COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-7

PART 7
RULES REGULATING RAILROADS, RAIL FIXED GUIDEWAYS, TRANSPORTATION BY RAIL, AND RAIL CROSSINGS

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis for and purpose of these rules is to describe the manner of regulation over railroads, railroad corporations, rail fixed guideways, rail fixed guideway systems, transit agencies, persons holding a certificate of public convenience and necessity to operate by rail, any other person operating by rail, governmental or quasi-governmental entities that own and/or maintain public highways at rail crossings, railroad peace officers, and to Commission proceedings concerning such entities. These rules address a wide variety of subject areas including, but not limited to, applications, petitions, annual reporting, civil penalties, formal and informal complaints, operating authority, transfers of operating authority, mergers, tariffs, crossings and warning devices, cost allocation for grade separations, crossing construction and maintenance, railroad clearances, system safety program standard for rail fixed guideway systems, and employment of railroad peace officers.

The statutory authority for the promulgation of these rules can be found at §§ 24-34-108(2), 40-2-108, 40-2-119, 40-3-101(1), 40-3-102, 40-3-103, 40-3-110, 40-4-101(1), 40-4-101(2), 40-4-106, 40-5-105, 40-6-108(2), 40-6-111(3), 40-7-105, 40-9-108(2), 40-18-102, 40-18-103, 40-29-110, and 40-32-108, C.R.S.

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[indicates omission of unaffected rules]

7001. Definitions.

The following definitions apply throughout this Part 7, except where a specific rule or statute provides otherwise:

(a) "Alterations" or "changes" or "modifications" at a public crossing include, but are not limited to installing sidewalk panels, installing passive warning devices other than crossbucks and yield signs, installing active warning devices, changing crossing detection circuitry, interconnecting a crossing with a traffic signal or queue cutter signal, and adding or removing additional tracks.

(ba) "Common carrier" is defined by § 40-1-102(3)(a)(II), C.R.S.

(c) "Imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury.

(db) "Rail fixed guideway" means any person possessing rail fixed guideway system facilities by ownership or lease.

(ec) "Rail fixed guideway system" means "rail fixed guideway system," as defined by § 40-18-101(3), C.R.S. Rail fixed guideway systems include "street railroads," "street railways," and "electric railroads," as those terms are used in Article 24 of Title 40, C.R.S.

(fd) "Railroad:"

(I) "Railroad" means either of the following, as the context may require:

(A) facilities, including without limitation: tracks; track roads; bridges used or operated in connection therewith; switches; spurs; and terminal facilities, freight depots, yards, and grounds, including rights-of-way, used or necessary for the transportation of passengers or property; or

(B) any person possessing such facilities by ownership or lease.

(II) "Railroad" does not include rail fixed guideways or rail fixed guideway systems.

(ge) "Railroad corporation" means five or more persons associating to form a company for the purpose of constructing and operating a railroad, in accordance with the provisions of § 40-20-101, C.R.S.

(hf) "Road authority" means any municipality, county, state agency, federal agency, or other governmental or quasi-governmental entity that owns and/or maintains the public highway at the highway-rail crossing or the public pathway at the pathway crossing.

(ig) "Transit agency" means "transit agency," as defined by § 40-18-101(6), C.R.S.

7002. Applications.

(a) Commission action shall ~~may~~ be sought regarding any of the following matters unless otherwise excepted by these rules through the filing of an appropriate application:

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[indicates omission of unaffected rules]

CIVIL PENALTIES

7009. Definitions.

The following definitions apply to rules 7009 through 7011 unless a specific statute or rule provides otherwise. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(a) "Civil penalty" means a monetary penalty imposed by the Commission against a railroad, railroad corporation, rail fixed guideway, owner of the track, or transit agency that is not a political subdivision of the State of Colorado for failure to comply with the Colorado Constitution, a provision of articles 1 to 7 of title 40, C.R.S., or a Commission order or rule,

(b) "Civil penalty assessment" means the act by the Commission of imposing a civil penalty.

(c) "Civil penalty assessment notice" means the written document by which the Commission gives initial notice to a railroad, railroad corporation, rail fixed guideway, owner of the track, or transit

agency that is not a political subdivision of the State of Colorado of an alleged failure to comply with the Colorado Constitution, a provision of articles 1 to 7 of title 40, C.R.S., or a Commission order or rule and sets forth the proposed civil penalty amount.

7010. Civil Penalties.

(a) The Commission may impose a civil penalty against a railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track for failure to comply with the Colorado Constitution, a provision of articles 1 to 7 of title 40, C.R.S., a Commission order or rule, except for an order requiring payment of money, as authorized in §§ 40-4-106(1)(b) and 40-7-105, C.R.S. Before issuing a civil penalty assessment notice, the entity alleged to have failed to comply with the Colorado Constitution, a provision of articles 1 to 7 of title 40, C.R.S., or a Commission order or rule, must be provided written notice of the alleged violation(s), and an opportunity to cure the alleged violation(s) within a minimum of 14 calendar days. The Commission, in its discretion, may provide additional time to cure the alleged violation(s).

(b) Civil penalty assessment notice.

(I) The Director of the Commission or his or her designee has the authority to issue a civil penalty assessment notice for an alleged failure to comply with or violation(s) of the Colorado Constitution, a provision of articles 1 to 7 of title 40, C.R.S., or a Commission order or rule.

(II) The civil penalty assessment notice must be served in person, by certified mail or by personal service and shall contain:

(A) the name and address of the entity cited for the violation;

(B) a citation to the specific constitutional provision, rule, statute or Commission order alleged to have been violated;

(C) a brief description of each alleged violation, and the date and approximate location (as applicable) of the alleged violation;

(D) the maximum penalty amount for each alleged violation and the maximum amount of the penalty surcharge imposed pursuant to § 24-34-108(2), C.R.S., if any. The penalty surcharge shall be equal to the percentage set by the Department of Regulatory Agencies on an annual basis;

(E) a statement allowing for a reduced penalty of 50 percent of the maximum penalty amount and surcharge if paid within ten calendar days of the railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track's receipt of the civil penalty assessment notice;

(F) a place for the railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track to execute a signed acknowledgment of receipt of the civil penalty assessment notice;

(G) a place for the railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track to execute a signed acknowledgement of liability for the violation; and

(H) a statement that if the prescribed penalty is not paid within ten calendar days of the railroad, railroad corporation, rail fixed guideway, transit agency or owner of

the track's receipt of the civil penalty assessment notice, that the civil penalty assessment notice becomes a notice of complaint to appear before the Commission.

(III) A civil penalty assessment notice may not be considered defective so as to provide cause for dismissal solely because of a defect in its content. Any defect in the content of a civil penalty assessment notice may be cured by a motion to amend the same filed with the Commission prior to a hearing on the merits. No such amendment may be permitted if the substantial rights of the cited entity are prejudiced.

(c) Adjudication.

(I) The railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track cited with alleged violation(s) may either admit liability for the violation(s) by executing the acknowledgement of liability and paying the penalty prescribed in the civil penalty assessment notice or contest the alleged violation(s) as set forth below. When the cited entity admits liability, it must pay the civil penalty specified for the violation(s) in person at the Commission's office or by depositing payment postage prepaid in the United States mail within ten days after the citation is issued.

(II) The railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track cited with alleged violation(s) may contest the violation(s) identified in the civil penalty assessment notice and request a hearing before the Commission. If the cited entity does not pay the prescribed penalty within ten calendar days after the civil penalty assessment notice is issued, the notice constitutes a complaint to appear before the Commission. The cited entity must contact the Commission on or before the time and date specified in the civil penalty assessment notice to set the complaint for a hearing on the merits. If the cited entity fails to contact the Commission as required, the Commission will set the complaint for a hearing. At the hearing, Commission trial staff shall have the burden of demonstrating the violation(s) by a preponderance of the evidence.

(d) Civil penalty assessment.

(I) The Commission shall assess a civil penalty only after a railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track either admits liability or is adjudicated to have committed the violation.

(II) In any written decision entered by the Commission assessing a final civil penalty, the Commission may impose a civil penalty of not more than $2,000.00 for each offense, pursuant to § 40-7-105(1), C.R.S. In determining the civil penalty amount, the Commission shall consider the factors set forth in paragraph 1302(b) of the Commission's Rules of Practice and Procedure, 4 Code of Colorado Regulations 723-1.

(III) In accordance with § 40-7-105(2), C.R.S., every violation is considered a separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct offense.

(e) Nothing in these rules shall affect the Commission's ability to pursue other remedies in lieu of imposing a civil penalty.

7011. Regulated Railroad, Railroad Corporation, Rail Fixed Guideway, or Transit Agency Rule Violations, Civil Enforcement, and Civil Penalties.

Violation of the Colorado Constitution, a provision of articles 1 to 7 of title 40, C.R.S., a Commission order, and the following rules may result in the assessment of a civil penalty of up to $2,000.00 per offense. The total amount of civil penalties assessed against any one railroad, railroad corporation, rail fixed guideway, transit agency, and owner of track may not exceed $150,000.00 in any consecutive 12-month period.

Citation	Description
Rule 7204(a)(X)(D)	Schematic Diagram
Rule 7211(b)	Track Construction or Removal
Rule 7211(c)	Railroad Projects Involving Crossings
Rule 7211(h)	Crossing Surface Maintenance
Rule 7211(k)	Crossing Obstructions
Rule 7211(l)	Project Coordination, Public Notice and Detours
Rule 7211(m)	Project Management and Support
Rule 7211(n)	Crossing Surface Replacement
Rule 7212(c)	Warning Device Selection, Preemption Timing Selection, and Exit Gate Operation Selection
Rule 7212(d)	Report Preparation and Payment Prohibition
Rule 7212(e)	Schematic Diagram Provision Requirements and Cost Estimate Provision Timeline
Rule 7212(f)	Construction and Maintenance Agreement Timeline
Rule 7212(g)	Railroad Consultant Review Time Limitation
Rule 7212(h)	Existing Crossing Easement Payment Prohibition
Rule 7212(i)	Formal Complaint for Delay and/or Untimeliness
Rule 7213(a)	Minimum Crossing Safety Requirements
Rule 7301(a)	Crossing Warning Device Installation and Maintenance
Rule 7301(d)	Crossing Obstructions
Rule 7302	Accident Notification
Rule 7324(a-f)	Overhead Clearances

Rule 7325(a-j)	Side Clearances
Rule 7326(a-d)	Track Clearances
Rule 7402(a-c)	Class I Railroad Peace Officers Minimum Requirements

70~~09~~12. – 7099. [Reserved].

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[indicates omission of unaffected rules]

CROSSINGS AND WARNING DEVICES

7200. Applicability.

(a) Rules 7201 through 7214~~3~~ apply to railroads, railroad corporations, rail fixed guideways, rail fixed guideway systems and transit agencies.

(b) Rules 7201 through 7214~~3~~ apply to all road authorities that own and/or maintain public highways at highway-rail crossings or public pathways at pathway crossings.

7201. Definitions.

The following definitions apply only in the context of rules 7200 through 7214~~3~~, 7301, and 7327.

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[indicates omission of unaffected rules]

7204. Application Contents.

(a) An application may be filed for final approval of plans/drawings or for preliminary approval of conceptual level design plans/drawings (plans at any level other than final design). If a request for preliminary approval is included, an additional filing of final plans and estimates for final Commission approval will be required in the same proceeding. In the case of an application (other than to modify or replace the existing crossing surface without changing the width or configuration of a crossing) to construct, alter, or abolish a crossing, a utility crossing, or to install or modify active or passive crossing warning devices, the application shall include, in the following order and specifically identified, the information, as applicable to the specific type of application, in the application or in appropriately identified attachments.

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[indicates omission of unaffected rules]

(X) Applications for preliminary or final approval for installation of new active warning devices, replacement of existing active warning devices, or replacement of existing train detection circuitry at crossings shall include:

(A) detailed plans/drawings of a suitable scale, showing the crossing, including signing and striping, tracks, buildings, structures, property lines, and public

highways within the right-of-way limits of the railroad, railroad corporation, rail fixed guideway, rail fixed guideway system, or transit agency;

(B) a description of the type of warning devices the applicant proposes to install (reference may be made to recommended standards on highway-rail grade crossing warning devices as published in current editions of the MUTCD and/or the American Railway Engineering and Maintenance-of-Way Association's Signal Manual of Recommended Practice);

(C) the initial written ~~detailed~~ railroad, railroad corporation, rail fixed guideway, transit agency or owner of the track cost estimate, which, as applicable, must include, at a minimum, specific lines for labor, materials, and circuitry costs of the crossing warning devices~~;~~ and must be provided by such entity to the road authority within the timeframe outlined in paragraph 7212(e); and

(D) the schematic diagram of the crossing warning devices (commonly referred to as the "front sheet" or the "state sketch") and shall specifically identify the equipment response time, advanced preemption time, minimum warning time, clearance time, buffer time, and total warning time~~.~~, and must be provided within the timeframe outlined in paragraph 7212(e).

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[indicates omission of unaffected rules]

7208. Notice.

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[indicates omission of unaffected rules]

(e) Notices outside of formal proceeding.

(I) Whenever these rules require written notice to a railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track outside of a formal Commission proceeding, such written notice must be provided by email or certified first-class mail to the person or persons, or centralized contact center, that the railroad, railroad corporation, rail fixed guideway, transit agency or owner of the track designate on their websites using the email or mailing address that such entities conspicuously publish on their websites as required by subparagraph 7208(e)(II).

(II) A railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track must conspicuously publish information on its website identifying the name, email address, and mailing address of the person or persons, or centralized contact center, that such entities designate to receive written notices that are required by these rules outside of a formal Commission proceeding. Such entities must update their websites within one business day of any changes to this information.

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[indicates omission of unaffected rules]

7211. Crossing Construction and Maintenance.

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[indicates omission of unaffected rules]

(k) ~~Every~~A railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track, ~~at all points in Colorado where its tracks cross any public highway or public pathway at grade,~~ shall remove all obstructions along the tracks that block the view of motorists, bicycles, and/or pedestrians as outlined in ~~rule~~ paragraph 7301(d~~c~~). The Commission may determine what obstructions are to be removed to ~~secure~~ensure reasonable safety~~.~~ at the crossing.

(l) A railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track must coordinate with the road authority to provide public notice and traffic and/or pedestrian and/or bicycle detours and may not close the crossing or perform any construction work at any highway-rail crossing and/or public pathway crossing that will lead to temporary closure of the highway-rail crossing and/or public pathway crossing prior to coordinating with the road authority to provide the referenced notice and detours. In the event of an imminent safety hazard or emergency, the railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track is not required to coordinate with the road authority before closing the crossing or performing construction but must provide notice to and coordinate with the road authority as soon as practicable, but not less than 24 hours after such crossing closure or construction commences.

(m) A railroad, railroad corporation, rail fixed guideway, transit agency or owner of the track must provide road authorities with the project construction support necessary to construct and complete any highway-rail crossing and/or public pathway crossing project, as agreed upon by the railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track and road authority pursuant to the applicable construction and maintenance agreement, and as ordered by the Commission.

(n) Within 90 days of receiving a written notice that a crossing surface is in disrepair, a railroad, railroad corporation, rail fixed guideway, transit agency or owner of the track must provide a written reply that establishes a plan to repair the crossing surface, including a proposed timeline to repair the crossing surface that does not exceed one year from the date of the notice, except for crossing surface disrepairs that present an imminent safety hazard, which must be repaired as soon as practicable. If the railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track believes repair is unnecessary, its written reply must explain why repair is unnecessary. The written notice to a railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track must comply with subparagraph 7208(e)(I).

7212. Crossing Safety Diagnostics and Cost Estimates.

(a) A railroad, railroad corporation, rail fixed guideway, transit agency, owner of the track, road authority, or Commission staff may request a crossing safety diagnostic at any existing or proposed crossing to assess the condition of the existing crossing, to discuss proposed changes to an existing crossing, or to discuss a proposed new crossing. A crossing safety diagnostic must be held at least 30 days prior to the filing of an application for a new crossing, for changes to an existing crossing, or for closure of an existing crossing. If the railroad, railroad corporation, rail fixed guideway, transit agency, owner of the track, road authority, and Commission staff ~~determine jointly~~agree that a crossing safety diagnostic for a specific project for which an application will be sought is not necessary, ~~.~~Commission staff shall provide written correspondence to the railroad, railroad corporation, rail fixed guideway, transit agency, owner of the track, and road authority memorializing such ~~determination~~agreement for use in any future application within fourteen days of the date of the ~~joint determination~~agreement. Applications

may be filed 30 days after receipt of either the written correspondence from Commission staff or from the date by which written correspondence is to be received from Commission staff.

(b) Commission staff will be required to assist and review any proposed simultaneous or advance preemption timings at crossings for which interconnection and preemption exists or will be requested, and with proposed exit gate operations and timings at crossings for which four-quadrant gate systems exist or are proposed to be installed. If Commission staff concurs with the proposal, a letter of concurrence shall be provided. Commission staff's assistance, review and concurrence, if any, must occur more than 30 days prior to the filing date of the application.

(c) During a crossing safety diagnostic held at an at-grade highway-rail crossing or pedestrian crossing, the road authority, and the railroad, railroad corporation, rail fixed guideway, transit agency or owner of the track, with any necessary assistance from Commission staff, shall review, and confer on the items in subparagraphs 7212(c)(I) through (III). While this conferral is required, the railroad, railroad corporation, rail fixed guideway, transit agency or owner of the track does not have authority to overrule the road authority's determinations as to aspects that directly relate to control and direction of vehicular traffic.

(I) The need for and selection of appropriate safety devices;

(II) the appropriate preemption operation and the timing of traffic control signals interconnected with highway-rail grade crossings adjacent to signalized highway intersections; and

(III) the appropriate exit gate operating mode and exit gate clearance time.

(d) An applicant and its consultants, and a railroad, railroad corporation, rail fixed guideway, transit agency, owner of the track and their consultants may not require a road authority, railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track to accept the results of or pay for the preparation of any study or report not expressly requested by the road authority, railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track unless the parties have entered into an agreement for payment, (e.g., reimbursement which includes a general scope for the required study or report), and such study or report relates to the project.

(e) Every railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track shall provide to a road authority an initial cost estimate (including labor, materials and circuitry costs) and a schematic diagram with all the information required to be shown on the schematic diagram per subparagraph 7204(a)(X)(D) for the specific configuration requested by the road authority no more than 120 calendar days after a road authority has submitted a request to such entity consistent with the notice requirements in subparagraph 7208(e)(I) and has provided the necessary documents for such entity to create the initial cost estimate and schematic diagram. If the railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track determines that the road authority has not provided all necessary documents for it to create the initial cost estimate and schematic diagram, within 30 calendar days of receiving the road authority's request for an initial cost estimate and schematic diagram, the railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track must notify the road authority in writing of the additional documents that it requires. If the railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track does not provide this notice, the road authority is presumed to have provided the necessary documents and the 120-day timeframe will run from the date the road authority served its request for the initial cost estimate and schematic diagram. If the railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track provides notice that it requires additional documents, its initial cost estimate and schematic diagram must be provided to the road authority within 120 calendar days of the date that the road authority provides the documents that the railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track identified in its written notice to the road authority. This paragraph may not be used to circumvent the requirements in paragraphs 7212(d) and (g).

(f) The signed construction and maintenance agreement or evidence of a signed intergovernmental agreement between any railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track shall be filed with the Commission within 90 calendar days of the Commission's final decision authorizing the highway-rail crossing project, or anytime within the 30-day period preceding the Commission-approved construction start date, whichever comes later.

(g) If a railroad, railroad corporation, rail fixed guideway, transit agency or owner of the track uses a consultant to perform a public project review, in conjunction with or on its behalf, then review of the public project, including the scope of consultant time that may be billed to the road authority, is strictly limited as follows:

(I) to preemption calculation verification using the road authority's traffic signal timing information;

(II) shall not include the review of, or require the road authority to comment on or make changes to any of the following matters:

(A) construction plans that do not relate directly to the location of the highway-rail grade crossing;

(B) traffic engineering matters including signing, striping, traffic signal cabinet wiring plans, traffic signal design and construction, and traffic signal operations; and

(C) any other area of design, construction, implementation, and operations that is under the statutory authority and expertise of the road authority or the Commission;

(III) the public project review shall be promptly completed and the preparation of a road authority requested front sheet and cost estimate shall be completed within the 120-day deadline set forth in paragraph 7212(e); and

(IV) the road authority may request that the Commission review the reasonableness of the time billed by the consultant to the road authority.

(h) A railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track may assess costs for new, or the new part of, revised easements or licenses but may not assess any costs for existing easements at existing public highway, utility, or public pathway crossings. If a new or expanded easement or license is required as a part of a road authority's public highway, utility, or public pathway crossing project, and the road authority cannot provide recorded documentation of existing easements, leases, or licenses, the railroad, railroad corporation, rail fixed guideway, transit agency, or owner of track may assess the road authority its reasonable costs associated with researching, documenting, and recording such easements or licenses.

7213. Minimum Crossing Safety Requirements.

(a) All public crossings in the state of Colorado shall have posted, at a minimum, one MUTCD R15-1 crossbuck sign, one MUTCD R15-2P number of tracks sign for crossings with more than one track, ~~and~~ one MUTCD R1-2 yield sign, and one MUTCD I-13 emergency notification sign mounted on the same support, for each direction of vehicle and/or pedestrian traffic that crosses the tracks. Any signage configuration different from these minimum standards require approval from the Commission through the filing and granting of an application.

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[indicates omission of unaffected rules]

7214. Template Agreements.

Starting November 22, 2024, road authorities and railroads, railroad corporations, rail fixed guideways, transit agencies, or owners of the track are required to use Commission-approved template Construction and Maintenance Agreements and Preliminary Engineering Agreements for public crossing projects over which the Commission has jurisdiction, including the following types of public crossing projects: highway-rail at-grade crossings, grade separated crossings, pathway-rail at-grade crossings, pathway grade separated crossings, utility crossings, existing at-grade crossing modifications, relocating crossings, traffic signal interconnection, crossing status change (private to public or public to private), crossing closures, crossing active warning signal improvements, crossing passive warning improvements, and crossing surface improvements. Parties to contracts with the Colorado Department of Transportation are exempt from this requirement.

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[indicates omission of unaffected rules]

72145. – 7299. [Reserved].