation Improvement Program. In addition, FRA received comments from individuals identifying themselves as the Chicagoland Rail Safety Team, recommending that FRA allow States with the lowest number of grade crossing fatalities to complete an FRA-prepared questionnaire, as opposed to requiring these States to develop and implement Crossing Action Plans.

In response to these comments, FRA staff reviewed FRA's highway-rail and pathway crossing accident/incident data over the past 3 years (2017-2019) and determined that 18 States had very low crossing accident rates. As a result of this analysis, combined with feedback from States and input from FRA subject matter experts, FRA refined its Paperwork Reduction Act analysis in the State Crossing Action Plan final rule by

² 84 FR 60032.

³ 85 FR 80648.

creating a new “minimal burden” category for the 18 States with very low crossing accident rates. With the addition of this new category, the estimated average time per report decreased from 200 hours to 60 hours for each of the 18 states, thus resulting in a reduction in the overall paperwork burden. (Consistent with this change, FRA also revised the Regulatory Evaluation for the State Crossing Action Plan final rule to incorporate this new “minimal burden” category.)

Alaska DOT&PF also commented that the proposed requirement for States to keep their State Crossing Action Plan point of contact information perpetually up-to-date was too onerous, given the one-time nature of the State Crossing Action Plan requirements. After considering this comment, FRA modified the State Crossing Action Plan final rule to limit the time States are required to keep their point of contact information up-to-date to four years after final rule publication (which will allow FRA to remain in contact with each State while FRA prepares the required Report to Congress on Crossing Action Plans). However, FRA determined that the paperwork burden associated with maintaining up-to-date point of contact information for Crossing Action Plans is minimal. Therefore, FRA did not revise its Paperwork Reduction Act analysis to reflect this minor change.

9. Payments or gifts to respondents.

There are no monetary payments provided or gifts made to respondents in connection with this information collection.

10. Assurance of confidentiality.

Information collected is not of a confidential nature, and FRA pledges no confidentiality.

11. Justification for any questions of a sensitive nature.

There are no questions or information of a sensitive nature or data that would normally be considered private contained in this information collection.

12. Estimate of burden hours for information collected.

The final rule in response to a statutory mandate will require 40 States and the District of Columbia to develop and implement highway-rail grade crossing action plans. The final rule will also require the 10 States that were previously required to develop highway-rail grade crossing action plans by the RSIA and FRA’s implementing regulation to update their plans and submit reports to FRA describing actions they have taken to implement them. Thus, the respondent universe is the 50 States plus the District of Columbia.

Of note, all the burden incurred respondents will occur in the first year according the Regulatory Evaluation associated with this final rule. However, FRA is requesting a

three-year approval from OMB to account for any State/DC that submits the required State Action Plan after the first year. Therefore, the burden for each individual requirement has been divided by three to determine the annual burden for the approval period requested.

CFR Section ⁴	Respondent universe	Total Annual responses (A)	Average time per responses (B)	Total annual burden hours (C = A*B)	Total cost equivalent (D = C *wage rate) ⁵	PRA Analyses and Estimates
234.11(b)—State highway-rail grade crossing action plans – Development and submission of new action plans (40 States + DC)	40 States + District of Columbia	1.3 plans + 2.3 plans + 4 plans + 6 plans	700 hours + 550 hours + 200 hours + 60 hours	3,377 hours	\$206,672	<p>New action plans. (1) Except for the 10 States identified in paragraph (d) (2) of this section, each State and the District of Columbia shall develop a State highway-rail grade crossing action plan that addresses each of the required elements listed in paragraph (e) and submit such plan electronically through FRA’s Web site in PDF for review and approval.</p> <p>FRA grouped the 40 States and District of Columbia that do not have an FRA-approved highway-rail grade crossing action plan into four burden levels: high, medium, low, and minimal. Of these, FRA determined that 4 will have a high burden, 7 will have a medium burden, 12 will have a low burden, and 18 will have a minimal burden.</p> <p>To determine the annual information collection burden for this requirement, the estimated burden was divided by 3 years (4 high-burden plans ÷ 3 years = 1.3 plans; 7 medium-burden plans ÷ 3 years = 2.3 plans; 12 low-burden plans ÷ 3 years = 4 plans; 18 minimal-burden plans ÷ 3 years = 6 plans).</p> <p><u>Calculation:</u> 1.3 plans x 700 hours + 2.3 plans x 550 hours + 4 plans x 200 hours + 6 plans x 60 hours = 3,377 hours.</p> <p><i>Note: Based on input from FRA</i></p>

⁴The burdens for §§ 234.11(d), 234.11(e), and 234.11(f)(1) are covered under §§ 234.11(b), 234.11(c)(1) and 234.11(c)(2). Note: Totals may not add due to rounding.

⁵ An hourly compensation rate of \$61.20 was used to calculate the total cost equivalent.

						<p><i>subject matter experts and feedback from States, the 40 States and D.C. that currently do not have an FRA-approved Action Plan are grouped into four burden levels: high, medium, and low, and minimal burden. The new addition of the minimal category further reduced the PRA burden as noted under question 8.</i></p>
—(c)(1) Updated action plans (10 listed states in § 234.11(e))	10 States	1 plan + 1 plan + 1.3 plans	1,100 hours + 640 hours + 225 hours	2,040 hours	\$124,848	<p>Updated action plan and implementation report. (1) Each of the 10 States listed in paragraph (d) (2) of this section shall develop and submit an updated State highway-rail grade crossing action plan that addresses each of the required elements listed in paragraph (e) of this section to FRA for review and approval.</p> <p>FRA grouped the 10 States that previously had an FRA-approved highway-rail grade crossing action plan into three burden levels: high, medium, and low. Of these, FRA determined that 3 would have a high burden, 3 would have a medium burden, and 4 would have a low burden.</p> <p>To determine the annual information collection burden for this requirement, the estimated burden was divided by 3 years (3 high-burden plans ÷ 3 years = 1 plan; 3 medium-burden plans ÷ 3 years = 1 plan; 4 low-burden plans ÷ 3 years = 1.3 plans).</p> <p><u>Calculation:</u> 1 plan x 900 hours + 1 plan x 525 hours + 1.3 plans x 185 hours = 1,672 hours.</p>
—(c)(2) Implementation reports (10 listed states in § 234.11(e))	10 States	1 report + 1 report + 1.3 reports	160 hours + 120 hours + 40 hours	333 hours	\$20,380	<p>Each of the 10 States listed in paragraph (d)(2) of this section shall also develop and submit to FRA, a report describing how the State implemented the State highway-rail grade crossing action plan that it previously submitted to FRA for review and approval and will continue to reduce highway-rail grade crossing safety risks.</p>

						<p>FRA grouped the 10 States into three burden levels: high, medium, and low. Of these, FRA determined that 3 would have a high burden, three 3 would have a medium burden, and four 4 would have a low burden.</p> <p>To determine the annual information collection burden for this requirement, the estimated burden was divided by 3 years (3 high-burden reports ÷ 3 years = 1 report; 3 medium-burden reports ÷ 3 years = 1 report; 4 low-burden reports ÷ 3 years = 1.3 reports).</p> <p><u>Calculation:</u> 1 report x 160 hours + 1 report x 120 hours + 1.3 reports x 40 hours = 333 hours.</p> <p><i>Note: FRA estimates there will be less plans that will be disapproved after internal review.</i></p>
—(f)(2) Notification to FRA by State or District of Columbia (DC) of another official to assume responsibilities described under § 234.11(e)(6)	50 States + District of Columbia	2.7 notifications	5 minutes	.3 hours	\$20	<p>If the State or the District of Columbia designates another official to assume the responsibilities described in paragraph (e)(6) of this section, the State or the District of Columbia shall contact FRA and provide the information listed in paragraph (f)(1) of this section for the new designated official.</p> <p>FRA estimates that approximately 2.7 States every year will designate another official to assume the responsibilities and subsequently notify/contact FRA concerning these designations. It is estimated that it will take approximately 5 minutes to complete each agency notification/contact.</p>
—(g) FRA review and approval of State highway-rail grade crossing action plans: Disapproved plans needing revision (40 States + DC)	40 States + District of Columbia	.7 plans + .7 plans + 1.3 plans	105 hours + 60 hours + 24 hours	142 hours	\$8,690	<p>Within 60 days of the date of FRA's email notification identifying the specific areas in which the highway-rail grade crossing action plan is incomplete or deficient, the State or District of Columbia shall correct all deficiencies and submit the corrected State highway-rail grade crossing action plan to FRA for approval. The corrected highway-rail grade crossing action plan shall be submitted</p>

						<p>electronically through FRA’s website in PDF format.</p> <p>FRA grouped the 40 States and District of Columbia, which do not have an FRA-approved highway-rail grade crossing action plan and will have to develop a new plan, into three burden levels: high, medium, and low. Of these, FRA determined that 2 would have a high burden, 2 would have a medium burden, and 4 would have a low burden.</p> <p>To determine the annual information collection burden for this requirement, the estimated burden was divided by 3 years (2 high-burden plans ÷ 3 years = .7 plans; 2 medium-burden plans ÷ 3 years = .7 plans; 4 low-burden plans ÷ 3 years = 1.3 plans).</p> <p><u>Calculation:</u> .7 plans x 105 hours + .7 plans x 60 hours + 1.3 plans x 24 hours = 142 hours.</p>
—(g) FRA review and approval of State highway-rail grade crossing action plans: Disapproved plans needing revision (10 listed States in § 234.11e)	10 States	.3 plans + .3 plans + .3 plans	165 hours + 96 hours + 34 hours	98 hours	\$6,016	<p>FRA grouped the 10 States that previously had an FRA-approved highway-rail grade crossing action plan into three burden levels: high, medium, and low. Of these, FRA determined that 3 would have a high burden, 3 would have a medium burden, and 3 would have a low burden.</p> <p>To determine the annual information collection burden for this requirement, the estimated burden was divided by 3 years (3 high-burden plans ÷ 3 years = 1 plan; 3 medium-burden plans ÷ 3 years = 1 plan; 3 low-burden plans ÷ 3 years = 1 plan).</p> <p><u>Calculation:</u> 1 plan x 165 hours + 1 plan x 96 hours + 1 plan x 34 hours = 98 hours.</p>
Total	N/A	27 plans, reports, and notifications	N/A	5,991 hours	\$366,627	

13. Estimate of total annual costs to respondents.

There are no additional costs to respondents besides those enumerated in the answer to question number 12 above.

14. Estimate of Cost to Federal Government.

Because some States/DC may submit their State Action Plans, plan updates, and plan implementation reports after the first year, and because FRA is requesting a three-year approval to account for this situation, FRA is calculating the annual cost to the Federal Government over a two-year period. Thus, the annual cost over three years to the Federal Government associated with the information collection requirements of this final rule is comprised of the sum of the following six (6) costs:⁶

- I. In support of the Plan submission process, FRA will create a secure submission site. Because FRA plans to rely on existing software, this analysis includes only the cost of employee time to create this site. FRA estimates that it will take one (1) employee eight (8) hours to create this site.

Calculation: 1 employee creating site x 8 hrs. x \$84 p/hr. = \$672 ÷ 3 = \$224

- II. For preparing and conducting a webinar, this analysis includes the cost of the employee time to conduct the webinar for the 40 States/DC (6 hours) developing and implementing their State Action Plans and the cost of the employee time (2 hours) to conduct the webinar for the initial 10 States that previously created SAPs that will be updating these plans. FRA estimates that it will take one (1) employee eight (8) hours to create this site.

Calculation: 1 employee conducting seminar (40 States/DC) x 6 hrs. x \$84 p/hr. = \$504 ÷ 3 = \$168

Calculation: 1 employee conducting seminar (10 States) x 2 hrs. x \$84 p/hr. = \$168 ÷ 3 = \$56

- III. For reviewing plan updates and plan implementation reports (10 States), FRA estimates that it will take one (1) employee eight (8) hours to review a State's plan update and report.

Calculation: 10 plans x 8 hrs. x \$84 p/hr. = \$6,720 ÷ 3 = \$2,240

- IV. For reviewing the resubmission of plan updates and plan implementation reports (10 States), FRA estimates that it will take one (1) employee two (2) hours to review a resubmission of a State's plan update and report.

Calculation: 3 plans x 2 hrs. x \$84 p/hr. = \$504 ÷ 3 = \$168

⁶ Wage rate estimates are calculated for FRA Headquarters employees at the GS-13-1 grade level, which amounts to \$84 per hour (\$47.52 per hour + 75% overhead).

- V. For reviewing new State Action Plans for 41 States/DC, FRA estimates that it will take one (1) employee six (6) hours to review a State's/DC's plan.

Calculation: 41 plans x 6 hrs. x \$84 p/hr. = \$20,664 ÷ 3 = \$6,888

- VI. For reviewing resubmission of new plans, FRA estimates that it will take one (1) employee two (2) hours to complete the review.

Calculation: 8 plans x 2 hrs. x \$84 p/hr. = \$1,344 ÷ 3 = \$448

TOTAL ANNUAL COST = \$10,192

15. Explanation of program changes and adjustments.

As noted in the summary on page 1 of this document, this information collection submission is a request for reinstatement of a previously approved OMB Control Number (OMB No. 2130-0589), which was discontinued at the end of August 2016, when all previous requirements had been completed by the initial 10 States. There is zero (0) burden currently in the OMB inventory under this Control Number.

The total burden requested for this information collection submission is 5,991 hours and 27 responses. The entire requested burden is a program change. The table that completely itemizes all information collection requirements for this final rule and their associated burden is included under question 12.

16. Publication of results of data collection.

There are no plans for publication of this submission. The information will be used exclusively for the purposes of determining compliance with U.S. laws and FRA safety regulations.

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.