

## **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.

##### **GENERAL PROVISIONS**

###### **7000. Scope and Applicability.**

- (a) The rules in this Part 7, the “7000” series, apply to 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 and/or public pathways at rail crossings, railroad peace officers, and to all Commission proceedings concerning such entities.
- (b) Except as otherwise required by law, the Commission's jurisdiction over rail fixed guideway systems shall be limited to matters concerning the following rules:
  - (I) 7001 – 7003;
  - (II) 7006 - 7007;
  - (III) 7200 – 7213;

- (IV) 7301; and
  - (V) 7340 – 7354.
- (c) Specific applicability provisions are found in rules 7100, 7200, 7300, 7320, 7340, and 7400.

**7001. Definitions.**

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

- (a) “Common carrier” is defined by § 40-1-102(3)(a)(II), C.R.S.
- (b) “Rail fixed guideway” means any person possessing rail fixed guideway system facilities by ownership or lease.
- (c) “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.
- (d) “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.
- (e) “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.
- (f) “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.
- (g) “Transit agency” means “transit agency,” as defined by § 40-18-101(6), C.R.S.

**7002. Applications.**

- (a) Commission action may be sought regarding any of the following matters through the filing of an appropriate application:
  - (I) for a certificate of public convenience and necessity, as provided in rule 7101;

- (II) to amend a certificate of public convenience and necessity, or to change, extend, curtail, abandon, or discontinue any service, as provided in rule 7102;
  - (III) for authority to transfer a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets or stock, or to merge a utility with another entity, as provided in rule 7103;
  - (IV) for authority to construct, alter, or abolish a utility crossing, or a highway-rail or pathway crossing; or for authority to install or modify crossing warning devices, as provided in rule 7204;
  - (V) for authority to allocate costs for highway-rail grade separations, as provided in rule 7205;
  - (VI) for approval of a transit agency's system safety program plan, as provided in rule 7343, system security plan, as provided in rule 7344, or annual report, as provided in rule 7349; or
  - (VII) for any other matter provided by statute or rule but not specifically described in this rule.
- (b) In addition to the requirements of specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
- (I) the name and mailing address of the applicant;
  - (II) if the applicant is a corporation or limited liability company; the name of the state in which the applicant is incorporated or organized and the location of its principal office, if any, in Colorado;
  - (III) if the applicant is a partnership; the names, titles and addresses of all general and limited partners;
  - (IV) the name, address, telephone number, and e-mail address of the applicant's representative to whom all inquiries concerning the application may be made;
  - (V) a statement that the applicant agrees to respond to all questions propounded by the Commission or its staff concerning the application;
  - (VI) a statement indicating the town or city, and any alternative town or city, where the applicant prefers any hearings to be held;
  - (VII) a statement that the applicant understands that, if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted pursuant to the application may be revoked upon Commission decision;
  - (VIII) acknowledgment that by signing the application, the applicant understands that:
    - (A) the filing of the application does not by itself constitute approval of the application for the requested action;

- (B) if the application is granted, the applicant shall not commence the requested action until the applicant complies with applicable Commission rules and any pre-construction conditions established by Commission decision granting the application;
  - (C) if a hearing is held, the applicant must present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action; and
  - (D) in lieu of the statements contained in subparagraphs (b)(VIII)(A) through (C) of this paragraph, an applicant may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(VIII)(A) through (C) of this paragraph.
- (IX) An attestation which is made under penalty of perjury; which is signed by an officer, a partner, an owner, an employee of, an agent for, or an attorney for the applicant, as appropriate, who is authorized to act on behalf of the applicant; and which states that the contents of the application are true, accurate, and correct. The application shall contain the title and the complete address of the affiant.

**7003. Petitions.**

Commission action may be sought regarding any of the following matters through the filing of an appropriate petition:

- (a) for a variance of any rule, as provided in rule 1003; or
- (b) for a declaratory order, as provided in paragraph 1304(i).

**7004. - 7005. [Reserved].**

**7006. Annual Report.**

- (a) Each railroad, railroad corporation, rail fixed guideway, transit agency and holder of a certificate of public convenience and necessity to operate by rail shall, on or before April 30th of each year, file an annual report for the preceding calendar year. The annual report shall be submitted on forms prescribed by the Commission. The annual report shall be verified and signed by a person authorized to do so. Submission of a federal R-1 form in lieu of the form prescribed by the Commission shall be sufficient as long as a Colorado supplement containing apportioned Colorado information is also filed.
- (b) If the railroad, railroad corporation, rail fixed guideway, transit agency or holder of the certificate of public convenience and necessity publishes an annual report or annual statistical report for the federal government, a federal agency, stockholders, other security holders, or members, or receives an annual report from a certified public accountant, it shall file a copy of such report(s) within 30 days after publication or receipt. It shall also include a Colorado-specific supplement detailing Colorado revenues.

- (c) If the railroad, railroad corporation, rail fixed guideway, transit agency or holder of the certificate of public convenience and necessity is granted an extension of time to file its annual report, it must nevertheless file, on or before April 30th, its total gross operating revenue from intrastate business transacted in Colorado for the preceding calendar year.
- (d) The annual report shall disclose the method of depreciation used.

**7007. Formal and Informal Complaints.**

Formal and informal complaints may be filed or made pursuant to the Commission's Rules Regulating Practice and Procedure.

**7008. Incorporation by Reference.**

- (a) The Commission incorporates by reference the Sections 1A.13, 4L.03, and 8 of the 2009 Edition of the Manual on Uniform Traffic Control Devices for Streets and Highways and the Colorado Supplement to the Federal Manual on Uniform Traffic Control Devices 2009 (collectively MUTCD) as adopted by the Transportation Commission of Colorado on December 15, 2011 and updated February 26, 2016. No later amendments to or editions of the MUTCD are incorporated into these rules. The Commission also incorporates by reference Chapter 1 (Highway Functions) of the 2011 edition of the American Association of State Highway and Transportation Officials A Policy on Geometric Design of Highways and Streets (AASHTO Green Book). No later amendments to or editions of the AASHTO Green Book are incorporated into these rules. The Commission also incorporates by reference the National Electrical Safety Code, 2012 edition, published by the Institute of Electrical and Electronics Engineers and endorsed by the American National Standards Institute. No later amendments to or editions of the National Electrical Safety Code are incorporated into these rules.
- (b) The Commission incorporates by reference the Colorado Department of Transportation Staff Bridge Design Manual adopted October 1987 with all updates up to and including the effective date of January 6, 2017 published by the Colorado Department of Transportation Staff Bridge Section (CDOT Bridge Design Manual) for purposes of the design of the theoretical structure defined in rule 7201(oo) for grade separation cost allocation only. No later amendments to or editions of the CDOT Bridge Design Manual are incorporated into these rules.
- (c) Any person seeking information regarding how the incorporated material may be obtained or examined may contact the Director or his/her designee, Colorado Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202. The material incorporated by reference may be examined at any state publications depository library.

**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, or transit agency for failure to comply with a Commission order or rule, as authorized in § 40-4-106(1)(b), C.R.S.
- (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, or transit agency of an alleged failure to comply with 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, or transit agency for failure to comply with a Commission order or rule, as authorized in § 40-4-106(1)(b), C.R.S.
- (b) Civil penalty assessment notice.
  - (I) The Director of the Commission or his or her designee shall have the authority to issue a civil penalty assessment notice for an alleged failure to comply with a Commission order or rule.
  - (II) The civil penalty assessment notice shall:
    - (A) identify each individual alleged violation;
    - (B) state the proposed penalty amount for each individual alleged violation;
    - (C) provide for a reduced penalty of 50 percent of the penalty amount sought if paid within ten days of the railroad, railroad corporation, rail fixed guideway, or transit agency’s receipt of the civil penalty assessment notice; and
    - (D) state 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.
- (c) Adjudication.
  - (I) The railroad, railroad corporation, rail fixed guideway, or transit agency may either admit liability or may contest the alleged violation(s) identified in the civil penalty assessment notice.
  - (II) The railroad, railroad corporation, rail fixed guideway, or transit agency may request a hearing before the Commission. Trial staff shall have the burden at hearing of demonstrating a violation 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, or transit 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 two thousand dollars, pursuant to § 40-7-105(1), C.R.S. In determining the amount of civil penalty, the Commission shall consider the factors set forth in paragraph 1302(b).
- (III) In accordance with § 40-7-105(2), C.R.S., every violation is considered a separate and distinct offense, and, in 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 following statutes and rules may result in the assessment of a civil penalty of up to \$2,000.00 per offense.

<b>Citation</b>	<b>Description</b>
	Article 1-7 of Title 40, C.R.S.
	Commission Order
Rule 7204(a)(X)(D)	Content of Railroad Cost Estimates and Schematic Design
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
Rule 7211(m)	Permits, Public Notice, and Detours
Rule 7211(n)	Project Management and Support
Rule 7211(o)	Crossing Surface Replacement Timeline

Rule 7211(p)	Construction Requiring Authority
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 Design 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

**7012. – 7099. [Reserved].**

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[indicates omission of unaffected rules]

**7201. Definitions.**

The following definitions apply only in the context of rules 7200 through 7213, 7301, and 7327.

- (a) “Accident report” means the U.S. Department of Transportation Highway-Rail Grade Crossing Accident/Incident Report containing information about accidents/incidents that have occurred at a



highway-rail or pathway grade crossing available from the Federal Railroad Administration Office of Safety Analysis.

- (b) “Active warning” means traffic control devices and equipment that are activated upon the detected presence of a train including but not limited to, flashing light signals, with or without warning gates, traffic signals, queue cutter signals, wayside horns, and/or blank-out signals that are used to regulate, warn and inform highway or pathway users of the approach or presence of rail traffic at grade crossings.
- (c) “Advance preemption” means “advance preemption” as that term is defined in Section 1A.13 of the MUTCD.
- (d) “Advance preemption time” means the period of time that is the difference between the required maximum highway traffic signal preemption time and the activation of the railroad or rail fixed guideway system active warning devices.
- (e) “Advance warning sign” means a MUTCD W10-1, W10-2, W10-3, and/or W10-4 sign that gives notice to highway and/or pathway users of the presence of an upcoming crossing.
- (f) “ADT” means average daily traffic.
- (g) “Arterial” means “arterial,” as that term is used in Chapter 1 (Highway Functions) of the AASHTO Green Book.
- (h) “Buffer time” means a discretionary time that may be provided in the total warning time to accommodate for minor variations in train handling, track circuit variability and allowable tolerance within locomotive speed measurement apparatus.
- (i) “Clear storage distance” means “clear storage distance” as that term is defined in Section 1A.13 of the MUTCD.
- (j) “Clearance time” means additional time included in the total warning time to account for crossing site specific needs including, but not limited to, widths at multiple track crossings, additional gate delay time, and additional time for simultaneous preemption.
- (k) “Collector” means “collector,” as that term is used in Chapter 1 (Highway Functions) of the AASHTO Green Book.
- (l) “Crossing” means either a highway-rail crossing or a pathway crossing.
- (m) “Crossing safety diagnostic” means a gathering of safety and traffic professionals at an existing or proposed highway-rail or pathway crossing including Commission staff and representatives from the road authority and railroad, railroad corporation, rail fixed guideway, and transit agency to evaluate the highway-rail crossing or pathway crossing conditions or proposed conditions and determine the appropriate safety mitigation measures for the existing or proposed highway-rail or pathway crossing.
- (n) “Cycle length” means “cycle length” as that term is defined in Section 1A.13 of the MUTCD.

- (o) “Dynamic envelope” means “dynamic envelope” as that term is defined in Section 1A.13 of the MUTCD.
- (p) “Dynamic exit gate operating mode” means “dynamic exit gate operating mode” as that term is defined in Section 1A.13 of the MUTCD.
- (q) “Equipment response time” means the time necessary for the active warning equipment to respond to detection of a train.
- (r) “Exit gate clearance time” means “exit gate clearance time” as that term is defined in Section 1A.13 of the MUTCD.
- (s) “Exposure factor” means the ADT multiplied by the average daily number of train movements.
- (t) “Freeway” means “interstate highway,” “other freeway,” and “expressway” as those terms are used in Chapter 1 (Highway Functions) of the AASHTO Green Book.
- (u) “Highway” means any roadway classified as an arterial, collector, freeway or local road.
- (v) “Highway-rail crossing” means:
  - (I) the point at which any public highway may be constructed across the tracks or other facilities of any railroad, railroad corporation, rail fixed guideway, rail fixed guideway system, or transit agency at, above, or below grade; or
  - (II) the point at which the tracks or other facilities of any railroad, railroad corporation, rail fixed guideway, rail fixed guideway system, or transit agency may be constructed across any public highway at, above, or below grade; or
  - (III) the point at which any public highway may be constructed across private tracks, over which any railroad, railroad corporation, rail fixed guideway, rail fixed guideway system, or transit agency may operate, at, above, or below grade; or
  - (IV) the point at which private tracks, over which any railroad, railroad corporation, rail fixed guideway, rail fixed guideway system, or transit agency may operate, may be constructed across any public highway at, above, or below grade.
- (w) “Local road” means “local road” as that term is used in Chapter 1 (Highway Functions) of the 2011 edition of the AASHTO Green Book.
- (x) “Maximum highway traffic signal preemption time” means “maximum highway traffic signal preemption time” as that term is defined in Section 1A.13 of the MUTCD.
- (y) “Minimum track clearance distance” means “minimum track clearance distance” as that term is defined in Section 1A.13 of the MUTCD.
- (z) “Minimum warning time” means the least amount of time active warning devices shall operate prior to the arrival of rail traffic at a crossing, which shall be a minimum of 20 seconds.

- (aa) “National Inventory Form” means the U.S. Department of Transportation Crossing Inventory Information form containing specific crossing information available from the Federal Railroad Administration Office of Safety Analysis.
- (bb) “National Inventory Number” means the U.S. Department of Transportation six digit and one letter crossing identification number assigned to a highway-rail or pathway crossing.
- (cc) “Passive warning” means traffic control devices including signs and/or markings that are used to inform, regulate and warn highway or pathway users of the presence of a highway-rail or pathway crossing and the requirement to take appropriate action at the crossing.
- (dd) “Pathway” means a general term denoting a public way for purposes of travel by authorized users outside the traveled way and physically separated from a highway by an open space or barrier, either within the highway right-of-way or within an independent alignment. Pathways are intended for use by non-vehicular traffic including pedestrians, bicyclists, and others and use can be shared by more than one type of authorized user. Pathways include shared-use paths, but do not include sidewalks contiguous with, or separated but adjacent to and within 25 feet of highway-rail crossings.
- (ee) “Pathway crossing” means:
- (I) the point as which any public pathway may be constructed across the tracks or other facilities of any railroad, railroad corporation, rail fixed guideway, rail fixed guideway system, or transit agency at, above, or below grade; or
  - (II) the point at which the tracks or other facilities of any railroad, railroad corporation, railroad, rail fixed guideway, rail fixed guideway system, or transit agency may be constructed across any public pathway at, above, or below grade; or
  - (III) the point at which any public pathway may be constructed across private tracks, over which any railroad, railroad corporation, rail fixed guideway, rail fixed guideway system, or transit agency may operate, at, above, or below grade; or
  - (IV) the point at which private tracks, over which any railroad, railroad corporation, rail fixed guideway, rail fixed guideway system, or transit agency may operate, may be constructed across any public pathway at, above, or below grade.
- (ff) “Pavement marking” means a retroreflectorized white marking in advance of an at-grade crossing that consists of an X, the letters RR as shown in Figure 8B-7 of the MUTCD.
- (gg) “Private crossing” means a highway-rail or pathway crossing where the highway or pathway on either side or both sides of the crossing is privately owned, and/or maintained, is intended for use by the owner or by the owner’s licenses and invitees, and is not permitted to be used by the public.
- (hh) “Public crossing” means a highway-rail or pathway crossing where the highway or pathway on both sides of the crossing is under the jurisdiction of and/or maintained by a road authority and open to public travel.

- (ii) “Reasonably adequate facility,” except as may be otherwise demonstrated, means the bridge structure designed for purposes of grade separation cost allocation that is designed to include:
  - (I) for the highway facility:
    - (A) a rural collector roadway that allows for two 12-foot travel lanes with two 5-foot shoulders; or
    - (B) a rural arterial roadway that allows for two 12-foot travel lanes with two 8-foot shoulders and an 8-foot pedestrian-bikeway; or
    - (C) an urban collector roadway that allows for two 12-foot travel lanes with two 10-foot parking lanes and an 8-foot pedestrian-bikeway; or
    - (D) an urban arterial roadway that allows for four 12-foot travel lanes with an 11-foot median and an 8-foot pedestrian-bikeway on one side; and
    - (E) collector roadways shall be designed for a 35 mile per hour design speed and arterial roadways shall be designed for a 45 mile per hour design speed;
  - (II) for the railroad facility:
    - (A) a single main line track that allows for one mainline track, one passing track on 15-foot centers and a 12-foot maintenance road under bridge structures on one side, or a 4-foot walkway on bridge structures on one side; or
    - (B) a double mainline track that allows for two mainline tracks and one passing track on 15-foot centers and a 12-foot maintenance road under bridge structures on one side, or a 4-foot walkway on bridge structures on one side; or
    - (C) railroad yards or terminals that allow for currently existing tracks and service facilities.
- (jj) “Right-of-way transfer time” means “right-of-way transfer time” as that term is defined in Section 1A.13 of the MUTCD.
- (kk) “Rural” means “rural” as that term is used in Chapter 1 (Highway Functions) of the AASHTO Green Book.
- (ll) “Separation time” means “separation time” as that term is defined in Section 1A.13 of the MUTCD.
- (mm) “Sidewalk” means “sidewalk” as that term is defined in §42-1-102(90), C.R.S.
- (nn) “Simultaneous preemption” means “simultaneous preemption” as that term is defined in Section 1A.13 of the MUTCD.

- (oo) “Theoretical structure” means the structure and approaches required to transition to the reasonably adequate facility in accordance with the design standards outlined in the CDOT Bridge Design Manual and shall be designed to include the following requirements:
- (I) without consideration to the presence of other adjacent highway or waterway facilities located within the limits of the grade separation project that would also require a bridge structure;
  - (II) using the same selected structure and abutment type as the actual proposed bridge structure;
  - (III) along the same alignment as the actual proposed bridge structure;
  - (IV) to the same minimum horizontal and vertical clearances as the actual proposed bridge structure; and
  - (V) to the CDOT Bridge Design Manual preliminary plan stage (30 percent design stage including construction design and phasing costs).
- (pp) “Timed exit gate operating mode” means “timed exit gate operating mode” as that term is defined in Section 1A.13 of the MUTCD.
- (qq) “Total warning time” means the sum of the minimum time, clearance time, and buffer time.
- (rr) “Urban” means “urban” as that term is used in Chapter 1 (Highway Functions) of the AASHTO Green Book.
- (ss) “Utility crossing” means the point at which the tracks or facilities of any public utility may be constructed across the facilities of any other public utility at, above, or below grade, or at the same or different levels.

#### **7202. Necessary Parties to Application Proceeding.**

In all proceedings where a road authority files an application for preliminary or final approval for any highway-rail or pathway-rail crossing, all railroads, railroad corporations, rail fixed guideways, or transit agencies that own tracks at the crossing shall be joined as a necessary party in the proceeding.

#### **7203. Who May Apply.**

- (a) An application for authority to construct a crossing where the highway or pathway currently exists may be made by the railroad, railroad corporation, rail fixed guideway, transit agency, or other person, firm, or corporation that will own the tracks proposed to be constructed.
- (b) An application for authority to construct a crossing where the tracks or other facilities currently exist may be made by the appropriate road authority that will own the highway or pathway.
- (c) An application for authority to alter or abolish a crossing may be made by the appropriate railroad, railroad corporation, rail fixed guideway, or transit agency that owns the tracks at the crossing, or road authority that owns the highway or pathway at the crossing.

- (d) An application for authority to install or modify active warning or passive warning devices may be made by a railroad, railroad corporation, rail fixed guideway, or transit agency that owns the tracks at the crossing, or road authority that owns the highway or pathway. The Colorado Department of Transportation may make application for Federal Section 130 crossing projects in conjunction with, or on behalf of the road authority.
- (e) An application for authority to construct, alter or abolish a utility crossing may be made by the appropriate public utility, railroad, railroad corporation, rail fixed guideway, transit agency or other person, firm, or corporation that will own or owns the tracks or other facilities proposed to be constructed. Applications for utility crossings can be made if the public utility and railroad, railroad corporation, rail fixed guideway, transit agency or other person, firm or corporation that will own or owns the tracks or other facilities proposed to be constructed are unable to reach agreement on the terms and conditions of a negotiated agreement.
- (f) An application that includes a request for authority to install temporary safety measures as part of an application to install or modify active warning or passive warning devices may be made by a railroad, railroad corporation, rail fixed guideway, transit agency, or road authority. The Colorado Department of Transportation may make application that includes a request for temporary safety measures for Federal Section 130 crossing projects in conjunction with, or on behalf of the road authority.

#### **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.
  - (l) All crossing applications shall contain the following information:
    - (A) the contact person name, mailing address and e-mail address to whom the Commission notice is to be sent:
      - (i) for each railroad, railroad corporation, rail fixed guideway, or transit agency that owns the tracks affected by an application filed by a road authority;
      - (ii) for each road authority that owns the roadway affected by the application filed by a railroad, railroad corporation, rail fixed guideway, transit agency, or other person, firm, or corporation that will own the tracks affected by the application;
    - (B) the railroad and/or rail fixed guideway line name and milepost number where the crossing that is subject of the application is located;

- (C) the National Inventory Number and the National Inventory Form for an existing crossing, or a statement that no National Inventory Number and/or National Inventory Form exists for a new crossing;
- (D) all accident reports for the crossing and/or a listing of all accidents for any rail fixed guideway tracks through the crossing, or a statement that no accident reports and/or listing of rail fixed guideway accidents exist for the crossing;
- (E) a statement of the date that the required crossing safety diagnostic occurred, or a copy of written correspondence from Commission staff that a crossing safety diagnostic was not required;
- (F) a statement of:
  - (i) the existing number and character of trains (e.g., through movements, switching movements) passing through the crossing each day if the National Inventory Form has not been updated within three years from the date of the filing of the application, or the existing number, character, and timetable speed of trains as shown on the National Inventory Form if the form has been updated within three years from the date of the filing of the application;
  - (ii) the five-year projection of increases or decreases of the number and character of trains using the crossing; and
  - (iii) the maximum timetable speed of trains using the crossing.
- (G) A detailed statement as to the nature of and need for the construction, alteration, abolition, installation, or modification for which approval is sought;
- (H) a statement of the scope of the project, including without limitation:
  - (i) the highway design, pathway design, crossing warning devices, and necessary traffic signal interconnection and preemption;
  - (ii) the detailed itemized estimated cost of the proposed construction, alteration, abolition, or highway-rail or pathway crossing warning device installation or modification;
  - (iii) how applicant proposes to provide for the cost, explaining the proposed apportionment between or among the parties in interest if applicable; and
  - (iv) if the funds necessary for the project are currently available and encumbered.
- (I) A statement of the estimated month and year for:
  - (i) the start date for the construction, alteration, abolition, or crossing warning device installation or modification;

- (ii) the completion date for the construction, alteration, abolition, or crossing warning device installation or modification; and
    - (iii) the date for commencement of operations through the crossing for new crossings.
  - (J) A vicinity map that includes the proposed project limits (i.e., a map that includes the general area circumscribing the project);
  - (K) the names and mailing addresses of all persons, including adjacent property owners, public utilities, and local government agencies that may be interested in or affected by the application;
  - (L) if the crossing is at-grade: a statement fully justifying why a separation of grades is not practicable under the circumstances.
  - (M) a statement if the application is seeking preliminary approval of conceptual level design plans, or if the application is seeking final approval of final design plans; and
  - (N) a statement if the application includes a request to install a temporary safety measure.
- (II) Applications for all highway-rail crossings shall include:
- (A) the existing ADT volume and character of vehicles (including, but not limited to estimated percentage of heavy vehicles and a statement about whether school buses use the crossing) passing through the highway-rail crossing each day if the traffic volume on the National Inventory Form has not been updated within three years from the date of the filing of the application, or the existing ADT volume and character of vehicles passing through the highway-rail crossing each day as shown on the National Inventory Form if the traffic volume on the form has been updated within three years from the date of the filing of the application. If the ADT volume has not been updated within three years from the date of the filing of the application, the road authority will be responsible for paying for the cost of the updated ADT count;
  - (B) the five-year and twenty-year ADT volume projections of vehicles using the highway-rail crossing; and
  - (C) the posted or unposted speed limit for the vehicles traveling through the highway-rail crossing.
- (III) Applications for all pathway crossings shall include:
- (A) the existing or estimated number of pedestrians and bicycles passing through the pathway crossing each day and a statement if the number is based on an actual count or an estimate; and



- (B) the five-year and twenty-year projections of the number of pedestrians and bicycles using the pathway crossing.
- (IV) Applications that include a request for temporary safety measures filed pursuant to paragraph 7203(f) shall include:
- (A) a statement of the temporary safety measure being sought;
  - (B) schematic plans of the temporary measure to be implemented;
  - (C) the diagnostic notes including a list of all in attendance; and
  - (D) a statement that the diagnostic team is in consensus with the temporary safety measure being sought.
- (V) Applications for preliminary or final approval of new at-grade crossing shall include:
- (A) detailed plans/drawings of a suitable scale, showing the at-grade 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 profile drawing showing grade lines and proposed grade lines of approaches on the public highway or pathway, and the tracks being crossed that may be affected by the proposed or existing crossing;
  - (C) proposed roadway classification (e.g., local road, collector, arterial, freeway) and a cross-section drawing of the road authority's standards for that roadway classification or cross-section drawing of the pathway; and
  - (D) the following documentation for all existing crossings within one-mile of the proposed location of the new crossing in urban locations or within towns, or the two crossings nearest the proposed crossing in rural locations:
    - (i) the National Inventory Number and National Inventory Form;
    - (ii) all accident reports or a statement that no accident reports are available; and
    - (iii) the existing ADT volume and character of vehicles (including, but not limited to, estimated percentage of heavy vehicles and a statement about whether school buses use the crossing) passing through the highway-rail crossing each day if the traffic volume on the National Inventory Form has not been updated within three years from the date of the filing of the application, or the existing ADT volume and character of vehicles passing through the highway-rail crossing each day as shown on the National Inventory Form if the traffic volume on the form has been updated within three years from the date of the filing of the application. If the ADT volume has not been updated within three years from the date

of the filing of the application, the road authority will be responsible for paying for the cost of the updated ADT count.

- (VI) Applications for preliminary or final approval to widen, narrow, or relocate an existing crossing shall include:
  - (A) detailed plans/drawings of a suitable scale, showing the grade 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 profile drawing showing grade lines and proposed grade lines of approaches on the public highway or pathway and the tracks being crossed that may be affected by the proposed or existing crossing;
  - (C) existing roadway classification (e.g., local, collector, arterial, freeway) and a cross-section drawing of the roadway authority's standards for that roadway classification or cross-section drawing of the pathway; and
  - (D) proposed roadway classification (e.g., local road, collector, arterial, freeway) and a cross-section drawing of the roadway authority's standards for that roadway classification or cross-section drawing of the pathway;
  
- (VII) Applications for preliminary or final approval to close a crossing by removal of the tracks shall include:
  - (A) detailed plans/drawings of a suitable scale showing the details of the crossing closure plan;
  - (B) a copy of the notice of proposed closure of the crossing as required under paragraph 7208(c); and
  - (C) traffic volumes required under (II) are not required.
  
- (VIII) Applications to close a crossing by removal of the roadway or pathway shall include:
  - (A) the following documentation for all existing crossings within one-mile of the proposed location of the crossing to be closed in urban locations or within towns, or the two crossings nearest the proposed crossing to be closed in rural locations:
    - (i) the National Inventory Number and National Inventory Form;
    - (ii) all accident reports or a statement that no accident reports are available;
    - (iii) the existing ADT volume and character of vehicles (including, but not limited to, estimated percentage of heavy vehicles and a statement about whether school buses using the crossing) passing through the highway-rail crossing each day if the traffic volume on the National Inventory Form

has not been updated within three years from the date of the filing of the application, or the existing ADT volume and character of vehicles passing through the highway-rail crossing each day as shown on the National Inventory Form if the traffic volume on the form has been updated within three years from the date of the filing of the application. If the ADT volume has not been updated within three years from the date of the filing for the application, the road authority will be responsible for paying for the cost of the updated ADT count;

- (B) detailed plans/drawings of a suitable scale showing the details of the crossing closure plan; and
  - (C) the notice of proposed closure of the crossing as required under paragraph 7208(c).
- (IX) Applications for preliminary or final approval to install or change passive warning devices at crossings shall include:
- (A) a description of the type of warning device the applicant proposes to install; and
  - (B) the detailed railroad cost estimate of the crossing warning devices;
- (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 detailed railroad cost estimate of the crossing warning devices shall be provided by the railroad 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 provided within the timeframe outlined in paragraph 7212(e).
- (XI) Applications for preliminary or final approval involving installation of four quadrant gate active warning devices shall include:

- (A) a description of the type of four quadrant exit gate operating mode proposed (e.g., timed, dynamic exit gate vehicle detection, or timed/dynamic combination);
  - (B) for timed exit gate operating mode, the proposed exit gate clearance time, a description of the methodology used to determine the exit gate clearance time and the calculations performed to determine the exit gate clearance time;
  - (C) for dynamic exit gate operating mode, a description of the type of vehicle detection proposed, a plan drawing showing the proposed vehicle detector placement(s) and description and timings of how the vehicle detection will operate; and
  - (D) a letter of concurrence from Commission staff regarding the proposed four-quadrant operations and timings, or a statement that Commission staff does not concur with the proposed four-quadrant operations and timings.
- (XII) Applications for preliminary or final approval involving interconnection to traffic signals or queue cutter signals and preemption by active warning signals shall include:
- (A) a statement of the proposed preemption operations (e.g., simultaneous, advanced);
  - (B) the traffic signal timings, including:
    - (i) the traffic signal cycle length;
    - (ii) minimum green time for each signal phase and pedestrian phase;
    - (iii) green times for each signal phase;
    - (iv) yellow change times for each signal phase;
    - (v) red clearance times for each signal phase;
    - (vi) walk times for each pedestrian phase;
    - (vii) flashing don't walk times for each pedestrian phase;
    - (viii) the traffic signal phasing diagram including the preemption sequence; and
    - (ix) a statement of whether and what type of gate down circuitry will be used.
  - (C) A list of and calculations for the following distances and timings:
    - (i) minimum track clearance distance;
    - (ii) design vehicle designation and length;

- (iii) clear storage distance;
  - (iv) preemption delay time;
  - (v) controller response time to preemption call;
  - (vi) worst case conflicting vehicle time and worst case conflicting pedestrian time;
  - (vii) maximum highway traffic signal preemption time;
  - (viii) right-of-way transfer time;
  - (ix) queue clearance time;
  - (x) clearance time;
  - (xi) separation time;
  - (xii) advance preemption time;
  - (xiii) minimum warning time; and
- (D) a letter of concurrence from Commission staff regarding the proposed preemption operations and timings, or a statement that Commission staff does not concur with the proposed preemption operations and timings.
- (XIII) Applications requesting cost allocation to the Highway-Rail Crossing Signalization Fund or projects for which the Colorado Department of Transportation has appropriated Federal Section 130 Fund shall contain specific information regarding the requested apportionment of costs between the railroad, railroad corporation, rail fixed guideway, rail fixed guideway system, or transit agency, the road authority, and the Highway-Rail Crossing Signalization Fund or Federal Section 130 Fund.
- (XIV) Applications for preliminary or final approval to change an existing crossing from a public crossing to a private crossing shall include:
- (A) the following documentation for all existing crossings within one-mile of the proposed location of the new crossing in urban locations or within towns, or the two crossings nearest the proposed crossing in rural locations:
    - (i) the National Inventory Number and National Inventory Form;
    - (ii) copies of all accident reports or a statement that no accident reports are available for those crossings; and
    - (iii) the existing ADT volume and character of vehicles passing through the highway-rail crossing each day if the traffic volume on the National Inventory Form has not been updated within three years from the date of

the filing of the application, or the existing ADT volume and character of vehicles passing through the highway-rail crossing each day as shown on the National Inventory Form if the traffic volume on the form has been updated within three years from the date of the filing of the application.

- (B) Documentation (ordinance, ruling, etc.) showing that the road authority agency is proposing to remove the road from its network of ownership, operation, and maintenance; and
  - (C) documentation showing the person that will be owning, operating, and maintaining the private roadway.
- (XV) Applications for preliminary or final approval to change an existing crossing from a private crossing to a public crossing shall include:
- (A) proposed roadway classification (e.g., local road, collector, arterial, freeway) and a cross-section drawing of the road authority's standards for that roadway classification or cross-section of the pathway;
  - (B) a statement that the existing crossing meets the standards of the proposed roadway classification or a statement that the roadway will be changed to meet the current roadway classification standards; and
  - (C) documentation (ordinance, ruling, etc.) showing that the road authority is accepting the road into its network for ownership, operation, and maintenance.
- (XVI) Applications for preliminary or final approval to construct a grade separated crossing 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 profile drawing showing grade lines and proposed grade lines of approaches on the public roadway, highways, streets, or pathways and the tracks being crossed that may be affected by the proposed or existing crossing;
  - (C) bridge plan drawings that show, at a minimum:
    - (i) the total length of the bridge structure;
    - (ii) the length of each individual span for multiple span bridge structures;
    - (iii) the location of all existing and any possible proposed future tracks in relation to the bridge structure;
    - (iv) the minimum vertical clearance from the top of rail or pavement to the bottom of structure;

- (v) the minimum horizontal clearance from centerline of track to face of pier or abutment if track is under the bridge structure; and
  - (vi) the cross-section of the bridge showing information regarding the roadway, pathway or railroad configuration including, but not limited to, out-to-out distance, fencing, lane widths, walkway widths and median widths.
- (XVII) Applications for any preliminary approval of plans/drawings shall include:
- (A) the date by which all final plans/drawings for which preliminary or conceptual level plans/drawings were provided with the application will be filed for approval; and
  - (B) a waiver of the applicable statutory period in §40-6-109.5, C.R.S. regarding the time limit for decisions.
- (XVIII) Applications for a utility crossing shall include:
- (A) the contact person name, mailing address and e-mail address to whom the Commission notice is to be sent:
    - (i) for each railroad, railroad corporation, rail fixed guideway, or transit agency that owns the tracks affected by an application filed by a utility; and
    - (ii) for each utility affected by the application filed by a railroad, railroad corporation, rail fixed guideway, transit agency, or other person, firm, or corporation that will own the tracks affected by the application.
  - (B) The railroad and/or rail fixed guideway line name and milepost number where the crossing that is subject of the application is located;
  - (C) a detailed statement as to the nature of and need for the construction, alteration, abolition, installation, or modification for which approval is sought;
  - (D) a statement of the scope of the project, including without limitation:
    - (i) the utility construction location;
    - (ii) the detailed itemized estimated cost of the proposed utility crossing construction, alteration, abolition, or modification;
    - (iii) how applicant proposes to provide for the cost, explaining the proposed apportionment between or among the parties in interest if applicable; and
    - (iv) if the funds necessary for the project are currently available and encumbered.

- (E) A statement of the estimated month and year for:
    - (i) the start date for the utility crossing construction, alteration, abolition, or modification; and
    - (ii) the completion date for the utility crossing construction, alteration, abolition, or modification.
  - (F) A vicinity map that includes the proposed project limits (i.e., a map that includes the general area circumscribing the project);
  - (G) the names and mailing addresses of all persons, including adjacent property owners, public utilities, and local government agencies that may be interested in or affected by the application;
  - (H) detailed plans/drawings of a suitable scale, showing the utility crossing, tracks, buildings, structures, and property lines within the right-of-way limits of the railroad, railroad corporation, rail fixed guideway, rail fixed guideway system, or transit agency; and
  - (I) a profile drawing showing grade lines and proposed grade lines of the utility in relation to the tracks being crossed.
- (b) Any engineering schematics, plans, drawings, or maps submitted pursuant to this rule shall be submitted on pages no larger than 11" x 17". All engineering schematics, plans, drawings and maps must be legible. All plan and profile drawings submitted must be able to be printed to and measured by the identified scale.
- (c) If the applicant adopts a substantive change to any map, drawing, plan, or schematic that has been filed with the application, the applicant shall file the new map, drawing, plan, or schematic within ten days of the change. In all cases, the applicant shall submit final maps, drawings, plans, or schematics, as applicable, within ten days of the availability of such final maps, drawings, plans, and schematics.
- (d) An application filed pursuant to paragraph 7203(f), may only be filed subsequent to discussion of the temporary safety measure and consensus of a diagnostic team consisting of the road authority, the railroad, railroad corporation, rail fixed guideway, or transit agency, Commission staff, and the Colorado Department of Transportation if the project is a Section 130 project Notice of the temporary safety measure is provided pursuant to paragraph 7208(d).

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[indicates omission of unaffected rules]



**7211. Crossing Construction and Maintenance.**

- (a) Whenever a highway, pathway, or sidewalk is removed at an existing crossing or constructed at a new crossing, or the highway, pathway, or sidewalk portion of an existing crossing is widened, the road authority shall bear all costs to remove, construct or widen crossing surfaces at the crossing including the cost of the crossing surface; the highway, pathway, and/or sidewalk approaches; and highway and/or pathway construction traffic control. Extensions of crossing surfaces for the addition of sidewalks to an existing crossing require only the addition of crossing surface panels for the sidewalks and do not require the entire crossing surface to be replaced.
- (b) Whenever a track is removed at an existing crossing, or constructed at a new crossing, or the track portion of an existing crossing is widened, the railroad, railroad corporation, rail fixed guideway, or transit agency shall bear all costs to remove, construct or widen the track including the cost of the crossing surface; the highway, pathway, and or sidewalk approaches; and highway and/or pathway construction traffic control.
- (c) In addition to projects described in paragraph 7211(b), railroads, railroad corporations, rail fixed guideways, and transit agencies shall bear all costs of their initiated projects (e.g., capital improvement projects) involving crossings.
- (d) The crossing surface shall be of plank, concrete, rubber, flangeway and asphalt, or other suitable material that is compatible with the highway approached, and shall be of the same width as the pavement or other surfacing material in the approaches of the adjacent highway including the roadway shoulders. The crossing surface material shall make a reasonably smooth riding surface over the track or tracks and be approximately level with the top of the rails. Wherever practicable, the tracks at multiple track crossings shall be level with the mainline track.
- (e) The Commission may determine the materials to be used in a crossing at the time the Commission considers the application regarding the crossing.
- (f) Whenever practicable, sidewalks should be detached from the curb and constructed behind the crossing signal mast. The crossing surface material for sidewalks need not be continuous with the crossing surface material of the vehicle travel lanes.
- (g) Pathway crossings of mainline trackage shall be grade separated. Rail fixed guideway and rail fixed guideway systems are exempted from this requirement. Sidewalks or pathway crossings under railroad open deck bridges or trestles shall have a protective cover (roof) extending a reasonable distance beyond the edges of the bridge or trestle to prevent material or debris from striking users of the sidewalk or pathway crossings. Sidewalks and pathway crossings under closed deck bridges may have either a protective cover extending a reasonable distance beyond the edges of the bridge or may have fencing attached to the bridge structure to prevent material or debris from striking users of the sidewalk or pathway crossing.
- (h) A railroad, railroad corporation, rail fixed guideway, or transit agency shall maintain the grade crossing surface from the outside end of the tie to the outside end of the tie at single track crossings. Railroads, railroad corporations, rail fixed guideways, and transit agencies shall promptly assist any road authority to the extent required to maintain the road surface between tracks at multiple track crossings. The road authority shall bear the cost of railroad flagging required to maintain the roadway surface between tracks at multiple track crossings.

- (i) The road authority that owns the highway shall maintain at its own expense the highway approaches up to the outside end of the ties.
- (j) The total costs to maintain an existing crossing surface, including, but not limited to, materials, labor, traffic control, railroad flagging, and any necessary permits shall be shared equally between the railroad, railroad corporation, rail fixed guideway, or transit agency and the road authority.
- (k) A railroad, railroad corporation, rail fixed guideway, or transit agency shall remove all obstructions along the tracks that block the view of motorists, bicycles, and/or pedestrians as outlined in paragraph 7301(c). The Commission may determine what obstructions are to be removed to ensure reasonable safety at the crossing.
- (l) A railroad, railroad corporation, rail fixed guideway, or transit agency shall be required to coordinate with the road authority any highway-rail and/or public pathway crossing project that will lead to the temporary closure of the highway-rail crossing or public pathway crossing.
- (m) A railroad, railroad corporation, rail fixed guideway, or transit agency shall not perform any construction work at a highway-rail crossing and/or public pathway crossing that would lead to closure of the highway-rail crossing and/or public pathway crossing prior to obtaining all required road authority permits and coordinating with the road authority to provide public notice and traffic and/or pedestrian and/or bicycle detours.
- (n) A railroad, railroad corporation, rail fixed guideway, or transit agency shall provide road authorities with the project construction support needed by the road authority to construct and complete any highway-rail crossing and/or public pathway crossing project.
- (o) A railroad, railroad corporation, rail fixed guideway, or transit agency shall replace crossing surfaces within 90 days of when a road authority informs the railroad, railroad corporation, rail fixed guideway, or transit agency that the crossing surface is in disrepair.
- (p) A railroad, railroad corporation, rail fixed guideway, or transit agency shall obtain the required Commission authority prior to commencing any construction of a new crossing and/or making any changes at any public crossing including, but 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.

**7212. Crossing Safety Diagnostics and Cost Estimates.**

- (a) A railroad, railroad corporation, rail fixed guideway, transit agency, 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, road authority, and Commission staff 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, and road authority memorializing such agreement for use in any future application within fourteen days of the date of the 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, with any necessary assistance from Commission staff, shall review, and confer on the following:
  - (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) A railroad, railroad corporation, rail fixed guideway, or transit agency and their consultants may not require a road authority to accept the results of or pay for the preparation of any study or report not expressly requested by the road authority.
- (e) Every railroad, railroad corporation, rail fixed guideway, or transit agency shall provide to a road authority, no more than 90 days after a request, the cost estimate and schematic diagram, with all of the information required to be shown on the schematic diagram as set forth in subparagraph 7204(X)(D), for the specific configuration requested by the road authority.
- (f) The signed construction and maintenance agreement or evidence of a signed intergovernmental agreement between any railroad, railroad corporation, rail fixed guideway, or transit agency shall be filed with the Commission within 90 days of the Commission's order authorizing the highway-rail crossing project, or within 30 days before the proposed start date for construction, whichever comes later.
- (g) Any consultant of a railroad, railroad corporation, rail fixed guideway, or transit agency shall be afforded up to eight billable hours and limited in scope to preemption calculation verification based on road authority provided traffic signal timings to complete any necessary project review and client report for at-grade highway-rail or pathway-rail grade crossing projects. The railroad, railroad corporation, rail fixed guideway, or transit agency may request from the Commission an extension of the permitted time to complete any necessary project review and client report for good cause including, without limitation, that additional time is necessary to ensure safety considerations are addressed and the scope of the work to be performed. Such request shall be made prior to using additional time or performing such work.

- (h) A railroad, railroad corporation, rail fixed guideway, or transit agency may assess costs for new, or the new part of, revised easements but may not assess any costs for existing easements at existing public highway or public pathway crossings.
- (i) In the event that a road authority alleges that it has lost funding for completion of a highway-rail or pathway crossing project, due to a delay in the project caused by a railroad, railroad corporation, rail fixed guideway, or transit agency, the road authority may file a formal complaint with the Commission setting forth the alleged cause of delay and amount of lost funding and requesting that the Commission allocate the lost funding to the railroad, railroad corporation, rail fixed guideway, or transit agency, or request other appropriate relief, including the imposition of a civil penalty assessment.

**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, 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.
- (b) All public crossings shall have posted, at a minimum, one advance warning sign applicable to the roadway geometry posted for each direction of traffic that crosses the tracks. Applicable advance warning signs include MUTCD signs W10-1, W10-2, W10-3, and W10-4. The road authority may install warning beacons on advance warning signs in accordance with Section 4L.03 of the MUTCD.
- (c) All public highway-rail crossings where the measured storage distance between the dynamic envelope of the crossing and the stop bar location, leading edge of the pedestrian crosswalk, or the edge of the parallel roadway, whichever is less, for the intersection downstream from the crossing is less than 80 feet shall post in advance of the highway-rail crossing a MUTCD W10-11 storage space sign with a MUTCD W10-11a supplemental word message storage distance sign indicating the length of storage between the dynamic envelope and the stop bar for the highway.
- (d) Highway-rail grade crossing pavement markings shall be installed on all paved approach lanes to the highway-rail grade crossing for roadways with a posted or statutory speed limit of 40 miles per hour or greater. Highway-rail grade crossing pavement markings should be installed on all paved approach lanes to highway-rail grade crossings for roadways with a posted or statutory speed limit of less than 40 miles per hour. Grade crossing pavement markings may be installed on all approaches to a pathway crossing. Pavement markings shall be installed only on approach lanes where all vehicles will cross the crossing.

**7214. – 7299. [Reserved].**

## **SAFETY**

### **Generally**

#### **7300. Applicability.**

Rules 7301 through 7302 apply to all railroads, railroad corporations, rail fixed guideways, and transit agencies. Additionally, rule 7302 applies to common carriers.

#### **7301. Installation and Maintenance of Crossing Warning Devices.**

- (a) All passive and active crossing warning devices, whether electrically operated or otherwise, and of whatsoever nature, which have been installed at public crossings in the state of Colorado, shall be installed, and efficiently maintained and kept in good condition or good operating condition by the railroad, railroad corporation, rail fixed guideway, transit agency, or owner the track at the crossing at the railroad, railroad corporation, rail fixed guideway, rail fixed guideway system, or transit agency's expense for the life of the crossing.
- (b) Whenever active crossing warning devices are interconnected to standard highway traffic signals, the highway traffic signal shall be efficiently maintained and kept in good operating condition by the road authority agency in interest at the road authority's expense for the life of the crossing.
- (c) All advance warning signs and pavement markings which have been installed at public crossings in the state of Colorado shall be efficiently maintained and kept in good condition by the road authority owning and maintaining the roadway at the crossing at the road authority's expense for the life of the crossing.
- (d) Every person to whom this rule applies shall at all times keep its right-of-way free and clear from all obstructions which substantially interfere with the safe sight distance of approaching trains at crossings; provided, however, that:
  - (I) this paragraph (d) shall not apply to existing buildings, permanent structures, and natural obstructions other than trees and vegetation;
  - (II) this paragraph (d) shall not apply to rolling stock or materials temporarily on the right-of-way in connection with switching movements or with the loading or unloading of shipments;
  - (III) this paragraph (d) shall not apply to crossings at which automatic signals and gates are installed. The exception provided by this subparagraph (III) shall only be applicable if such automatic signals and gates are kept free and clear of all obstructions interfering with either:
    - (A) the operation of the automatic signals and gates; or
    - (B) the ability of drivers to detect the automatic signals and gates.
- (e) No grain elevators, storage tanks, warehouses or other buildings which substantially obstruct the view of approaching trains at crossings shall be built on the right-of-way unless and until the

railroad complies with any requirements which the Commission may impose as to signals or other safety installation in connection with such obstruction.

\* \* \* \*

[indicates omission of unaffected rules]