

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25R-0211R

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 723-7-7340 THROUGH 7363.

NOTICE OF PROPOSED RULEMAKING

Issued Date: May 29, 2025

Adopted Date: May 21, 2025

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I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (“Commission”) issues this Notice of Proposed Rulemaking (“NOPR”) to amend the Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings (“Rail Rules”). The proposed rules amend the existing Rail Rules contained in 4 *Code of Colorado Regulations* (“CCR”) 723-7-7340 through 7352, add to the Rail Rules new rules 7353 through 7359, and renumber the remaining rules in the Rail Rules regarding the State Safety Oversight (“SSO”) Program

Standard for Rail Fixed Guideway Public Transportation Systems (“rules 7340 through 7363, within the Rail Rules, are referred to as the SSO “Program Standard””).

2. The primary purpose of this rulemaking is to revise the Program Standard to conform to recently adopted rule changes at the federal level. First, the final Public Transportation Agency Safety Plan (“PTASP”) rules found at 49 *Code of Federal Regulations* (“C.F.R.”) Part 673 (“Part 673”), which were issued by the Federal Transit Administration (“FTA”) on April 11, 2024, and became effective on May 13, 2024. Second, the final Public Transportation Safety Certification Training Program rules found at 49 C.F.R. Part 672 (“Part 672”), which were issued by FTA on August 14, 2024, and became effective on November 1, 2024. Third, the new Rail Transit Roadway Worker Protection (“RWP”) rules found at 49 C.F.R. Part 671 (“Part 671”), which were issued by FTA on October 31, 2024, and became effective December 2, 2024. Finally, the final State Safety Oversight rules found at 49 C.F.R. Part 674 (“Part 674”), which were issued by FTA on October 18, 2024, and became effective on March 20, 2025.¹

3. The Commission does not propose amendments to rules 7100 through 7199 (“Operating Authority”), 7200 through 7299 (“Crossings and Warning Devices”), 7300 through 7339 (“General Safety”), and 7400 through 7404 (“Employment of Class I Railroad Peace Officers”) because there are no changes required through the above-mentioned authorities.

4. The proposed rule changes are set forth in legislative (*i.e.*, strikeout/redline) format in Attachment A to this Decision, and in final format in Attachment B to this Decision. The Commission encourages comments from interested persons. To the extent a participant

¹ By Notice issued February 24, 2025, FTA delayed the effective date for the Part 674 rules from January 1, 2025, to March 20, 2025.

disagrees with the proposed rules, comments should include suggested rule revisions, in legislative format.

5. 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 on July 7, 2025, at 11:30 a.m.

B. Proposed Rule Changes

6. We request that interested parties, including rail fixed guideways, rail fixed guideway systems, and transit agencies regulated by these rules, comment on the following rules and propose any alternative rules, in legislative format, that are consistent with the federal statutory and regulatory changes.

1. Basis, Purpose, and Statutory Authority

7. The basis, purpose, and statutory authority description is amended to remove “system safety” from the current system safety program standard for rail fixed guideway systems. FTA changed the system safety program standard to just be a Program Standard.

2. Rule 7000 - Scope and Applicability

8. Rule 7000(b)(V) is modified to reflect the addition of the new RWP rules and renumbering of the Program Standard rules from 7356 to 7363.

3. Rule 7002 - Applications

9. Rule 7002(a)(VI) is updated to refer to the public transportation agency safety plan, add the RWP manual application outlined in new rule 7357, and remove the system safety program plan and system security plan, which have been changed or removed from State Safety Oversight plan requirements.

4. Rule 7340 - Applicability

10. This rule is modified to reflect the addition of the new RWP rules.

5. Rule 7341 - Definitions

11. Several definitions in Rule 7341 have been added, deleted, or modified to align with the regulatory changes recently adopted at the federal level from Parts 672, 673, and 674. Definitions for Part 671 are included later in the new rules for RWP.

12. First, the definitions for accident, event, incident, and occurrence have been removed and replaced with the new definition for “safety event.” Pursuant to the Part 673 PTASP rules. The deleted terms have been removed from the Program Standard and the term “safety event” has been substituted throughout the Program Standard. Additionally, the terms “equivalent authority,” “performance target,” “risk assessment code,” “serious injury,” and “vehicle” have been removed.

13. Second, new definitions have been added to match the Part 673 PTASP rules including “assault on a transit worker,” “CDC,” “emergency,” “joint labor-management process,” “potential consequence,” “public transportation,” “roadway,” “safety committee,” “safety event,” “safety risk mitigation,” “safety set-aside,” and “transit worker.”

14. Third, some definitions have been changed to match the Part 673 PTASP rules including “accountable executive,” “near-miss,” “risk,” “safety management policy,” “safety management system,” “safety performance target,” “safety risk,” “safety risk assessment code,” and “safety risk management.”

15. Fourth, the definition for “substantial property damage” has been removed as part of FTA’s Part 674 SSO rule changes.

16. Fifth, new definitions have been added to match the Part 674 SSO rules including “collision,” “derailment,” “designated personnel,” “disabling damage,” “evacuation for life safety reasons,” “fatality,” “injury,” “rail transit vehicle,” “revenue vehicle,” “risk-based inspection program,” and “unintended train movement.”

17. Sixth, some definitions have been changed to match the Part 674 SSO rules including “contractor,” “corrective action plan,” “inspection,” “person,” “public transportation agency safety plan,” “public transportation safety certification training program,” “rail fixed guideway public transportation system,” “rail transit vehicle,” and “state safety oversight agency.”

18. Seventh, new definitions have been added to match the Part 672 final Public Transportation Safety Certification Training Program rules including “directly responsible for safety oversight,” “initial training,” and “safety review.”

19. These changes, removals, and new definitions require corresponding updates to cross-references contained in other rules within the Program Standard; these updates are reflected in the proposed rules.

6. Rule 7342 - Incorporation by Reference

20. Rule 7342 updates the list of federal regulations incorporated by reference into the Program Standard to add FTA’s Part 671 and Part 672 rules, which are now effective, and to update the effective date of the federal rules’ incorporation date.

7. Rule 7343 - State Safety Oversight Program Management, Policies, and Objectives

21. Rule 7343 makes changes to update rule references, substitute “PTSCTP” for “public transportation safety certification training program,” updates “vehicle” to “rail transit

vehicle,” replaces “employee” with “transit worker,” replaces “accident,” “incident,” “occurrence,” and “event” with “safety event,” replaces “Commission staff” with “SSOA staff,” removes “equivalent authority,” and replaces current rule language with updated rule language from FTA’s Part 674 rules.

8. Rule 7344 - State Safety Oversight Program Standard Development

22. Rule 7344 makes a change to update a rule reference and replaces “Commission staff” with “SSOA staff.”

9. Rule 7345 - Public Transportation Agency Safety Plan (“PTASP”)

23. Rule 7345 makes changes to language to match the changed language in FTA’s Part 673 rules, replaces “employee” with “transit worker,” changes “personnel” to “transit worker,” makes changes to rule references resulting from the Part 671 RWP rules, adds training rule requirements for safety certification and training for those responsible for safety as a result of changes to the Part 672 Public Transportation Safety Certification Training Program changes, adds safety training requirements for those rail transit agency (“RTA”) employees that are not directly responsible for safety, and adds additional safety committee procedure requirements.

10. Rule 7346 – Submittal and Review of the PTASP

24. Rule 7346 updates rule references included in this section.

11. Rule 7347 - Corrective Action Plan (“CAP”)

25. Rule 7347 is modified to update rule references included in this section, updates defined words in this section, adds a timeline for submission of emergency corrective actions for high safety risk assessment codes that are directly overseen by the Commission and a timeline for submission of serious safety risk assessment codes that the Commission allows SSOA staff

initial review and approval, and adds requirements for interim corrective actions that need to be taken immediately for serious safety risk assessment codes (such as information to include in daily train orders, bulletin distribution, or emergency training to ensure safety) for the RTA to immediately notify SSOA staff by email and follow-up with information for subsequent review and initial approval by SSOA staff within 15 days.

12. Rule 7348 - Safety Event Notification

26. Rule 7348 is modified to remove the word “accident” and insert “safety event,” changes the reportable safety event requirements to match the new safety event reporting requirements in the Part 674 SSO rules, revises changes made to definitions in the rules, and adds that two-hour notification requirements do not apply to criminal actions resulting in fatalities and injuries such as homicides and assaults. Finally, the National Transit Database reporting requirements are removed from the rules.

13. Rule 7349 - Investigations and Reporting Procedures for Safety Events

27. Rule 7349 is revised to incorporate changes made to definitions in the rules, to update rule references, and to clarify that safety event reports, but not CAPs, are to be filed as highly confidential.

14. Rule 7350 - Investigations and Reporting Procedures for Hazards

28. Rule 7350 is revised to incorporate changes made to definitions in the rules, updates rule references, and to change the definition of some of the hazards to be reported. The reporting of broken rail causing impassable track was confusing as impassable track was not defined in the rules. This reporting requirement is being changed to use the RTA’s Track Standards manual definition of any track condition that prevents train movement over a section

of track as reportable if it is not including maintenance and repair efforts that are temporally causing no train movement over the track. A second reportable hazard is being changed to better identify what constitutes a near-miss collision. The change includes the definition for near-miss and lists the specific individuals included as well as motorized vehicles and non-motorized vehicles to account for near-miss collisions with electric motorized scooters, pedicabs, bicyclists and pedestrians. Additionally, changes are being made to the definitions of severity categories changing “grave” to “severe,” “significant” to “serious” and “modest” to “limited” in both the definition matrix and the safety risk assessment matrix. The term “probability” is also proposed to be changed to “likelihood” in the definition matrix and the safety risk assessment matrix to match the language in Part 673 and Part 674 rules.

15. Rule 7351 - Safety Risk Based Inspection Program

29. Rule 7351 is revised to incorporate changes made to definitions in the rules, adds vehicle testing to the maintenance data that the Commission will collect, and corrects a typo from “date” to “data.” Two minor changes are proposed for Rule 7351. One change is to add to the internal safety review process a requirement to provide the internal review schedule for the three-year internal safety review cycle. The second is to clarify that the 30-day notification requirement is to allow Commission Staff to observe the internal review.

16. Rule 7352 - RTA Internal Safety Reviews

30. Rule 7352 is revised to incorporate changes made to definitions in the rules.

17. Rail Transit Roadway Worker Protection - Rules 7353 through 7359

31. A new section is added to the Program Standard to incorporate the requirements of FTA’s new Part 671. Part 671 is a new requirement that establishes minimum safety standards for RWP and oversight requirements of the Commission and SSOA staff. Since there are a

substantial number of new definitions and requirements, the rail transit RWP is being added as its own section within the Program Standard.

18. Rule 7353 - Applicability

32. Proposed rule 7353 notes that rules 7353 through 7359 are applicable to the rail transit RWP rules.

19. Rule 7354 - Definitions

33. Proposed rule 7354 outlines the new definitions that apply to the RWP rules and includes definitions for “ample time,” “equivalent entity,” “equivalent protection,” “flag person,” “foul time protection,” “fouling a track,” “individual rail transit vehicle detection,” “job safety briefing,” “lone worker,” “maximum authorized speed,” “minor tasks,” “on-track safety,” “place of safety,” “qualified,” “rail transit vehicle approach warning,” “redundant protection,” “roadway maintenance machine,” “roadway worker,” “roadway work group,” “roadway worker in charge,” “roadway worker protection,” “RWP manual,” “sight distance,” “track access guide,” “track zone,” “transit worker safety reporting program,” “watchperson,” “working limits,” and “work zone.”

20. Rule 7355 - RWP Program and RWP Program Manual

34. Proposed rule 7355 outlines all of the elements from Part 671 for how a RTA is required to develop its RWP program and RWP manual including all of the elements outlined in Proposed rule 7358, transit worker responsibilities, training qualification and supervision, processes and procedures, reference to a track access guide to support on-track safety, and distribution requirements.

21. Rule 7356 - RTA and Transit Worker Responsibilities

35. Proposed rule 7356 outlines all the RTA responsibilities for RWP from Part 671 and all the transit worker responsibilities in the RWP including that the RTA provide ample time to determine appropriate sight distance, ensure that vehicle detection is not the only form of protection, provide job safety briefings at prescribed times, provide transit workers the right to a good faith challenge, ensure transit workers are qualified to enter a track zone, provide escorts to support individuals that are not RWP certified, and establish equipment and protection requirements for on-track safety. Additionally, transit workers are responsible for following the program, must receive permission to foul the track, acknowledge protections providing on-track safety, and must follow prescribe terms for when a transit worker may refuse to foul the track and transit worker reporting.

22. Rule 7357 - Commission and SSOA Staff Responsibilities

36. Proposed rule 7357 includes all Commission and SSOA staff responsibilities for oversight of the new RTA RWP program. These responsibilities include review and approval of the RTA RWP program elements, a description of the RWP oversight that will be performed by the Commission and SSOA staff, and a requirement for an annual RWP program audit.

23. Rule 7358 - Required RWP Program Elements

37. Proposed rule 7358 outlines the elements that an RTA is required to include in the RWP program and program manual. These elements include roadway worker in charge requirements, job safety briefing policies, lone worker requirements, good faith safety challenge requirements, risk-based redundant protections, requirements for the RWP training and qualification program, and requirements for and RWP compliance monitoring program.

24. Rule 7359 - RWP Program Recordkeeping

38. The last rule in the new proposed RWP rules is rule 7359, which outlines all documentation a RTA must keep as part of their RWP program.

25. Rule 7360 - Commission Safety Audits

39. Rule 7360 rennumbers the rule, incorporates changes made to definitions in the rules, and eliminates making recommendations to an RTA during an audit and limits the results of audits to either findings of noncompliance or no findings of noncompliance.

**26. Rule 7361 - Safety Oversight of Rail Fixed Guideway System Design,
Construction, Pre-Operational testing and Operation Start-Up
Rule 7362 - Inspection of Records
Rule 7363 - Variances**

40. Rules 7361, 7362, and 7363 are renumbered. The first of the reserved numbers is also renumbered to 7364.

C. Conclusion

41. The statutory authority for the rules is found, generally, at § 40-2-108, C.R.S. (authorizing Commission to promulgate rules necessary to administer and enforce Title 40) and, specifically, at § 40-18-102, C.R.S. (requiring Commission to establish SSO program), § 40-18-103, C.R.S. (authorizing Commission to promulgate rules to implement SSO program and require that state program complies with federal requirements of Part 674), and § 40-18-104, C.R.S. (directing that investigation reports of the Commission compiled under article 18 shall be confidential).

42. 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.

43. The proposed rules in legislative (*i.e.*, strikeout/redline) format (Attachment A) and final format (Attachment B) are available through the Commission's E-Filings System under this Proceeding at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=25R-0211R

44. The Commission encourages and invites public comment on all proposed rules. We request that commenters propose any changes in legislative redline format. Initial written comments on the proposed rule changes are requested by June 23, 2025. Any person wishing to file comments responding to the initial comments is requested to file such comments by June 30, 2025. These deadlines are set so that the comments and responses may be considered at the public hearing conducted by the ALJ, nonetheless, persons may file written comments into this Proceeding at any time.

45. The Commission prefers that written comments be filed using the Commission's E-Filings system under this Proceeding at: <https://www.dora.state.co.us/pls/efi/EFI.homepage>.

46. Finally, the Commission recognizes that there will necessarily be a transition period after these rule amendments become effective, during which time the transit agencies will be required to develop a RWP program and develop a RWP manual to be submitted conforming to the new rules. All transit agencies will be allowed to submit their RWP manual conforming to the new rules by November 1, 2025, as required by Rule 7346.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking (“NOPR”), including Attachment A in legislative (*i.e.*, strikeout/redline) format, and Attachment B in final format to this Decision, shall be filed with the Colorado Secretary of State for publication in the June 10, 2025 edition of *The Colorado Register*.

2. This matter is referred to an Administrative Law Judge (“ALJ”) for the issuance of a Recommended Decision.

3. The rulemaking hearing on the proposed rules and related matters shall be held before an ALJ, as follows:

DATE: July 7, 2025

TIME: 11:30 a.m. until not later than 5:00 p.m.

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

4. Written comments may be filed at any time in this Proceeding. Initial written comments are requested to be filed no later June 23, 2025, and any comments responsive to the initial comments are requested to be filed no later than June 30, 2025, so that the initial comments and responsive comments may be considered at the hearing.

5. At the time set for hearing, interested persons may submit written comments and may present these orally, unless the ALJ deems oral comments unnecessary. The Commission will consider all comments, whether written or oral.

6. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 21, 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