

Decision No. C25-0390

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25R-0212R

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 723-7-7340 THROUGH 7363.

**COMMISSION DECISION
ADOPTING TEMPORARY RULES**

Issued Date: May 29, 2025

Adopted Date: May 21, 2025

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for immediate adoption of temporary rules to implement 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 Federal Transit Administration (“FTA”) has recently made rule changes that we find necessitate immediate issuance of these temporary rules. The FTA rules include 49 *Code of Federal Regulations* (“C.F.R.”) Part 673 (“Part 673”) issued April 11, 2024 and effective May 13, 2024; 49 C.F.R. Part 672 (“Part 672”) issued August 14, 2024 and effective November 1, 2024; 49 C.F.R. Part 671 (“Part 671”) issued October 31, 2024 and effective December 2, 2024; and 49 C.F.R. Part 674 (“Part 674”) issued October 18, 2024 and effective

March 20, 2025.¹ These temporary rules are necessary to implement the updates to the State Safety Oversight (“SSO”) Program Standard to incorporate new federal requirements already in effect. Accordingly, and as discussed below, the temporary rules are adopted without compliance with the rulemaking procedures prescribed in § 24-4-103, C.R.S., so that the Commission and the rail transit agencies operating in Colorado can be in compliance with the new federal requirements, and to thereby provide for the health, safety, and welfare of the traveling public in Colorado.

2. 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.

3. The temporary 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 temporary rules are also publicly available through the Commission’s E-Filings system² at: https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=25R-0212R

B. Discussion, Findings, and Conclusions

4. Through these temporary rules, the Commission incorporates into the Rail Rules the new federal requirements FTA promulgated during calendar year 2024 including new rule, Part 671, and updates to existing rules, Parts 672, 673, and 674.

5. FTA’s Part 671 comprises entirely new Rail Transit Roadway Worker Protection (“RWP”) rules. Part 672 updates FTA’s existing Public Transportation Safety Certification

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.

² 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-0212R) in the “Proceeding Number” box and then selecting “Search.”

Training Program rules. Part 673 updates FTA's existing Public Transportation Agency Safety Plan ("PTASP") rules. And Part 674 updates FTA's existing SSO rules.

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 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 FTA rules. Thus, immediate adoption of these temporary rules implementing the effective FTA rules is imperatively necessary to comply with federal and state law and to provide for the health, safety, and welfare of the public.

7. The temporary rules 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 rules is found, generally, at § 40-2-108, C.R.S. (authorizing 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, at § 40-18-102, C.R.S. (requiring Commission to establish SSO program) and § 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).

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)(a), 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
May 21, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners