

Subpart E—Emergency Notification Systems for Telephonic Reporting of Unsafe Conditions at Highway-Rail and Pathway Grade Crossings

§234.303 Emergency notification systems for telephonic reporting of unsafe conditions at highway-rail and pathway grade crossings.

(a) *Duty of dispatching railroad in general.* Each railroad shall establish and maintain a toll-free telephone service by which the railroad can directly and promptly receive telephone calls from the public reporting specific information about any of the conditions listed in paragraph (c) of this section with respect to a highway-rail grade crossing and paragraph (d) of this section with respect to a pathway grade crossing through which the railroad dispatches a train, except as provided in paragraphs (b) and (e) of this section, and in §234.306(a). The dispatching railroad shall either have a live person answer calls directly and promptly, or use an automated answering system or a third-party telephone service for the purpose of receiving reports pursuant to this section, except as provided in paragraph (b) of this section.

(b) *Exceptions for certain railroads.* If a dispatching railroad operates in accordance with either of the conditions set forth in this paragraph, the railroad is not subject to the general duties stated in the last sentence of paragraph (a) of this section.

(1) If a railroad dispatches one or more trains through a highway-rail or pathway grade crossing, each of which is authorized to travel through the crossing at speeds not greater than 20 miles per hour (mph), the railroad may use an answering machine to receive calls regarding 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 each day.

(2) If a railroad dispatches one or more trains through a highway-rail or pathway grade crossing on a seasonal or intermittent basis (*e.g.*, tourist, biweekly service, or non-24-hour service), and any of the trains is authorized to travel through the crossing at speeds greater than 20 mph, the railroad may use an answering machine to receive calls regarding unsafe conditions at such a crossing, but only during hours of non-operation. If using an answering machine pursuant to this paragraph (b), during periods of non-operation, the 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 dispatching railroad shall either have a live person answer calls directly and promptly, use an automated answering system, or employ a third-party telephone service, in accordance with paragraph (a) of this section, to receive reports regarding unsafe conditions at crossings through which it dispatches trains.

(c) *Reportable unsafe conditions at highway-rail grade crossings.* Each railroad shall establish a service pursuant to paragraph (a) of this section, except as provided in paragraphs (b) and (e) of this section, and in §234.306(a), to receive telephone calls regarding the following conditions with respect to a highway-rail grade crossing through which it dispatches a train:

(1) A warning system malfunction at the highway-rail grade crossing;

(2) A disabled vehicle or other obstruction blocking a railroad track at the highway-rail grade crossing;

(3) An obstruction to the view of a pedestrian or a vehicle operator for a reasonable distance in either direction of a train's approach to the highway-rail grade crossing; or

(4) Any information relating to any other unsafe condition at the highway-rail grade crossing.

(d) *Reportable unsafe conditions at pathway grade crossings.* Each railroad shall establish a service pursuant to paragraph (a) of this section, except as provided in paragraphs (b) and (e) of this section, and in §234.306(a), to receive telephone calls regarding the following conditions with respect to a pathway grade crossing through which it dispatches a train:

(1) A failure of the active warning system at the pathway grade crossing to perform as intended;

(2) An obstruction blocking a railroad track at the pathway grade crossing;

(3) An obstruction to the view of a pathway grade crossing user for a reasonable distance in either direction of a train's approach to the pathway grade crossing; or

(4) Any information relating to any other unsafe condition at the pathway grade crossing.

(e) *Class II or Class III railroads.* A Class II or Class III railroad that dispatches one or more trains through a highway-rail or pathway grade crossing within an area in which the use of a non-toll-free number would not incur any additional fees for the caller than if a toll-free number were used, may use that non-toll-free number to receive calls pursuant to paragraph (a) of this section regarding each such crossing in that area.

(f) *Reports not made through the ENS.* If a report of an unsafe condition at a highway-rail or pathway grade crossing is not made through the telephone service described in paragraph (a) of this section, this subpart E does not apply to that report.

§234.305 Remedial actions in response to reports of unsafe conditions at highway-rail and pathway grade crossings.

(a) *General rule on response to credible report of warning system malfunction at a highway-rail grade crossing.* (1) If a railroad receives a credible report of a warning system malfunction at a highway-rail grade crossing pursuant to §234.303(c)(1) and the railroad has maintenance responsibility for the warning system to which the report pertains, then it shall take the appropriate action required by subpart C of this part.

(2) If a railroad receives a credible report of a warning system malfunction at a highway-rail grade crossing pursuant to §234.303(c)(1) and the railroad has dispatching responsibility for the crossing, but does not have maintenance responsibility for the warning system to which the report pertains, it shall promptly contact all trains that are authorized to operate through the

highway-rail grade crossing in an effort to notify the train crews of the reported malfunction prior to each train's arrival at the crossing. After contacting the appropriate trains, the railroad shall then promptly contact the maintaining railroad and inform it of the reported malfunction. The maintaining railroad shall then take the appropriate action required by subpart C of this part.

(b) General rule on response to public report of warning system malfunction at a highway-rail grade crossing. (1) If a railroad receives a public report of a warning system malfunction at a highway-rail grade crossing pursuant to §234.303(c)(1) and the railroad has maintenance responsibility for the warning system to which the report pertains, the railroad shall promptly contact all trains that are authorized to operate through the highway-rail grade crossing in an effort to notify the train crews of the reported malfunction prior to each train's arrival at the crossing. After contacting the appropriate trains, the railroad shall then promptly contact the law enforcement agency having jurisdiction over the highway-rail grade crossing and provide the necessary information for the law enforcement agency to direct traffic or carry out other activities to maintain safety at the highway-rail grade crossing. The railroad shall then promptly investigate the report, determine the nature of the malfunction and take the appropriate action required by §234.207.

(2) If a railroad receives a public report of a warning system malfunction at a highway-rail grade crossing pursuant to §234.303(c)(1) and the railroad does not have maintenance responsibility for the warning system at the highway-rail grade crossing, it shall promptly contact all trains that are authorized to operate through the highway-rail grade crossing to which the report pertains in an effort to notify the train crews of the reported malfunction prior to each train's arrival at the crossing. After contacting the appropriate trains, the railroad shall then promptly contact the law enforcement agency having jurisdiction over the highway-rail grade crossing and provide the necessary information for the law enforcement agency to direct traffic or carry out other activities to maintain safety at the highway-rail grade crossing. The railroad shall then promptly contact the maintaining railroad and inform it of the reported malfunction. The maintaining railroad shall then promptly investigate the report, determine the nature of the malfunction, and take the appropriate action required by §234.207.

(c) General rule on response to report of warning system failure at a pathway grade crossing. (1) If a railroad receives a report of a warning system failure at a pathway grade crossing pursuant to §234.303(d)(1) and the railroad has maintenance responsibility for the warning system to which the report pertains, the railroad shall promptly contact all trains that are authorized to operate through the pathway grade crossing in an effort to notify the train crews of the reported failure prior to each train's arrival at the crossing. After contacting the appropriate trains, the railroad shall then promptly contact the law enforcement agency having jurisdiction over the pathway grade crossing and provide the necessary information for the law enforcement agency to direct traffic or carry out other activities to maintain safety at the pathway grade crossing. The railroad shall then promptly investigate the report, determine the nature of the failure, and without undue delay repair the active warning system if necessary.

(2) If a railroad receives a report of warning system failure at a pathway grade crossing pursuant to §234.303(d)(1), but does not have maintenance responsibility for the warning system to which

the report pertains, the railroad shall promptly contact all trains that are authorized to operate through the pathway grade crossing to which the report pertains in an effort to notify the train crews of the reported failure prior to each train's arrival at the crossing. After contacting the appropriate trains, the railroad shall then promptly contact the law enforcement agency having jurisdiction over the pathway grade crossing and provide the necessary information for the law enforcement agency to direct traffic or carry out other activities to maintain safety at the pathway grade crossing. The railroad shall then promptly contact the maintaining railroad and inform it of the reported failure. The maintaining railroad shall then promptly investigate the report, determine the nature of the failure, and without undue delay repair the warning system if necessary.

(d) General rule on response to report of a disabled vehicle or other obstruction blocking a railroad track at a highway-rail or pathway grade crossing. (1) If a railroad receives a report of a disabled vehicle or other obstruction blocking a railroad track at a highway-rail or pathway grade crossing, pursuant to §234.303(c)(2) or (d)(2), and the railroad has maintenance responsibility for the crossing to which the report pertains, the railroad shall promptly contact all trains that are authorized to operate through the crossing in an effort to notify the train crews of the reported obstruction prior to each train's arrival at the crossing. After contacting the appropriate trains, the railroad shall then promptly contact the law enforcement agency having jurisdiction over the crossing to provide it with the information necessary to assist in the removal of the reported track obstruction or to carry out other activities to maintain safety at the crossing. The railroad shall then promptly investigate the report, determine the nature of the obstruction, and without undue delay take the necessary action to have the obstruction removed.

(2) If a railroad receives a report of a disabled vehicle or other obstruction blocking a railroad track at a highway-rail or pathway grade crossing, pursuant to §234.303(c)(2) or (d)(2), but does not have maintenance responsibility for the crossing to which the report pertains, the railroad shall promptly contact all trains that are authorized to operate through the crossing to which the report pertains in an effort to notify the train crews of the reported obstruction prior to each train's arrival at the crossing. After contacting the appropriate trains, the railroad shall then promptly contact the law enforcement agency having jurisdiction over the crossing to provide it with the information necessary to assist in the removal of the reported track obstruction or to carry out other activities to maintain safety at the crossing. The railroad shall then promptly contact the maintaining railroad and inform it of the reported obstruction. The maintaining railroad shall then promptly investigate the report, determine the nature of the obstruction, and without undue delay take the necessary action to have the obstruction removed.

(e) Special rule on contacting a train that is not required to have communication equipment. If a railroad is not required by §220.9 of this chapter to have a working radio or working wireless communications in each occupied controlling locomotive of its trains and the railroad receives a report pursuant to §234.303(c)(1), (c)(2), (d)(1), or (d)(2) about a highway-rail or pathway crossing that any of the trains is authorized to operate through, the railroad shall promptly contact the occupied controlling locomotive of the train as required by paragraph (a), (b), (c), or (d) of this §234.305 by the quickest means available consistent with §220.13(a) of this chapter.

(f) *General rule on response to report of an obstruction of view at a highway-rail or pathway grade crossing.* (1) Upon receiving a report pursuant to §234.303(c)(3) or (d)(3), the railroad, if it is both the dispatching and the maintaining railroad, shall timely investigate the report and remove the obstruction if it is lawful and feasible to do so.

(2) If the dispatching railroad is not also the maintaining railroad, it shall promptly contact the maintaining railroad, which shall timely investigate the report and remove the obstruction if it is lawful and feasible to do so.

(g) *General rule on response to report of other unsafe condition at a highway-rail or pathway grade crossing.* Upon receiving a report pursuant to §234.303(c)(4) 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 dispatching railroad for the crossing or, if more than one railroad dispatches a train through 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 §234.303. If a dispatching railroad chooses to use a third-party telephone service, the third-party telephone service shall be reached directly and promptly by the telephone number displayed on the ENS sign 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.

(c) *Duties of third-party telephone service in contacting dispatching and maintaining railroads.* Upon receiving a report pursuant to §§234.303 or 234.305, on behalf of either the dispatching railroad or maintaining railroad, respectively, the third-party telephone service shall immediately contact the railroad, and, at a minimum, provide it with the following information:

(1) The nature of the reported unsafe condition;

(2) The location of the unsafe condition, including the U.S. DOT National Crossing Inventory number for the crossing;

(3) Whether the person reporting the unsafe condition is a railroad employee, law enforcement officer, highway traffic official, or other employee of a public agency acting in an official capacity;

(4) The date and time that the report was received by the third-party telephone service; and

(5) Any additional information provided by the caller that may be useful to restore the crossing to a safe condition.

(d) *Duties of railroad using third-party telephone service.* If a dispatching or maintaining railroad uses a third-party telephone service to receive reports of unsafe conditions at a highway-rail or pathway grade crossing, the railroad shall—

(1) Provide the third-party telephone service with sufficient contact information by which the third-party telephone service may immediately contact the railroad upon receipt of a report;

(2) Inform FRA in writing, before the implementation of such a service, of the railroad's intent to use a third-party telephone service, and provide FRA with contact information for the third-party telephone service and information identifying the highway-rail and pathway grade crossings about which the third-party telephone service will receive reports;

(3) Inform FRA in writing within 30 days following any changes in the use or discontinuance of a third-party telephone service; and

(4) Take appropriate action required by §234.305, upon being contacted by the third-party telephone service about a report.

(e) *Third-party telephone service and railroad responsibilities.* If a railroad uses a third-party telephone service to receive reports pursuant to §§234.303 or 234.305, the third-party telephone service is responsible for carrying out the duties of this section and recordkeeping duties under §234.313, and, if applicable under §234.315. In addition, the railroad remains responsible for any acts or omissions of the third-party telephone service it utilizes that violate the provisions of this section or the recordkeeping requirements under §234.313, and, if applicable under §234.315.

§234.309 ENS signs in general.

(a) *Provision of information.* If the dispatching railroad and the maintaining railroad(s) are not the same entity, the dispatching railroad for a highway-rail or pathway grade crossing shall provide to the maintaining railroad the telephone number that is to be displayed on the ENS sign at the crossing, not later than 180 calendar days before the date that implementation of an ENS is required.

(b) *Information to be displayed.* Each ENS sign located at each highway-rail or pathway grade crossing as required by §234.311 shall display the necessary information for the dispatching railroad to receive reports of unsafe conditions at the crossing. This information, at a minimum, includes the following:

- (1) The toll-free telephone number (or non-toll-free telephone number as provided for in §234.303(e)) established to receive reports pursuant to §234.303(a);
- (2) An explanation of the purpose of the sign (*e.g.*, “Report emergency or problem to ___”); and
- (3) The U.S. DOT National Crossing Inventory number assigned to that crossing.

(c) *Sign size and other physical features.* Each ENS sign shall—

- (1) Measure at least 12 inches wide by 9 inches high;
- (2) Be retroreflective;
- (3) Have legible text (*i.e.*, letters and numerals) with a minimum character height of 1 inch for the information required in paragraph (b) of this section; and
- (4) Have white text set on a blue background with a white border, except that the U.S. DOT National Crossing Inventory number may be black text set on a white rectangular background.

§234.311 ENS sign placement and maintenance.

(a) *Number of signs at highway-rail or pathway grade crossing.* (1) *In general.* The maintaining railroad, or the railroad appointed pursuant to §234.306(b), for a highway-rail or pathway grade crossing shall place and maintain a sign on each approach to the crossing that conforms to §234.309, except as provided in paragraph (a)(2) of this section.

(2) *Exceptions.* (i) At a farm grade crossing, the responsible railroad shall place and maintain a minimum of one sign that conforms to §234.309 at the crossing.

(ii) At a railroad yard, or a port or dock facility that does not meet the definition of “plant railroad” in §234.5, the responsible railroad shall place and maintain a minimum of one sign at each vehicular entrance to the yard, or the port or dock facility in accordance with §234.309, in lieu of placing signs at each crossing within the yard, or the port or dock facility. Each sign must be placed so that it is clearly visible to a driver of a motor vehicle located at the vehicular entrance to the yard, or the port or dock facility.

(b) *Placement of sign(s).* (1) Each sign required by paragraph (a) of this section must be located at the crossing, except as provided in paragraph (a)(2)(ii) of this section, and maintained by the responsible railroad so that the sign—

- (i) Is conspicuous to users of the roadway or pathway by day and night;
 - (ii) Does not obstruct any other sign or traffic control device at the crossing;
 - (iii) Does not limit the view of a train approaching the highway-rail or pathway grade crossing;
and
 - (iv) If mounted on a post, has supports that are crashworthy (*i.e.*, breakaway or yielding).
- (2) A sign placed on the signal bungalow does not comply with paragraph (b)(1)(i) of this section.

(c) *Repair or replacement of ENS sign.* If an ENS sign required by this subpart is discovered by the responsible railroad to be missing, damaged, or in any other way unusable to vehicular or pedestrian traffic, the responsible railroad shall repair or replace the sign no later than 30 calendar days from the time of detection.

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§234.313 Recordkeeping.

(a) *In general.* Each railroad subject to this subpart shall keep records in accordance with this section. Records may be kept either on paper forms provided by the railroad or by electronic means in a manner that conforms with §234.315. Each dispatching railroad responsible for receiving reports pursuant to §234.303(a), each third-party telephone service responsible for receiving reports pursuant to §234.307, and, if applicable, each maintaining railroad shall keep, at a minimum, the following information for each report received under this subpart:

- (1) The nature of the reported unsafe condition;
- (2) The location of the highway-rail or pathway grade crossing, by highway name, if applicable, and the U.S. DOT National Crossing Inventory number.
- (3) The time and date of receipt of the report by the railroad;
- (4) If applicable, whether the person who provided the report was a railroad employee, law enforcement officer, highway traffic official, or other employee of a public agency acting in an official capacity;
- (5) Actions taken by the railroad prior to resolving the reported unsafe condition at the grade crossing (*e.g.*, warning train crews, notifying the maintaining railroad, or contacting law enforcement or other public authorities);
- (6) If the reported unsafe condition is substantiated, actions taken by the railroad to remedy the reported unsafe condition, if lawful and feasible;

(7) The time and date when the reported unsafe condition was remedied;

(8) If no remedial action was taken, the reason why; and

(9) If a dispatching railroad, in accordance with §234.305, is required to contact a maintaining railroad, the time and date when it contacted the maintaining railroad.

(b) *Records of credible reports of warning system malfunction.* A railroad that has maintenance responsibility over warning devices at a highway-rail grade crossing and maintains records pursuant to §234.109, shall be deemed to comply with the recordkeeping requirements of this subpart with regard to credible reports of warning system malfunctions.

(c) *Records involving multiple dispatching or maintaining railroads.* (1) Where multiple railroads dispatch trains through the same highway-rail or pathway grade crossing and appoint one railroad to receive telephonic reports regarding unsafe conditions at such crossings pursuant to §234.306, the appointment must be recorded in writing and a copy of the document retained by each railroad for the duration of the appointment or for one year, whichever period is longer.

(2) Where multiple railroads have maintenance responsibility for the same highway-rail or pathway grade crossing and they appoint one railroad to be responsible for installing and maintaining the ENS sign(s) at the crossing pursuant to §234.306, the appointment must be recorded in writing and a copy of the document retained by each railroad for the duration of the appointment or for one year, whichever period is longer.

(d) *Record retention period; records availability.* Each railroad shall retain for at least one year (from the latest date of railroad activity in response to a report received under this subpart) all records referred to in paragraphs (a) and (b) of this section. Records required to be kept under this subpart shall be made available to FRA as provided by 49 U.S.C. 20107.

§234.315 Electronic recordkeeping.

(a) If a railroad subject to this subpart maintains records required by this subpart in electronic format in lieu of on paper, the system for keeping the electronic records must meet all of the following conditions:

(1) The railroad adequately limits and controls accessibility to the records retained in its electronic database system and identifies those individuals who have such access;

(2) The railroad has a terminal at the location designated by the railroad as the general office for the railroad system and at each division headquarters;

(3) Each such terminal has a computer and either a facsimile machine or a printer connected to the computer to retrieve and produce information in a usable format for immediate review by FRA representatives;

(4) The railroad has a designated representative who is authorized to authenticate retrieved information from the electronic system as a true and accurate copy of the electronically kept record; and

(5) The railroad provides FRA representatives with immediate access to the record(s) for inspection and copying during normal business hours and provides a printout of such record(s) upon request.

(b) If a record required by this subpart is in the form of an electronic record kept by an electronic recordkeeping system that does not comply with paragraph (a) of this section, then the record must be kept on paper.