or (d)(4) related to the maintenance of a crossbuck sign or other similar grade crossing safety device or any other unsafe condition (such as a pot hole that could cause injury or damage) not covered by paragraph (a), (b), or (c) of this §234.305, the railroad, if it is both the dispatching and the maintaining railroad, shall timely investigate the report; and, if the railroad finds that the unsafe condition exists, it shall timely correct it if it is lawful and feasible to do so. If the dispatching railroad is not also the maintaining railroad, it shall timely inform the maintaining railroad, which shall timely investigate the report; and, if the maintaining railroad finds that the unsafe condition exists, it shall timely correct it if it is lawful and feasible to do so.

(h) General rule on a maintaining railroad's responsibilities for receiving reports of unsafe conditions at highway-rail and pathway grade crossings. (1) In general. If the dispatching railroad is required under this section to contact the maintaining railroad, the maintaining railroad shall—

(i) Provide the dispatching railroad with sufficient contact information by which the dispatching railroad may timely contact the maintaining railroad upon receipt of a report; and

(ii) Have either a live person answer calls directly and promptly, or use an automated answering system for the purpose of receiving a call from the dispatching railroad of a report of an unsafe condition, except as provided in paragraph (h)(2) of this section.

(2) Exceptions for use of a third-party telephone service and answering machine by a maintaining railroad. (i) If a maintaining railroad is responsible for the maintenance of a highway-rail or pathway grade crossing through which a railroad dispatches one or more trains, each of which is authorized to travel through the crossing at speeds not greater than 20 mph, the maintaining railroad may use a third-party telephone service, in accordance with §234.307, or an answering machine to receive reports from a dispatching railroad of unsafe conditions at such a crossing. If using an answering machine pursuant to this paragraph, the railroad must retrieve its messages immediately prior to the start of its operations for the day.

(ii) If a maintaining railroad is responsible for the maintenance of a highway-rail or pathway grade crossing only on a seasonal or intermittent basis (e.g., tourist, biweekly service, or non-24-hour service), the maintaining railroad may use a third-party telephone service, in accordance with §234.307, or an answering machine to receive reports from a dispatching railroad of unsafe conditions at such a crossing. If using an answering machine pursuant to this paragraph, during periods of non-operation, the maintaining railroad must retrieve its messages daily. However, the railroad must retrieve its messages immediately prior to the start of its operations for the day, and during hours of operation the railroad shall either have a live person answer calls directly or use an automated answering system to receive reports regarding unsafe conditions at such a crossing.

§234.306 Multiple dispatching or maintaining railroads with respect to the same highway-rail or pathway grade crossing; appointment of responsible railroad.

(a) Duty of multiple dispatching railroads to appoint a primary dispatching railroad for the crossing. (1) Where more than one railroad dispatches a train through the same highway-rail or pathway grade crossing, the dispatching railroads for the crossing shall appoint one of the railroads to be the primary dispatching railroad for the crossing and, as such, the primary dispatching railroad for the crossing shall do the following:

(i) Provide its emergency telephone number to the railroad responsible for the placement and maintenance of the ENS sign(s) at the crossing;

(ii) Receive all reports through ENS of unsafe conditions at the crossing as required by §234.303;

(iii) After receiving a report of an unsafe condition at the crossing, promptly contact all other railroads that dispatch trains through the crossing to warn them of the reported unsafe condition, and, as appropriate, promptly contact the maintaining railroad(s) for the crossing as required by §234.305; and
(iv) Otherwise carry out its duties under this subpart as a dispatching railroad for the crossing, with respect to the crossing.

(2) After receiving a report of an unsafe condition at the crossing from the appointed dispatching railroad, each of the other dispatching railroad(s) to which the report pertains shall carry out the remedial action required by §234.305 and the recordkeeping required by §234.313.

(b) Duty of multiple maintaining railroads to appoint a railroad responsible for the placement and maintenance of the ENS sign(s).

(1) Where more than one railroad maintains the same crossing, the maintaining railroads for the crossing shall appoint one of the railroads to be responsible for the placement and maintenance of the ENS sign(s) at the crossing pursuant to §§234.309 and 234.311.

(2) The railroad appointed under paragraph (b)(1) of this section shall display on the ENS sign(s) at the crossing the emergency telephone number of the primary dispatching railroad for the crossing identified under paragraph (a) of this section.

(c) Duty of multiple maintaining railroads with respect to remedial action at the crossing. Where there are multiple maintaining railroads for a crossing, the dispatching railroad (or, if more than one railroad dispatches a train through the crossing, the primary dispatching railroad for the crossing under paragraph (a) of this section) upon receipt of a report of an unsafe condition, shall promptly contact and inform the appropriate maintaining railroad(s) for the crossing of the reported problem. After each maintaining railroad for the crossing receives a report of an unsafe condition at the crossing that pertains to its maintenance responsibilities for the crossing, the maintaining railroad shall carry out the remedial action required by §234.305 and the recordkeeping required by §234.313.

§234.307 Use of third-party telephone service by dispatching and maintaining railroads.

(a) General use of a third-party telephone service by a dispatching railroad. A dispatching railroad may use a third-party telephone service to receive reports of unsafe conditions at highway-rail and pathway grade crossings pursuant to §234.309. The third-party telephone service may use an automated answering system for the purpose of receiving such reports. The dispatching railroad shall have a live person answer calls directly and promptly from the third-party telephone service, unless permitted pursuant to §234.303(b) to use an answering machine. The dispatching railroad shall ensure that the third-party telephone service complies with the applicable requirements of §234.307.

(b) General use of a third-party telephone service by a maintaining railroad. Pursuant to §234.305(h)(2), a maintaining railroad that either maintains a highway-rail or pathway grade crossing on a seasonal or intermittent basis (e.g., tourist, biweekly service, or non-24 hours service), or a crossing through which a railroad dispatches one or more trains, each of which is authorized to travel through the crossing at speeds not greater than 20 mph, may use a third-party telephone service to receive reports of unsafe conditions at such a crossing from a dispatching railroad. The third-party telephone service may use an automated answering system for the purpose of receiving such reports. The maintaining railroad shall receive reports from the third-party telephone service by either having a live person answer calls directly and promptly, or using an answering machine. If using an answering machine pursuant to this paragraph, the railroad must use the answering machine in accordance with §234.305(h)(2). The maintaining railroad shall ensure that the third-party telephone service complies with the applicable requirements of §234.307.