

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 §§ 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), 40-9-108(2), 40-18-101, 40-18-102, 40-18-103, 40-18-104, 40-20-302, 40-20-303, 40-20-305, 40-20-310, 40-29-110, and 40-32-108, C.R.S.

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[indicates omission of unaffected rules]

Railroad and Hazardous Materials Safety

7330. Applicability.

Rules 7330 through 7335 apply to all railroads, defined in paragraph 7331(r) and passenger rail systems, defined in paragraph 7331(q).

7331. Definitions.

The following definitions apply only in the context of rules 7330 through 7335.

- (a) “Adequacy” has the same meaning as set forth in § 40-20-305(1)(a), C.R.S., and refers to sufficient capabilities, resources, and staffing to meet initial response objectives for hazards likely in the defined area.
- (b) “Class I railroad” has the meaning set forth in §40-20-302(2), C.R.S.
- (c) “Class II railroad” has the meaning set forth in §40-20-302(3), C.R.S.
- (d) “Class III railroad” has the meaning set forth in §40-20-302(4), C.R.S.
- (e) “Coordinate” has the same meaning as used in § 40-20-305, C.R.S., and means to share information, confer, and plan jointly with Emergency Management Organizations, as defined in paragraph 7331(h). Coordination does not require approval by, or the assumption of duties or authority of, any other governmental entity.
- (f) “Defect” means a deficiency in a part of a train or rail including, but not limited to, hot wheel bearings, hot wheels, deficient bearings detected through acoustic means, dragging of equipment, excessive height, excessive weight, a shifted load, a loose hose, improper rail temperature, or a deficient wheel condition.
- (g) “Dragging equipment detector” means an electronic device or other technology that monitors a passing train to actively detect and alert operators of the train of the existence of any objects dragging from the train.
- (h) “Emergency Management Organization” means a local emergency management agency or office established under state or local law, including local emergency planning committees.
- (i) “First Responder Organization” means a fire department, law enforcement agency, emergency medical services provider, or other public safety entity with legal authority under state or local law over the geographic area in which a railroad line or facility is located.
- (j) “Functional Exercise” means an operations-based exercise designed to test capabilities and functions in a realistic, real-time environment; movement of resources may be simulated.
- (k) “Hazardous material” has the meaning set forth in § 40-20-302(10), C.R.S.
- (l) “High-hazard flammable train (HHFT)” has the meaning set forth in § 40-20-305(1)(a), C.R.S.
- (m) “High-consequence hazardous material” means shipments moving as HHFTs or consisting of toxic or poison inhalation hazard materials, as defined in § 40-20-302(10), C.R.S.
- (n) “Hot bearings detector” means an infrared detector located along railroad tracks to detect and alert the operators of a passing train to any overheating of a train’s bearings, axles, or wheels.
- (o) “Incident” has the meaning set forth in § 40-20-302(13), C.R.S.
- (p) “Main line” means a segment or route of railroad tracks of any railroad over which five million or more gross tons of railroad traffic is transported annually as documented in timetables filed with

the Federal Railroad Administration, pursuant to 49 C.F.R. Part 217.7. Main line does not include tourist, scenic, historic, or excursion operations as defined in 49 C.F.R. Part 238.5.

- (q) “Passenger rail system” means a rail system as defined in § 32-22-102(9), C.R.S.
- (r) “Railroad” means a person providing railroad transportation.
- (s) “Railroad transportation” means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways. “Railroad transportation” does not include rapid transit operations, public transportation, rail fixed guideway operations, or commuter passenger rail that:
 - (I) is in an urban or suburban area; and
 - (II) is not connected to a general or an interstate railroad system.
- (t) “Sensitive area protection walkthrough” means a field-based familiarization activity focused on site-specific sensitive environmental or community areas (e.g., waterways, drinking water intakes) to review spill containment and protection strategies.
- (u) “Tabletop exercise” means a discussion-based exercise conducted in response to a simulated hypothetical emergency or crisis scenario, that involves key personnel from affected railroads, Emergency Management Organizations, and first responder agencies, and is intended to promote conceptual understanding, strengthen coordination, identify strengths and areas for improvement, and evaluate relevant plans, policies, or procedures.
- (v) “Train” means a locomotive unit or locomotive units, with or without cars, that require an air brake test pursuant to § 40-20-302(23), C.R.S.
- (w) “Wayside detector system” means an electronic device or a series of connected devices that monitors a passing train to determine whether the train has a defect, including, but not limited to, a hot bearings detector and a dragging equipment detection.

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[indicates omission of unaffected rules]

7333. [Reserved].

7334. Railroad Safety Training Requirements.

- (a) Offer of training
 - (I) On or before July 1, 2025, and at least once every three years thereafter, each railroad shall offer safety training to each fire department and other First Responder Organization along track upon which the railroad operates in the state. A railroad may offer such safety training simultaneously to more than one fire department and other First Responder Organization.

- (II) A Class II or Class III railroad may satisfy the training requirements of this rule 7334 by either:
 - (A) entering into an agreement with a Class I railroad to be a partner with the Class I railroad in its training program; or
 - (B) adopting the training programs provided by the Short Line Safety Institute.
- (b) Railroad safety training content.
 - (I) Railroad safety training is required to address the following subject matters:
 - (A) general hazards of hazardous materials;
 - (B) techniques to assess the risks posed to the public emergency responders, and the environment consistent with § 40-20-310(2)(a), C.R.S.;
 - (C) factors an incident commander must consider in determining whether to attempt to suppress a fire or to evacuate the public and emergency responders from an area;
 - (D) railroad-specific hazards;
 - (E) method and timing of communications between railroads and fire departments, Emergency Management Organizations, and First Responder Organizations, including emergency notification procedures during an incident;
 - (F) the railroad's procedures for promptly providing the train consist to the appropriate First Responder Organizations, and Emergency Management Organizations, consistent with § 40-20-310(2), C.R.S.;
 - (G) public notification processes;
 - (H) environmental contamination response;
 - (I) resource coordination;
 - (J) other strategies for initial response by emergency responders; and
 - (K) include safety drills that implement suggested protocols or practices for emergency responders to use to safely accomplish the tasks outlined in subparagraphs 7334(b)(I)(A-J) above.
 - (II) Railroad safety training may be offered through virtual based training, in-person/on-site training, or a combination of both. Training for the topics identified in subparagraphs 7334(b)(I)(A-K) above may be offered through a single course or may be addressed over a series of courses.

- (III) The railroads are required to keep records for each person receiving railroad safety training including date, time, location, and scope of training and should be available to the Commission upon request.
- (c) Railroad safety drills.
 - (I) Each railroad shall coordinate with the Department of Public Safety to conduct the following annual safety drills with other federal, regional, state, and local agencies:
 - (A) at least one hazardous materials response tabletop scenario involving a derailment and release of crude oil or other flammable materials;
 - (B) at least one hazardous materials response tabletop scenario involving a derailment involving inhalation hazards; and
 - (C) at least one oil containment, recovery, and sensitive area protection walkthrough; tabletop exercise; or functional exercise involving oil or hazardous substances.
 - (II) Every five years, each railroad shall conduct at least one full-scale functional exercise in coordination with Emergency Management Organizations and local fire chiefs, consistent with § 40-20-310(2)(b), C.R.S.
 - (III) Exercises shall be designed using scenarios and scopes aimed at thoroughly testing and applying the safety train concepts specified in paragraph 7334(b).
 - (IV) Any oil-spill or hazardous-substance response plan exercise required by a federal agency, state agency, Emergency Management Organization, or First Responder Organization may be conducted as part of, or in conjunction with, the railroad safety drills required under this paragraph 7334(c). Participation in such combined exercises shall satisfy the corresponding requirement of this subsection, provided that the combined exercise meets or exceeds the scope and objectives of the railroad safety drills described herein.
- (d) Communications.
 - (I) Railroads shall perform quarterly testing of communication between wayside detectors, trains, train crews, and railroad dispatch centers to ensure operational readiness throughout Colorado.
 - (II) Railroads shall update, on an annual basis, contact information for their dispatch center with the Department of Public Safety and the Public Safety Answering Point centers responsible for the area in which an accident or incident could occur.

7335. Incident Response Requirements.

- (a) A railroad that accommodates high-hazard flammable trains or high-hazard high-consequence hazardous material shall coordinate with the Department of Public Safety regarding emergency response and spill response capacity and planning.

- (b) Railroads shall coordinate incident response efforts with local law enforcement agencies and the Hazardous Materials Section of the Colorado State Patrol.
- (c) Each railroad shall coordinate with the Department of Public Safety regarding the adequacy of caches of equipment, supplies, and available staff to mitigate all hazards likely within the area covered by each cache, consistent with § 40-20-305(1)(a), C.R.S., and in assessing adequacy, consideration shall include:
 - (I) fire suppression foam and foam systems;
 - (II) absorbent materials and containment booms;
 - (III) specialized leak mitigation and repair kits;
 - (IV) chemical protective clothing;
 - (V) personnel decontamination supplies;
 - (VI) interoperable communication equipment; and
 - (VII) response times.
- (d) Railroads shall ensure that First Responder Organizations have access, as needed during an incident, to cached equipment owned or maintained by the railroad or its contractors that is necessary to respond to rail incidents.
- (e) The resources described in subparagraphs 7335(b)(I-VII) may be maintained:
 - (I) through partnerships with federal, state, county, or local agencies including local fire departments and police departments; or
 - (II) pursuant to contracts with other railroads or emergency response entities.
- (f) Nothing in this rule 7335 creates any duty for a local government, except that a local government may agree to assume duties delegated to the local government by a railroad.
- (g) A railroad may partner with one or more counties or other regional entities to support regional hazardous materials teams and capabilities, provided such partnerships are consistent with the definitions of “coordinate” and “adequacy” set forth in rule 7331.

7336. – 7339. [Reserved].