

authorized users in the field to request, be granted, or release on-track authority. To facilitate the implementation of this technology, UP is requesting that FRA suspend compliance with certain rules in accordance with the provisions contained in 49 CFR 211.51.

The Remote Authority is a web-based application that will permit authorized users to request, be granted, or release Foul Time, Track Permit, Track & Time or Track Warrant authority to occupy a main track or other controlled track. The central office component consists of one or more Remote Authority servers that will receive requests from authorized users for on-track authority or requests to release on-track authority. If the user is authorized to request or release on-track authority, and the request meets established criteria, the request is forwarded to the Union Pacific's Computer Aided Dispatching system for further processing. Requests that do not meet established criteria are rejected at this point in the process, and the user is provided the opportunity to change or cancel the request.

Requests for on-track authority are received by the dispatching system and must meet established criteria to be eligible for issuance by the dispatching system without dispatcher intervention. If the established criteria are not satisfied, the request is placed in the appropriate authority request queue, and the train dispatcher is notified.

In this regard, the UP requests relief to permit the dispatching system to grant or release on-track authority in response to a valid request from an authorized user without intervention on the part of the train dispatcher or control operator who controls train movements on that track. The UP hereby seeks relief from 49 CFR 214.321(a)(1), which requires a track occupancy authority for working limits to be issued to the roadway worker in charge by the train dispatcher or control operator who controls train movements on that track.

Access to the Remote Authority application within the UP network requires the user to present valid credentials consisting of standard user identification and secret password. For off-network access, a Virtual Private Network (VPN) connection must be established by the employee before presenting valid credentials. Within the Remote Authority application, individual users are further restricted in the functions they may perform.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. Although FRA does not anticipate scheduling a public hearing

in connection with this proceeding, if any interested party desires an opportunity for oral comment, they should notify FRA in writing before the end of the comment period and specify the basis for their request.

All communications concerning this proceeding should identify the appropriate docket number (FRA-2006-24840) and may be submitted by any of the following methods:

- Web site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 202-493-2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.
- Hand Delivery: Docket Management Facility, Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (Volume 65, Number 70; Pages 19477-78). The statement may also be found at <http://dms.dot.gov>.

Issued in Washington, DC, on July 20, 2006.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

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**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2005-23281, Notice No. 1]

#### Safety of Private Highway-Rail Grade Crossings; Notice of Safety Inquiry

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of safety inquiry.

**SUMMARY:** FRA announces its intent to conduct a series of open meetings throughout the United States, in cooperation with appropriate State agencies, to consider issues related to the safety of private highway-rail grade crossings. At each open meeting, FRA intends to solicit oral statements from private crossing owners, railroads and other interested parties on issues related to the safety of private highway-rail grade crossings, which will include, but not be limited to, current practices concerning responsibility for safety at private grade crossings, the adequacy of warning devices at private crossings, and the relative merits of a more uniform approach to improving safety at private crossings. FRA has also opened a public docket on these issues, so that interested parties may submit written comments for public review and consideration.

**DATES:** The initial public meeting will be held in Fort Snelling, Minnesota on August 30, 2006 at the Bishop Henry Whipple Federal Building. Persons wishing to participate are requested to provide their names, organizational affiliation and contact information to Michelle Silva, Docket Clerk, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6030) by July 31, 2006. Persons needing sign language interpretation or other reasonable accommodation for disability are also encouraged to contact Michelle Silva, FRA Docket Clerk, at (202) 493-6030 by July 31, 2006. Additional public meetings will be announced over the next three months.

**FOR FURTHER INFORMATION CONTACT:** Ron Ries, Office of Safety, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6299); Miriam Kloeppel, Office of Safety, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6299); or Kathryn Shelton, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6038).

**SUPPLEMENTARY INFORMATION:** There are currently over 94,000 private highway-

rail grade crossings (private crossings) in the United States. Each year, about 400 accidents and between 30–40 fatalities occur at these crossings. In most years, the number of deaths occurring at private crossings exceeded the number of on-duty deaths among

railroad employees in all rail operations. While accidents and injuries at public highway-rail grade crossings have declined by between one-third and one-half in the past decade, accidents at private crossings have declined by only 10 percent, and the number of injuries

in private crossing accidents has actually increased by 1 percent. Figures 1 and 2 show the accident, fatality, and injury trends occurring at private and public grade crossings, respectively.

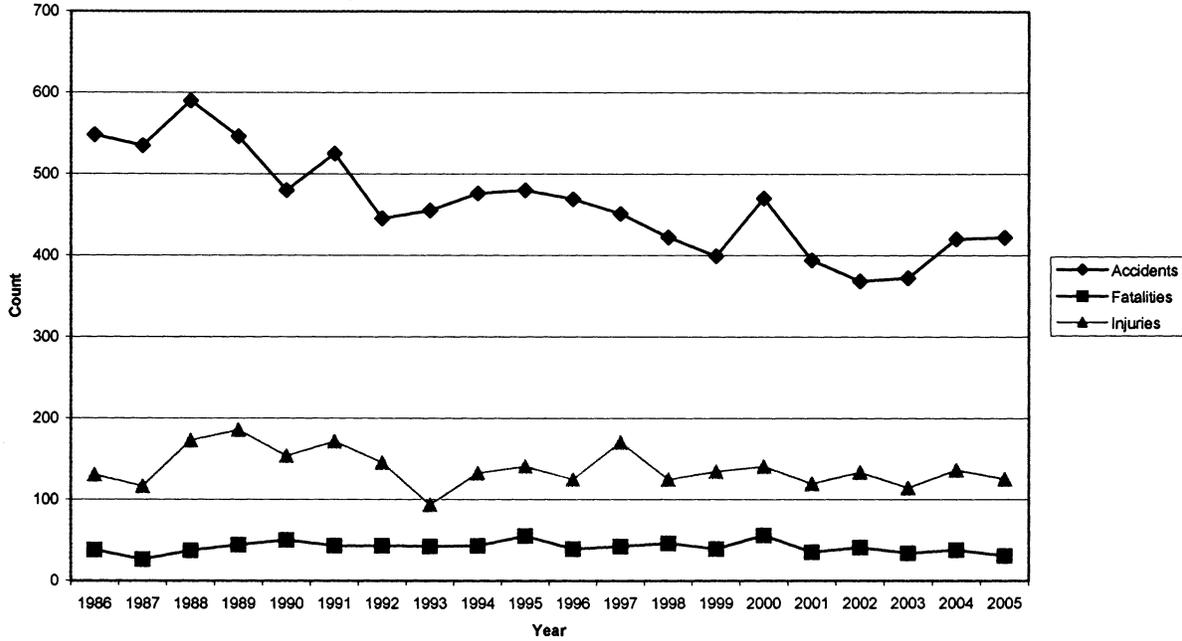


Figure 1. Accidents, fatalities, and injuries occurring at private highway-railroad grade crossings between 1986 and 2005.

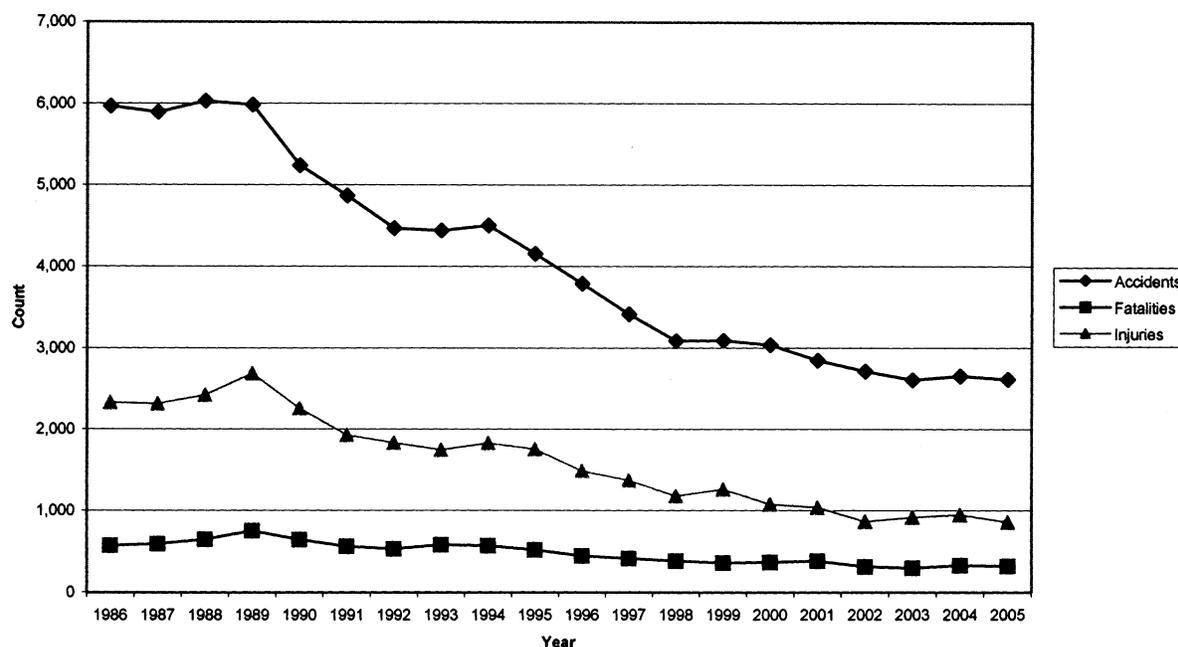


Figure 2. Accidents, fatalities, and injuries occurring at *public* highway-railroad grade crossings between 1986 and 2005.

Private highway-rail grade crossing safety has therefore been a matter of concern to the U.S. Department of Transportation and the National Transportation Safety Board (NTSB). FRA hosted an open meeting to initiate industry-wide discussions concerning private highway-rail grade crossing safety on July 15, 1993. In its 1994 Rail-Highway Crossing Safety Action Plan, the United States Department of Transportation proposed to “develop and provide national, minimum safety standards for private crossings, and to eliminate the potential impediment to high speed rail operations posed by private crossings.” In its 1997 study on Safety at Passive Grade Crossings, the National Transportation Safety Board (NTSB) highlighted the need for some system to improve safety at private highway-railroad grade crossings, recommending that the DOT, in conjunction with the States, should determine governmental oversight responsibility for safety at private highway-rail grade crossings. In 1999, the NTSB weighed in again on the issue of safety at private crossings in its report on a private grade crossing accident in Portage, Indiana. In this case, the NTSB recommended that the U.S. Department of Transportation “eliminate any differences between private and public highway-rail grade crossings with regard to providing funding for, or requiring the implementation of, safety improvements.” In 2004, the

Department of Transportation published an updated Highway-Rail Crossing Safety and Trespass Prevention Action Plan ([http://www.fra.dot.gov/downloads/safety/action\\_plan\\_2004.pdf](http://www.fra.dot.gov/downloads/safety/action_plan_2004.pdf)) (*Secretary's Action Plan*). In this plan the FRA has committed to lead an effort to define responsibility for safety at private highway-rail grade crossings. This effort is intended to include a determination of minimum criteria for signage, and also to identify safety needs.

Private crossings present a safety challenge precisely because their non-public character can influence their design and maintenance. The 94,000 private crossings that remain on the national rail system serve the needs of a very large and disparate population of individuals, small businesses and large corporations that are holders of the right or privilege to traverse the railroad. Their circumstances differ in many ways:

1. *Degree of need for private crossings and their use.* The policy of the U.S. Department of Transportation seeks elimination of unnecessary and particularly hazardous highway-rail grade crossings, whether public or private. *Secretary's Action Plan* at 41. Some private crossings are essential for access to the holder's property and failure to provide access would render the property much less valuable. Other private crossings are situated along roads that could easily provide access

via other public or private crossings. Some private crossings are heavily used, while others are used only seasonally (e.g., certain agricultural crossings used only for movement of agricultural equipment such as tractors and combines). Some crossings are used only for routine personal use or occasional use by business guests (e.g., personal residences). Other private crossings are used extensively for private business purposes, and motor vehicle operators are typically employees, contractors, and suppliers (e.g., access to industries, rock quarries, etc.) In still other cases, private crossings may be used very heavily by the public to enter commercial facilities.

2. *Engineering.* Some private crossings providing access to commercial properties have well-maintained surfaces and excellent signage comparable to that contemplated by the Manual for Uniform Traffic Control Devices. According to the National Highway-Rail Crossing Inventory, active warning devices are provided at 1,078 private crossings. More typically, many private crossings are marked only by crossbuck signs without advance warning signs, or not at all; and surface may be irregular. Sight distances at private crossings without active warning devices vary widely. Neither the Federal Government nor the States, with extremely few exceptions, provide financial assistance for engineering improvements at private crossings. In

these few instances, funding for private crossings may be provided for specific corridor projects, most commonly the high speed rail corridors.

3. *Legal status.* Private crossing rights vary from ownership of the fee simple (outright ownership of the underlying property), to documented easements, to prescriptive easements (where recognized), to documented licenses under contract, to verbal licenses subject to revocation without notice. The entities enjoying rights under these arrangements may be referred to as "holders" of the right to cross. Increasingly over the past 15 years, railroads have sought to establish maximum control over these intermodal intersections by requiring crossing holders to purchase insurance or provide other protection in the event a holder, railroad or a third party experiences a loss due to a collision. Contracts or other legal instruments may further define responsibilities (e.g., for maintenance of the crossing surface or providing notifications under stated conditions).

4. *Extent of regulation.* In general, private crossings are not subject to regulation at the State or Federal level. FRA's requirements for inspection, test and maintenance of active warning devices (49 CFR part 234) apply to the railroad where active warning has been installed; but there is no Federal mandate for providing such warning.<sup>1</sup> A handful of States require that railroads place crossbucks or special signage (in some cases a stop sign and a crossbuck on the same post) at private crossings. The subject of private crossings is otherwise largely unregulated. Accordingly, such recognized responsibilities as exist with respect to the safety of private crossings are generally the product of contracts and common law. (For a general description of responsibilities related to crossing safety, see Safety Advisory 2005-03; Highway-Rail Grade Crossing Safety (70 FR 22750; May 2, 2005)).

#### Request for Comments

While FRA solicits discussion and comments on all areas of safety at private highway-rail grade crossings, we particularly encourage comments on the following topics:

- At-grade highway-rail crossings present inherent risks to users, including the railroad and its employees, and to other persons in the

vicinity should a train derail into an occupied area or release hazardous materials. When passenger trains are involved, the risks are heightened. From the standpoint of public policy, how do we determine whether creation or continuation of a private crossing is justified?

- Is the current assignment of responsibility for safety at private crossings effective? To what extent do risk management practices associated with insurance arrangements result in "regulation" of safety at private crossings?
  - How should improvement and/or maintenance costs associated with private crossing be allocated?
  - Is there a need for alternative dispute resolution mechanisms to handle disputes that may arise between private crossing owners and the railroads?
    - Should the State or Federal government assume greater responsibility for safety at private crossings?
    - Should there be Nationwide standards for warning devices at private crossings, or for intersection design of new private grade crossings?
    - How do we determine when a private crossing has a 'public purpose' and is subject to public use?
      - Should some crossings be categorized as 'commercial crossings', rather than as 'private crossings'?
      - Are there innovative traffic control treatments that could improve safety at private crossings on major rail corridors, including those on which passenger service is provided?
        - Should the Department of Transportation request enactment of legislation to address private crossings? If so, what should it include?

Issued in Washington, DC, on July 20, 2006.

**Joseph H. Boardman,**  
Administrator.

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BILLING CODE 4910-06-P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2006-25457]

#### Information Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime

Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

**DATES:** Comments should be submitted on or before September 25, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Michael Franklin, Maritime Administration, (MAR-610), 400 Seventh St., SW., Washington, DC 20590. Telephone: 202-366-2628, fax: 202-366-3954; or e-mail: [michael.franklin@dot.gov](mailto:michael.franklin@dot.gov). Copies of this collection can also be obtained from that office.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Automated Mutual-Assistance Vessel Rescue System (AMVER).

*Type of Request:* Extension of currently approved information collection.

*OMB Control Number:* 2133-0025.  
*Form Numbers:* None.

*Expiration Date of Approval:* Three years from date of approval by the Office of Management and Budget.

*Summary of Collection of Information.* This collection of information is used to gather information regarding the location of U.S.-flag vessels and certain other U.S. citizen-owned vessels for the purpose of search and rescue in the saving of lives at sea and for the marshalling of ships for national defense and safety purposes.

*Need and Use of the Information:* This information collection is necessary for maintaining a current plot of U.S.-flag and U.S.-owned vessels.

*Description of Respondents:* Respondents are U.S.-flag and U.S. citizen-owned vessels.

*Annual Responses:* 29,280 responses.

*Annual Burden:* 2,342 hours.

*Comments:* Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at <http://dmses.dot.gov/submit>. Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except

<sup>1</sup> Other FRA regulations applicable to the railroad are intended to address safety at private crossings, as well as public crossings, particularly requirements for alerting lights (49 CFR 219.125) and reflectorization of rail rolling stock (49 CFR part 224) to make trains more conspicuous.