

Railroads have voluntarily contributed all or a portion of the non-Federal matching share required under Federal law for construction of grade crossing warning systems. FRA does not intend to prevent or discourage such contributions.

While FRA believes that railroads have many powerful incentives to continue their longstanding policy of voluntarily providing matching funds for federally funded grade crossing projects, comment is sought concerning whether this proposal will affect the level of railroad participation in such projects.

Paragraph (c) addresses railroad projects in which warning system improvements are only incidental to the railroad project. Some railroad projects, such as new track, upgraded track, or the installation of signal systems, may involve upgrading warning system circuits or the replacement of obsolete equipment with newer, more technologically advanced equipment. This rule is not intended to prohibit railroad's present practice of incidental upgrades.

Regulatory Impact

E.O. 12866 and DOT Regulatory Policies and Procedures

This proposed rule has been evaluated in accordance with existing policies and procedures, and is considered to be significant under DOT policies and procedures (44 FR 11034, February 26, 1979). This regulatory document was subject to review under E.O. 12866. FRA has prepared and placed in the rulemaking docket a regulatory evaluation addressing the economic impact of this rule. A copy of the regulatory evaluation may be inspected and copied in Room 8201, 400 Seventh Street, S.W., Washington, D.C., 20590.

In its regulatory analysis FRA posited that the costs and benefits of this proposed rule are not measurable at present, but that the benefits will equal or exceed the costs, because the function of the rule is to virtually eliminate grade crossing selections and installations which do not require an analysis which considers costs and benefits.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities. In reviewing the economic impact of the proposed rule, FRA has concluded that it will have a minimal economic impact on small entities. There is no direct or indirect economic

impact on small units of government, businesses, or other organizations. Therefore, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

Paperwork Reduction Act

The proposed rule contains information collection requirements. FRA is submitting these information collection requirements to the Office of Management and Budget for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The proposed section that contains information collection requirements is § 234.301. Persons desiring to comment on this topic should submit their views in writing to FRA (Ms. Gloria Swanson, RRS-21, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590) and to the Office of Management and Budget (Desk Officer, Regulatory Policy Branch (OMB No. 2130-AA92), Office and Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20530. Copies of any such comments should also be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590.

Environmental Impact

FRA has evaluated these proposed regulations in accordance with its procedure for ensuring full consideration of the potential environmental impacts of FRA actions, as required by the National Environmental Policy Act and related directives. This notice meets the criteria that establish this as a non-major action for environmental purposes.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule has sufficient federalism implications to warrant the preparation of a Federalism Assessment. A copy of the Federalism Assessment has been placed in the public docket and is available for inspection.

List of Subjects in 49 CFR Part 234

Railroad safety, Highway-rail grade crossings.

The Proposed Rule

In consideration of the foregoing, FRA proposes to amend Part 234, Title 49, Code of Federal Regulations as follows:

PART 234—[AMENDED]

1. The authority citation for Part 234 continues to read as follows:

Authority: 49 U.S.C. 20103, 20106, 20107, 20111, 20112, 20134, 21301, 21304, and 21311 (formerly Secs. 202, 208, and 209 of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 434, 437, and 438, as amended)); 49 U.S.C. 20901 and 20102 (formerly the Accident Reports Act (45 U.S.C. 38 and 42); and 49 CFR 1.49 (f), (g), and (m).

2. Add a new "Subpart E—Selection and Installation of Grade Crossing Warning Systems," to read as follows:

Subpart E—Selection and Installation of Grade Crossing Warning Systems

Sec.

234.301 Railroad cooperation.
234.303 Selection and installation of grade crossing warning systems.

§ 234.301 Railroad Cooperation.

(a) Railroads shall cooperate with the appropriate state agency in furnishing information to enable the state agency to develop plans and project priorities for the elimination of hazards of highway-rail grade crossings including, but not limited to grade crossing elimination, reconstruction of existing grade separations, and grade crossing improvements. At the request of the appropriate state agency, a railroad shall provide information not already provided to the FRA or the state for inclusion in the DOT/Association of American Railroads National Highway-Rail Grade Crossing Inventory regarding railroad operations involving specific highway-rail grade crossings, including, but not limited to: present and projected rail freight traffic (including transportation of hazardous materials); present and projected passenger traffic; present and projected track configuration and signalling; present and projected maximum authorized train speed; and other conditions which may affect the planning for, and prioritization of, crossing improvements. Nothing herein requires that a railroad provide to a state proprietary data of a confidential nature unless such information shall be protected from disclosure.

(b) Railroads shall provide appropriate engineering and other technical assistance to the state agency in designing and installing the warning system determined by the state to be appropriate to the particular crossing.

§ 234.303 Selection and installation of grade crossing warning systems.

(a) A railroad shall not unilaterally select or determine the type of grade crossing warning system to be installed at a public highway-rail grade crossing.