

## **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, 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, 40-29-110, and 40-32-108, C.R.S.

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[indicates omission of unaffected rules]

##### **GENERAL PROVISIONS**

##### **7000. Scope and Applicability.**

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[indicates omission of unaffected rules]

(b) Except as otherwise required by law, the Commission's jurisdiction over rail fixed guideway systems shall be limited to matters concerning the following rules:

- (I) 7001 – 7003;
- (II) 7006 - 7007;
- (III) 7200 – 7213;

- (IV) 7301; and
- (V) 7340 – 7356.

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[indicates omission of unaffected rules]

**State Safety Oversight Program Standard for Rail Fixed Guideway Public Transportation Systems**

**7340. Applicability.**

Rules 7341 through 7356 apply to all transit agencies and rail fixed guideway systems operating within the State of Colorado, which agencies or systems are regulated by the Commission pursuant to Title 40, Article 18, C.R.S.

**7341. Definitions.**

The following definitions apply only in the context of rules 7341 through 7356:

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[indicates omission of unaffected rules]

- (dd) “Program standard” means the standards in rules 7340 through 7356, which codify the policies, objectives, responsibilities, and procedures used to provide RTA safety oversight.

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[indicates omission of unaffected rules]

**7343. State Safety Oversight Program Management, Policies and Objectives.**

The Commission is the established SSOA for Colorado. The Commission has the statutory authority under § 40-18-102, C.R.S. and obligation to establish a state safety oversight program and minimum safety standards for RFGPTS’s under its jurisdiction in accordance with the “Moving Ahead for Progress in the 21<sup>st</sup> Century Act”, 49 U.S.C. sec. 5329, and Title 49 C.F.R. Part 674, which replaced Title 49 C.F.R. Part 659.

- (a) Commission policies and objectives governing state safety oversight activities.
  - (I) The Commission’s statutory charge in rail matters is to prevent accidents and promote public safety.
  - (II) The Commission is responsible for establishing standards for RFGPTS safety and procedures to be used by the RTA. The Commission’s program standard outlined in rules 7340 to 7356 is consistent with the NPTSP, the public transportation safety certification training program, the rules for PTASP’s, and all applicable federal and state laws.

- (III) The Commission is responsible for overseeing the safety performance of RTA practices and procedures, RTA internal safety reviews, and the RTA PTASP to ensure compliance with the program standard and compliance with 49 C.F.R. Part 674 through audits once every three years of the RTA PTASP and in an on-going manner.
- (IV) The Commission has authority to access and enter each RTA the Commission oversees. This access includes both with advanced notice and without advance notice. Access to restricted areas must be allowed with an appropriate attendant. Access includes, but is not limited to, vehicle repair and maintenance facilities, signal and power facilities, control center, track facilities, and training facilities.
- (V) The Commission must be allowed the capability to physically access each RTA the Commission oversees through an access key card, physical keys, or other method used by the RTA.
- (VI) The Commission's access will be dependent on the necessary safety training and requirements to safely access facilities including, but not limited to, on-track safety training, use of personal protective equipment, facility safety awareness, lock out tag out training, and accompaniment of an RTA employee with appropriate communication devices.
- (VII) The Commission has authority to investigate any allegation of noncompliance with the program standard, the RTA PTASP, and the RTA safety policies, practices and procedures pursuant to its statutory authority and federal authority.
- (VIII) The Commission has the authority and capability to audit, inspect, investigate, and enforce the program standard, the RTA PTASP, the RTA safety policies, practices and procedures, address imminent threat to public safety on a RFGPTS, and address non-responsiveness of a RTA to respond to identified issues and implement corrective action in a timely manner. The Commission authority and capability includes inspection of activities, infrastructure, equipment, records, personnel, and data of the RTA.
- (IX) The Commission has the primary responsibility for the investigation of an accident on a RFGPTS. The Commission may allow the RTA to perform an accident investigation on its behalf.
- (X) The Commission may enter into an agreement with a contractor for assistance in overseeing accident investigations, performing independent accident investigations, and reviewing incidents and occurrences, and for expertise the Commission does not have within its own organization.
- (XI) All SSOA staff and contractors the Commission may employ to work on the Commission's behalf, including those conducting investigations, must comply with the requirements of the public transportation safety certification training program as applicable.
- (XII) SSOA staff shall develop a process and procedures manual to outline how Commission staff will conduct activities necessary to meet the requirements of the program standard.

Any policies and procedures developed by SSOA staff must be developed in consultation with each RTA overseen by the Commission.

**7344. State Safety Oversight Program Standard Development**

The Commission will work with Commission staff and affected RTA's to develop any necessary changes that may need to be made to revise minimum standards for safety and update the program standard in rules 7340 through 7356 as required or as needed. The Commission will require Commission staff to review the program standard and any procedures manuals at least annually to determine if changes are required or needed. The Commission will use its rulemaking proceeding, as outlined in rule 1306, to review, adopt, and revise its minimum standards for safety and will distribute those revised standards through publication in the Colorado Register upon completion of the rulemaking process and through its website.

**7345. Public Transportation Agency Safety Plan.**

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[indicates omission of unaffected rules]

- (c) Safety assurance. The safety assurance section of the PTASP shall develop and implement a safety assurance process that will be comprised of the following activities including: safety performance monitoring and measurement, management of change, and continuous improvement.

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[indicates omission of unaffected rules]

- (III) Continuous improvement.

- (A) The RTA must establish a process to assess its safety performance.

- (i) Assessment of safety performance must include a process and procedure for conducting, at a minimum annually, planned and scheduled internal safety reviews and safety assessments to evaluate compliance with the PTASP and comply with rule 7352 including the review and modification of the PTASP based upon the results. This procedure shall include the following:

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[indicates omission of unaffected rules]

**7346. Submittal and Review of the Public Transportation Agency Safety Plan.**

- (a) On or before November 1st of the first year of operation for new systems, and each November 1st thereafter, each RTA subject to rules 7340 through 7356 shall file its PTASP as an application

for Commission approval. The Commission shall give ten days' notice of the filing of the application.

- (b) On or before December 20th, the Commission shall review the plan and shall approve the plan that complies with rules 7340 through 7356. All plans approved shall be approved by Commission order.

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[indicates omission of unaffected rules]

**7351. Risk Based Inspection Program.**

- (a) The Commission shall develop a risk-based inspection program. The SSOA staff process and procedures manual must address:
  - (I) scheduling inspections;
  - (II) inspection reports;
  - (III) event safety concerns;
  - (IV) inspections of equipment, infrastructure, and practices specific to each rail fixed guideway public transportation system;
  - (V) safety event verification;
  - (VI) ongoing monitoring;
  - (VII) defects and corrective or remedial action; and
  - (VIII) CAP and safety risk mitigation verification.
- (b) Each RTA must provide the Commission with the data collected by the RTA when identifying hazards, and assessing and mitigating safety risk. The SSOA staff process and procedures manual must define and identify:
  - (I) safety data sets to be shared with the Commission;
  - (II) processes and procedures for sharing data with the Commission; and
  - (III) the frequency that the data will be shared with the Commission.
- (c) Safety program data that the Commission will collect includes:
  - (I) records of events including primary source information from each RTA investigation if the RTA completes investigations on behalf of the Commission;

- (II) hazard records including hazard source, associated consequences, safety risk ratings, and the status of any mitigations;
  - (III) safety risk mitigation records including before and after risk ratings and how the RTA monitors the implementation and effectiveness of safety risk mitigations;
  - (IV) CAP's; and
  - (V) records of near misses.
- (d) Maintenance data that the Commission will collect includes:
- (I) inspection and maintenance records and report forms;
  - (II) work orders;
  - (III) records of failures and defects;
  - (IV) records of revenue vehicles out of service, including causal information;
  - (V) major maintenance activity schedule and progress; and
  - (VI) adherence to maintenance schedules, including reports and documentation of deferred maintenance.
- (e) Inspection data that the Commission will collect includes:
- (I) inspection records and report forms;
  - (II) records of failures and defects;
  - (III) records of speed restrictions;
  - (IV) event and safety risk mitigation verification;
  - (V) adherence to inspection schedules including reports and documentation of inspections not performed; and
  - (VI) capital project schedules and progress.
- (f) SSOA staff shall develop policies and procedures regarding how the data management system will;
- (I) store and use data sets for analysis;
  - (II) where data sets will be stored;
  - (III) will organize the data;

- (IV) document how long records must be kept;
  - (V) when and how records will be disposed;
  - (VI) ensure the system is maintained;
  - (VII) ensure the system accurately stores records; and
  - (VIII) Security Sensitive Information will be protected.
- (g) The Commission's data management system is required to have the capacity to store all data and records collected by the Commission and is required to accurately store data and records collected by the Commission.
- (h) The Commission shall specify and develop in the SSOA staff process and procedures manual a prioritization process for the risk-based inspection program.
- (i) The Commission shall require the SSOA staff process and procedures manual to outline data analysis procedures that will:
- (I) specify the safety metrics used to prioritize inspections by evaluating relevant data; and
  - (II) include comprehensive data analysis of safety program metrics data, maintenance data, and inspection data types.
- (j) The Commission shall require the SSOA staff process and procedures manual to outline safety risk prioritization ratings that will:
- (I) explain how the data regarding safety risks will be analyzed and used to prioritize inspection activities; and
  - (II) determine how to scale the prioritization ratings.
- (k) The Commission shall require the SSOA staff process and procedures manual regarding inspection prioritization what will:
- (I) identify and prioritize safety risks for each RTA; and
  - (II) describe how to prioritize inspections for each RTA.
- (l) The risk-based inspection and prioritization process shall be a continuous process for each RTA overseen by the Commission and the SSOA staff process and procedures manual will:
- (I) specify the frequency of data analysis, safety risk prioritization, and inspection prioritization for each RTA;
  - (II) perform at least four onsite risk-based inspections per RTA per year; and
  - (III) analysis shall be performed at least once per year.

- (m) The Commission shall require the SSOA staff process and procedures manual will be written such that risk-based inspections can be performed commensurate with the complexity of each RTA the Commission oversees.

**7352. RTA Internal Safety Reviews.**

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[indicates omission of unaffected rules]

**7353. Commission Safety Audits.**

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[indicates omission of unaffected rules]

**7354. Safety Oversight of Rail Fixed Guideway System Design, Construction, Pre-Operational Testing and Operation Start-Up.**

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[indicates omission of unaffected rules]

**7355. Inspection of Records.**

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[indicates omission of unaffected rules]

**7356. Variances.**

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[indicates omission of unaffected rules]

**7357. – 7399. [Reserved].**