

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25R-0330R

IN THE MATTER OF THE PROPOSED AMENDMENTS TO 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 (SB) 25-052.

**RECOMMENDED DECISION
AMENDING RULES**

Issued Date: October 15, 2025

I. STATEMENT

A. Background

1. On August 6, 2025, the Colorado Public Utilities Commission (“Commission”) issued the Notice of Proposed Rulemaking (“NOPR”), commencing this proceeding to amend 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, 4 *Code of Colorado Regulations* (“CCR”) 723-7-7340 through 7363. Specifically, the Commission proposes to revise Rule 7349 of the Program Standard to implement and conform the rule to recent statutory changes affecting the confidential treatment of investigative reports, as enacted in Senate Bill (“SB”) 25-052, effective August 6, 2025, and codified at § 40-18-104, C.R.S.

2. The statutory authority for the proposed rule amendments is found, generally, at § 40-2-108, C.R.S. (authorizing the Commission to promulgate rules necessary to administer and enforce title 40) and, specifically, at § 40-18-104, C.R.S. (requiring the Commission to establish a

system safety override program for rail fixed guideway systems in Colorado), § 40-18-103, C.R.S. (authorizing the 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 the 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).

3. The amendments are available for review as Attachment A (legislative or redline) and Attachment B (clean) to this Recommended Decision, accessible through the Commission's Electronic Filings website at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=25R-0330R

4. Being fully advised in this matter and consistent with the discussion below, in accordance with § 40-6-109, C.R.S., the Administrative Law Judge now transmits to the Commission the record in this proceeding, along with a written recommended decision.

B. Procedural History

5. On August 6, 2025, the Commission issued the NOPR, Decision No. C25-0573, including attachments A and B to the Decision.

6. On August 6, 2025, the Commission filed the Confirmation of the E-filing of the NOPR with the Secretary of State for publication of hearing.

7. On August 6, 2025, the Commission filed the Confirmation of the E-filing of the NOPR with the office of the Regulatory Reform for review and notice.

8. The undersigned ALJ conducted a public comment hearing in this proceeding, as set forth in the NOPR, on September 29, 2025. No entity or individual provided any oral comment regarding the proposed rules.

II. FINDINGS, DISCUSSION, AND CONCLUSIONS

A. Discussion

9. No members of the public appeared to provide oral comment during the public comment hearing.

10. No other interested party provided written or oral comments in this proceeding.

11. The amendments to the rules, as shown in Attachment A (strikeout/redline format) and Attachment B (final format) to this Decision, reflect the rule changes discussed below.

1. Rule 7349 – Investigations and Reporting Procedures for Safety Events

12. Rule 7349 is amended to reflect the statutory changes enacted in SB 25-052 prescribing treatment of investigative reports adopted by the Commission after being compiled under the agency's authority 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.

13. Consistent with this change in law, Rule 7349 is amended to allow for investigative reports filed with the Staff of the Commission outside of a proceeding, in accordance with Rule 1102, 4 CCR 723-1, to remain confidential only while the Commission's investigation is ongoing. Once adopted by the Commission, a public version of the final report will be made available from the Commission's records, with certain redactions. Specifically, the rule is amended to incorporate new language into existing subparagraph (d)(IV) to require that 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. Further, once the Commission adopts an investigation report submitted to the Commission on or after August 6, 2025, as final, a public version shall be made available to the public, upon request, 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.

B. Conclusion

14. Attachment A to this Decision represents the rule amendments adopted by this Recommended Decision with modifications to the prior Rule 7349 being indicated in redline and strikeout format.

15. Attachment B to this Decision represents the rule amendments adopted by this Recommended Decision to the prior Rule 7349 in final form.

16. The adopted rules in legislative format (*i.e.*, strikeout/underline format as Attachment A) and final format (Attachment B) are available through the Commission's E-Filings in this proceeding (25R-0330R) at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=25R-0330R

17. It is found and concluded that the proposed rules as modified by this Recommended Decision are reasonable and should be adopted.

18. Pursuant to the provisions of § 40-6-109, C.R.S., it is recommended that the Commission adopt the attached rules.

III. **ORDER**

A. **The Commission Orders That:**

1. The Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* 723-7-7340 through 7363, contained in red-lined and strikeout format, attached to this Recommended Decision as Attachment A, and in final format, attached as Attachment B, are adopted.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

3. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
- b. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

4. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director