

Decision No. C25-0333

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25R-0180R

IN THE MATTER OF THE TEMPORARY RULES IMPLEMENTING THE RAILROAD SAFETY TRAINING REQUIREMENTS AND INCIDENT RESPONSE REQUIREMENTS, 4 CODE OF COLORADO REGULATIONS 723-7-7330 THROUGH 7335.

**COMMISSION DECISION
ADOPTING TEMPORARY RULES**

Issued Date: April 30, 2025

Adopted Date: April 30, 2025

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for immediate adoption of temporary rules to implement certain critical amendments to the Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings contained in 4 *Code of Colorado Regulations* (“CCR”) 723-7 (“Rail Rules”). The statutory provisions necessitating immediate issuance of these temporary rules, §§ 40-20-302, 40-20-305, and 40-20-310, C.R.S., were enacted in House Bill (“HB”) 24-1030, which became effective July 1, 2024. The Commission originally adopted temporary rules to implement these provisions of HB 24-1030 by Decision No. C25-0251, issued April 4, 2025, in Proceeding No. 25R-0156R. The Commission has since then identified three modifications, further described below, to the rule language referring to federal regulations that we find will improve these rules so that they more clearly incorporate by reference federal

regulations when intending to do so. Accordingly, the Commission finds it appropriate to re-issue, for immediate effect, replacement temporary rules.

2. As stated in our prior Decision No. C25-0251, these temporary rules are necessary to implement the new statutory safety training and incident response requirements for railroads, starting July 1, 2025. As a result, the Commission adopts for immediate effect the temporary rules shown in the attachments to this Decision in accordance with the rulemaking procedures prescribed in § 24-4-103(6), C.R.S., to ensure that railroads can timely fulfill the safety training and incident response requirements required in state law, and to thereby provide for the health, safety, and welfare of the public.

3. In accordance with § 40-2-108(2), C.R.S., these temporary rules are 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. These temporary rules are intended to supersede the prior temporary rules adopted by Decision No. C25-0251, issued April 4, 2025, in Proceeding No. 25R-0156R.

4. Attachments A and B to this Decision are the temporary rules in legislative (strikeout and underline) format modifying the Rail Rules and final version format, respectively. The temporary rules are also publicly available through the Commission's E-Filings system¹ at: https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=25R-0180R

B. Discussion, Findings, and Conclusions

5. On May 10, 2024, Governor Jared Polis signed into law HB 24-1030 enacting new railroad safety requirements in the State of Colorado. As relevant to this rulemaking, new

¹ From the *Electronic Filings* (E-Filings) system page (<https://www.dora.state.co.us/pls/efi/EFI.homepage>), the rules can also be accessed by selecting "Search" and entering this proceeding number (25R-0180R) in the "Proceeding Number" box and then selecting "Search."

§ 40-20-310(1), C.R.S., requires that “on or before July 1, 2025, and at least once every three years thereafter, each railroad shall offer training to each fire department and other first responder organization having jurisdiction along tracks upon which the railroad operates in the state[.]” This training is required of “each railroad,” which §§ 40-20-302(20) and (21), C.R.S., define as a person providing “railroad transportation,” which excludes rapid transit operations, public transportation, rail fixed guideway operations, or commuter passenger rail that is in an urban or suburban area and is not connected to a general or an interstate railroad system. The legislation requires training on the incident response requirements outlined in § 40-20-305, C.R.S., thus necessitating inclusion of information on incident response requirements in these temporary rules.

6. Given the imminent statutory deadline of July 1, 2025, for railroads to offer training, and as authorized by § 24-4-103(6)(a), C.R.S., the Commission finds that immediate adoption of temporary rules implementing these new statutory requirements is imperatively necessary to comply with state law and to provide for the health, safety, and welfare of the public. The temporary rules outline the safety training content, required safety drills, communications requirements, and incident response requirements. The Commission has opened a rulemaking to consider adoption of these rule changes with opportunity for public participation. *See* Decision No. C25-0250, issuing notice of proposed rulemaking in Proceeding No. 25R-0152R, issued April 4, 2025. In the interim, these temporary rules are necessary so that railroads subject to these safety training and incident response requirements can fully comply with the new law. Accordingly, by this Decision, we adopt for immediate effect temporary rules that implement the safety training and incident response requirements enacted in §§ 40-20-310, and 40-20-305, C.R.S., respectively, to allow Colorado railroads to timely offer the required training by July 1, 2025.

7. The adopted temporary rules are contained in the existing section of the Rail Rules titled “Railroad and Hazardous Materials Safety.” New Rule 7334 contains the rule provisions implementing the minimum railroad safety training requirements enacted in HB 24-1030. New Rule 7335 specifies the minimum incident response requirements for which training will be required under Rule 7334. Further, we have added corresponding definitions to existing Rule 7331 that are relevant to the railroad safety training and incident response requirements including definitions for the terms “Class I,” “Class II,” and “Class III” railroad, “hazardous material,” “incident,” “passenger rail system,” and “railroad transportation.”

8. The modifications to the temporary rules previously adopted by Decision No. C25-0251, issued April 4, 2025, in Proceeding No. 25R-0156R, are shown, for reference, in ~~strikeout~~ and underline format below:

Rule 7331(f)

“Hazardous material” has the meaning set forth in ~~49 CFR 171.8~~40-20-302(10), C.R.S.

Rule 7331(h)

“Incident” has the meaning set forth in ~~49 CFR 225.5~~40-20-302(13), C.R.S.

Rule 7334(b)(I)(E)

“... how the railroad will meet the notice and electronic train consist information requirements of the Pipeline and Hazardous Materials Safety Administration rules at 49 C.F.R. Part 174 sections 174.26 and 174.28, beginning July 24, 2025. The Commission incorporates by reference 49 C.F.R. Part 174, sections 174.26 and 174.28, issued by the Pipeline and Hazardous Materials Safety Administration, revised as of March 26, 2025. No later amendments or editions apply. Any person seeking information regarding how the incorporated material may be obtained or examined may contact the Director of the Commission or their designee, Colorado Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202. The incorporated material may be examined at any state publications depository library. The federal regulations are also available from the original issuing agency at: www.govinfo.gov/help/cfr;”

9. 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 Secretary of State for publication in *The Colorado Register*. If the Commission waits until permanent rules are in place, railroads in Colorado would not be able to meet this new statutory requirement to offer training on or before July 1, 2025. Thus, immediate adoption of these temporary rules implementing the statutory safety training and incident response requirements is imperatively necessary to comply with state law and to provide for the health, safety, and welfare of the public.

10. The statutory authority for the temporary rules is found, generally, at § 40-2-108, C.R.S. ("authorizing the Commission to promulgate rules necessary to administer and enforce Title 40") and § 24-4-103(6), C.R.S. ("allowing and specifying procedures for adoption of temporary rules") and, specifically, in HB 24-1030, as codified at §§ 40-20-302, -305, and -310, C.R.S. (containing statutory requirements for safety training and incident response and related defined terms).

II. ORDER

A. The Commission Orders That:

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

2. The temporary rules shall be effective on the Issued Date of this Decision. Such rules 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
April 30, 2025.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners