

Decision No. C25-0574

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

PROCEEDING NO. 25R-0331R

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IN THE MATTER OF THE TEMPORARY RULES IMPLEMENTING THE STATE SAFETY OVERSIGHT PROGRAM STANDARD FOR RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS RULES, 4 CODE OF COLORADO REGULATIONS 723-7-7349, TO IMPLEMENT SENATE BILL 25-052.

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**COMMISSION DECISION  
ADOPTING TEMPORARY RULES**

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Issued Date: August 6, 2025

Adopted Date: August 6, 2025

**I. BY THE COMMISSION**

**A. Statement**

1. This matter comes before the Commission for immediate adoption of a temporary rule to implement needed amendments to the State Safety Oversight Program Standard for Rail Fixed Guideway Public Transportation Systems (“Program Standard”) in the Commission’s Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings contained in 4 *Code of Colorado Regulations* (“CCR”) 723-7. This temporary rule is necessary to timely implement a recent change in law regarding the prescribed confidential treatment of investigative reports of the Commission compiled under the agency’s authority in article 18 of the Colorado Revised Statutes to investigate hazardous conditions and accidents on rail fixed guideway systems and require corrective action by a rail transit agency to correct or eliminate hazardous conditions. This change in law became effective on August 6, 2025, through Senate Bill (“SB”) 25-052, codified at § 40-18-104, C.R.S.

2. Accordingly, and as discussed below, the temporary rule is adopted without compliance with the participatory rulemaking procedures prescribed in § 24-4-103, C.R.S., so that the Commission and the rail transit agencies operating in Colorado can immediately be in compliance with this new state law regarding the prescribed treatment of investigative reports. Concurrent with this Decision, the Commission has opened rulemaking Proceeding No. 25R-0330R to consider adopting rules to supersede this temporary rule. In accordance with § 40-2-108(2), C.R.S., the temporary rule is effective for 210 days from the effective date of this Decision, or until the Commission issues permanent rules in this matter, whichever period is less.

3. Attachments A and B to this Decision are the temporary rules in legislative (strikeout/underline) format and final format, respectively. The temporary rules are also publicly available through the Commission's E-Filings system<sup>1</sup> at: [https://www.dora.state.co.us/pls/efi/EFI.Show\\_Docket?p\\_session\\_id=&p\\_docket\\_id=25R-0331R](https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=25R-0331R)

#### **B. Discussion, Findings, and Conclusions**

4. The Commission adopts this temporary rule amending Rule 7349, 4 CCR 723-7, to reflect the statutory changes recently enacted in SB 25-052 regarding the prescribed confidential treatment of investigative reports of the Commission compiled under the agency's authority to investigate hazardous conditions and accidents on rail fixed guideway systems and require corrective action. Whereas § 40-18-104, C.R.S., previously stated such investigative reports "shall be confidential and shall not be discoverable nor used as evidence in any court or administrative action," as amended by SB 25-052, this statute now provides as follows:

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<sup>1</sup> From the E-Filings page (<https://www.dora.state.co.us/pls/efi/EFI.homepage>), the rules can also be accessed by selecting "Search" and entering 25R-0331R in the "Proceeding Number" box.

The commission may adopt rules making ongoing investigations, as described in section 24-72-204(2)(a)(IX), or security information, as described in section 24-72-204(2)(a)(VIII), confidential. If the commission adopts the confidentiality rules, the rules must not make final reports of investigations confidential and must require the timely release of information if public knowledge of the information would protect the public safety, health, or welfare.

5. Consistent with this change in law, the temporary rule adopted by this Decision now allows for investigative reports to remain confidential while the Commission's investigation remains ongoing but requires that a public version of the Commission's final report be made available, with certain redactions. Specifically, the temporary rule incorporates new language into existing subparagraph (d)(IV) of Rule 7349 to require the following: (1) safety event investigative reports submitted by the rail transit agency to the Commission shall be afforded extraordinary protections as highly confidential information while the investigation remains ongoing and (2) for preliminary investigative reports submitted to the Commission on or after August 6, 2025, once the report is adopted as final, a public version with the security information described in § 24-72-204(2)(a)(VIII), C.R.S., and the ongoing investigation information described in § 24-72-204(2)(a)(IX), C.R.S., redacted, shall be made available to the public, upon request.

6. Rulemaking is a lengthy process involving a notice period, opportunity to hear the public's views both orally and in writing, time for the Commission to analyze and adopt the final rules, and time to file the final rules with the Colorado Secretary of State for publication in *The Colorado Register*. If the Commission waits until permanent rules are in place, the Program Standard would be out of compliance with the current state law regarding confidential treatment of investigative reports during that time. Thus, the Commission finds that immediate adoption of this temporary rule implementing the change in law enacted in SB 25-052 is imperatively necessary to ensure that these investigative reports are immediately afforded confidential treatment

as prescribed by state law, and further, that compliance with the requirements to complete a permanent rulemaking would be contrary to the public interest.

7. The temporary rule shall be effective on the issued date of this Decision and shall remain in effect until permanent rules become effective or for 210 days, whichever period is less.

8. The statutory authority for the temporary rule is found, generally, at § 24-4-103(6), C.R.S. (allowing and specifying procedures for adoption of temporary rules) and § 40-2-108, C.R.S. (authorizing Commission to promulgate rules necessary to administer and enforce title 40) and, specifically, at § 40-18-104, C.R.S. (requiring Commission to establish a system safety oversight program for rail fixed guideway systems in Colorado), § 40-18-103, C.R.S. (authorizing Commission to promulgate rules to implement system safety oversight program and require that state program complies with federal requirements), and § 40-18-104, C.R.S. (authorizing Commission to adopt rules making ongoing investigations or security information confidential; provided that, such rules must not make final reports of investigations confidential and must require the timely release of information if public knowledge of the information would protect the public safety, health, or welfare).

## **II. ORDER**

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

1. The rule in final format available in this Proceeding through the Commission's E-Filings system is hereby adopted as a temporary rule for the reasons described above and pursuant to the provisions of § 24-4-103(6)(a), C.R.S.

2. The temporary rule shall be effective on the Issued Date of this Decision. Such temporary rule shall remain in effect until permanent rules become effective or for 210 days, whichever period is less.

3. The 20-day period provided in § 40-6-114, C.R.S., within which to file an Application for Rehearing, Reargument, or Reconsideration, begins on the first day following the effective date of this Decision.

4. 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