



**U.S. DEPARTMENT
OF TRANSPORTATION**

FEDERAL RAILROAD ADMINISTRATION

**GRADE CROSSING SAFETY ISSUE BRIEF
RESPONSE TO *THE NEW YORK TIMES* ALLEGATIONS**

During the past 10 years, the Federal Railroad Administration has made highway-rail grade crossing safety a top priority. In fact, it can be considered one of the great success stories in American transportation.

To read the recent story in *The New York Times*, one would think just the opposite of the FRA. It was disappointing to learn that after an extensive investigation, the reporter came to the conclusion that the FRA is indifferent to highway-rail crossing accidents. Anyone interested in an unbiased review of the same FRA records and its professionals would have understood the tremendous efforts put into the successful prevention of vehicle-train collisions.

Despite significant increase in both motor vehicle and train traffic, since 1993 the number of vehicle-train collisions has been dramatically reduced by 41 percent and the number of crossing fatalities has been cut by nearly 50 percent to an all-time low of 324. To a great extent, this is due to the nationwide efforts of the professionals of the FRA, working with the Federal Highway Administration, the Federal Motor Carrier Safety Administration, and the National Highway Traffic Safety Administration, States, local communities, railroads, labor organizations, and Operation Lifesaver Inc.

There is no other program of the Federal Railroad Administration to which as much time, enthusiasm and energy is devoted, and clear results produced, as in the grade-crossing program. The reporter from the *Times* criticized the FRA for things beyond our jurisdiction and ignored information that shows the positive actions taken by FRA to address a number of issues raised in the article.

After seven months of extensive research to find a negative story, the reporter found that in the year since FRA began requiring railroads to make immediate telephonic reports of every highway-rail grade crossing fatality, there were instances where they had not done so. The FRA has long required that railroads file monthly reports, and the article did establish that with few notable exceptions, the railroads do file these reports. Since 1999 all such records have been readily retrievable from the Safety Data page of the FRA web site. FRA is implementing a new system to cross check the filing of the telephonic and written reports, and the *Times* article was helpful in devoting the resources to highlight this issue.

It is important to point out that although we use data to analyze the causes of grade crossing accidents, the analysis over years of accidents clearly establishes there is very little variation in causal factors.

Approximately 94% of all grade crossing accidents, and 87% of fatalities, involve motor vehicle driver behavior as a principal factor. Police reports are filled with statements from witnesses attesting to such driver actions as going around lowered crossing gates, ignoring flashing warning lights, driving into the side of a train, or racing the train to the crossing. Thus, FRA has found it far more beneficial to concentrate on preventing grade crossing collisions and the fatalities in the first place, a system which the record shows has been highly successful.

The FRA has grade crossing staff across the country who devote their efforts to getting media, business, law enforcement agencies, community civic associations, schools, and anyone else who will listen to join with efforts to make the public aware of the dangers of grade crossings and trespassing on rail property. **Just this past June, the US Department of Transportation Inspector General issued a report praising the FRA saying we have “made substantial progress in improving grade crossing safety” since 1994. Among the findings was that the fatal highway-rail crossing accident rate fell by 57 percent.**

Here is how it works:

- The railroad owns the track. The roadway at a crossing is owned by either a public or private entity. Public crossings are those where the highway or roadway is under the jurisdiction of and maintained by a public authority such as a municipality, county, or State agency. Private crossings are those where the roadway is privately owned, as a farm or within an industrial complex. The roadway owner, public or private, typically maintains the road approaching the crossing on either side of tracks.
- The Federal Highway Administration (FHWA) is responsible for public grade crossing issues that affect highway safety. FHWA provides guidelines and standards for the correct design of grade crossings, the assessment of safety at a grade crossing, and appropriate placement of traffic control devices at and on the approach to a grade crossing as described in the FHWA's *Manual on Uniform Traffic Control Devices* (MUTCD). State and local officials and others serve on an advisory committee that drafts many of the standards.
- States determine which public crossings are in need of improvements and what those improvements will be. States rely heavily on federally supplied funds called Section 130 funds, authorized by Congress (ISTEA/TEA-21) which allocate money to the States specifically for eliminating hazards at public highway-railroad grade crossings (Federal highway funds cannot be spent on safety improvements at private rail crossings). The FHWA also administers the distribution of Section 130 funds.
- States determine what warning devices are needed in which locations, and contract with the railroads for installation. FRA regulations require railroads to maintain the signals in working order and that the railroad take alternative measures when signals are not properly working, with substantial penalties for not doing so. To ensure that the nation's 60,000 crossings with active warning devices are functioning as intended, we require the railroads to conduct monthly inspections. We verify compliance by performing our own inspection on a sample basis.
- FRA and the National Transportation Safety Board (NTSB) require railroads to telephonically report fatal crossing accidents to the National Response Center. Prior to 2003, the FRA and the NTSB had different rules regarding telephonic reporting. FRA required five or more fatalities before a report had to be made while the NTSB threshold was a single fatality. Since the vast majority of fatal vehicle-train collisions involve only one or two fatalities, a failure by a railroad to make a telephonic report in those cases did not violate FRA rules.

The FRA recognized this reporting gap and in 1997, the NTSB reporting requirements were included in the FRA *Guide to Accident Reporting* as an information item to encourage greater compliance. In 2001, the FRA initiated the rulemaking process to change our own regulations to mandate telephonic reporting in cases of a single fatality. The new FRA reporting requirements took effect in May 2003.

- It is important to recognize that these instances are treated as highway accidents by the FRA and

NTSB. **The reporter mistakenly believes that the purpose of this federal regulatory agency is to investigate each and every accident that occurs.** Federal agencies must operate within their authority and also use scarce resources accordingly. The NTSB rarely sends investigators unless it is a major incident. And when it does so, it is classified as a highway accident. FRA measures the severity of the accident, as well as the initial reports regarding the circumstances. Location also has a bearing on the dispatch. If an accident is not in proximity to FRA inspectors and not a situation such as a hazardous materials explosion, it will be completely removed by the time inspectors could arrive. The authority to investigate lies with local authorities as in automobile accidents. However, FRA lends its expertise and works with local authorities in many, if not most, instances.

- Event Recorders. The article is also critical of the handling of the locomotive event recorder, the train's "black box." FRA regulations require railroads to preserve recorded data for 30 days following any reportable crossing accident to allow the NTSB or FRA a chance to analyze the information. Local investigators also can ask for the information. If the railroad is not forthcoming, the FRA is ready to step in and assist. The FRA recently published a proposed rule to improve the crash survivability of the black box to better safeguard the data for post-accident review.

Despite being given the above information, the reporter used pre-2003 data (before the FRA had authority to enforce failure to telephonically report a single fatality crossing accident) to suggest that the FRA is lax in enforcing reporting regulations. The reporter also ignored information provided that over the past five years, the FRA has collected more than \$1.2 million in civil penalties from railroads specifically for accident reporting violations and another \$795,000 for highway-rail crossing warning device violations.

While *The New York Times* article highlighted some important issues, it also missed an opportunity to heighten public awareness of the dangers of ignoring highway-rail crossings, the major source of accidents and fatalities, which we encouraged the reporter to highlight. *The New York Times* could have provided a great service to the entire nation if the same amount of time, resources and newspaper ink were used to examine the causes of highway-rail crossing collisions and how best to prevent them. Invaluable information could have been disseminated on the potential hazards to the public when crossing railroad tracks and the extreme caution needed. The article could have explained how the public and local officials could join with us in saving the lives which have so tragically been lost. And it is disappointing that it chose to ignore the tremendous and successful efforts the Federal Railroad Administration has put into the prevention of vehicle-train collisions which has been one of the great success stories in the transportation arena.