

Decision No. C25-0570

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 25R-0325R

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IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES REGULATING RAILROADS, RAIL FIXED GUIDEWAYS, TRANSPORTATION BY RAIL, AND RAIL CROSSINGS, 4 CODE OF COLORADO REGULATIONS 723-7, TO IMPLEMENT HOUSE BILL 25-1110.

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**NOTICE OF PROPOSED RULEMAKING**

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Issued Date: August 6, 2025

Adopted Date: August 6, 2025

**I. BY THE COMMISSION**

**A. Statement**

1. The Colorado Public Utilities Commission (“Commission”) issues this Notice of Proposed Rulemaking (“NOPR”) to adopt rules implementing the allocation of costs to maintain railroad crossings in the state enacted in House Bill (“HB”) 25-1110, effective August 6, 2025, and codified at § 40-4-106(5) and (6), C.R.S. Specifically, the Commission adds and changes rules governing allocation of costs to maintain railroad crossings in Colorado, making changes to Rule 7201 adding a new definition for “maintain” and renumbering the remaining definitions, Rule 7211 modifying paragraph 7211(j), adding new paragraph 7211(k), and renumbering the remaining paragraphs in Rule 7211 of the Commission’s Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* 723-7 (“Rail Rules”). The Commission has statutory authority to adopt these rules under §§ 40-2-108, and 40-4-106, and 40-29-110, C.R.S.

2. The Commission refers this matter to an Administrative Law Judge (“ALJ”) for a recommended decision. The ALJ will hold a remote public hearing on the proposed rules at **11:30 a.m. on September 22, 2025.**

3. The proposed rule changes are set forth in legislative (strikeout/underline) format in Attachment A to this Decision, and in final format in Attachment B to this Decision.

## **B. Background**

4. HB 25-1110 requires the Commission to change its rules relating to allocation of costs to maintain railroad crossings in Colorado. As relevant to this rulemaking, new § 40-4-106(5)(a), C.R.S., provides:

Unless the applicable road authority is a local government, the total cost to maintain an existing crossing including materials, labor, traffic control, railroad flagging, and any necessary permits, are shared equally between:

- (I) The railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track; and
- (II) The road authority...

New § 40-4-106(5)(b), C.R.S., provides:

If the applicable road authority is a local government, the total costs to maintain an existing crossing are apportioned as follows:

- (I) The railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track is responsible for the costs to maintain the portion of the existing crossing that is between the ends of the railroad ties; and
- (II) The local government is responsible for the costs to maintain the portion of the existing crossing that is outside of the ends of the railroad ties.

Additionally, new § 40-4-106(6)(c)(I) and (II), C.R.S., provide a new definition of “maintain” as:

- (I) “Maintain” means actions necessary to preserve an existing crossing and to keep the crossing from a state of decline or disrepair.
- (II) “Maintain” does not include the installation, reconstruction, or improvement and operation of an automatic or other safety appliance signal or device, as described in subsection (2)(b) of this section.

6. HB 25-1110 instructs the Commission in § 40-4-106(5), C.R.S., to adopt rules for the implementation of this section, including rules for cost allocation of maintenance costs for the state road authority and a separate cost allocation of maintenance costs for all road authorities except for the state road authority.

### **C. Discussion of Proposed Amendments**

7. We open this rulemaking to consider changes to our Rail Rules in order to implement the railroad crossing maintenance cost allocation requirements enacted in HB 25-1100. The legislature gave the Commission express authority to promulgate these rules under § 40-4-106, C.R.S.

8. In the discussion below, we identify and explain the proposed rule changes. The proposed rule changes are set forth in legislative (strikeout/underline) format in Attachment A to this Decision, and in final format in Attachment B to this Decision. The Commission welcomes comments on the proposed rules as presented in § 40-4-106(6)(c), C.R.S. and Attachments A and B to this Decision.

#### **1. 7201 Definitions**

9. The proposed revisions to the definitions add a new definition for “maintain” including what the definition means and what the definition for “maintain” does not include. This language mirrors the new definitions provided by HB 25-1110 and codified in

Section 40-4-106, C.R.S. The remaining definitions in the existing rule will be renumbered accordingly.

**2. 7211 Crossing Construction and Maintenance**

10. **Rule 7211(j)** is changed to make this rule applicable to the state road authority only, as required in § 40-4-106(5)(I) and (II), C.R.S., as enacted in HB 25-1110.

11. New **Rule 7211(k)** changes the maintenance cost apportionment for all road authorities except the state road authority. Mirroring the statute, it provides that any railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track is responsible for all costs to maintain the portion of the existing crossing that is between the end of the railroad ties. The road authority is responsible for the costs to maintain the portion of the existing crossing that is outside of the end of the railroad ties.

12. All remaining paragraphs after new rule 7211(k) are renumbered.

**D. Conclusion**

13. Through this NOPR, the Commission solicits comments from interested persons on the new rules proposed in this Decision and its attachments. Interested persons may file written comments including data, views, and arguments into this Proceeding for consideration. The Commission also welcomes submission of alternative proposed rules, including both consensus proposals joined by multiple rulemaking participants and individual proposals. Participants are encouraged to provide redlines of any specific proposed rule changes.

14. The proposed rule changes are set forth in legislative (strikeout/underline) format in Attachment A to this Decision, and in final format in Attachment B to this Decision. This Decision and its attachments are publicly available through the Commission's E-Filings System at:

[https://www.dora.state.co.us/pls/efi/EFI.Show\\_Docket?p\\_session\\_id=&p\\_docket\\_id=25R-0325R](https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=25R-0325R)

15. The Commission refers this matter to an ALJ for a recommended decision. The ALJ will hold a hearing on the proposed rules at the below-stated time and place. In addition to submitting written comments, participants will have an opportunity to present comments orally at the hearing, unless the ALJ deems oral presentations unnecessary. The Commission will consider all comments submitted in this Proceeding, whether oral or written.

16. Initial written comments on the proposed rule changes are requested by **September 4, 2025**. Any person wishing to file comments responding to the initial comments is requested to file such comments by **September 15, 2025**. These deadlines are set so that the comments and responses may be considered at the public hearing conducted by the ALJ on September 22, 2025, nonetheless, persons may file written comments into this Proceeding at any time.

## **II. ORDER**

### **A. The Commission Orders That:**

1. This Notice of Proposed Rulemaking (including Attachment A and Attachment B to this Decision) shall be filed with the Colorado Secretary of State for publication in the August 25, 2025, edition of *The Colorado Register*.

2. This matter is referred to an Administrative Law Judge for the issuance of a Recommended Decision.

3. A remote public hearing on the proposed rules and related matters shall be held as follows:

DATE: September 22, 2025

TIME: 11:30 a.m.

PLACE: By video conference using Zoom at a link provided in the calendar of events posted on the Commission's website:  
<https://puc.colorado.gov/>

4. At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Administrative Law Judge deems oral comments unnecessary.

5. Interested persons may file written comments in this matter. The Commission requests that initial pre-filed comments be submitted no later than September 4, 2025, and any pre-filed comments responsive to the initial comments be submitted no later than September 15, 2025. The Commission will consider all submissions, whether oral or written. The Commission prefers that comments be filed into this Proceeding using the Commission's E-Filings System at <https://www.dora.state.co.us/pls/efi/EFI.homepage>.

6. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
August 6, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Commissioners