

Decision No. C24-0372

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24R-0253R

IN THE MATTER OF THE TEMPORARY RULES IMPLEMENTING THE STATE SAFETY OVERSIGHT PROGRAM STANDARD FOR RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS, 4 CODE OF COLORADO REGULATIONS 723-7-7340 THROUGH 7355.

COMMISSION DECISION ADOPTING TEMPORARY RULES

Mailed Date: May 31, 2024

Adopted Date: May 29, 2024

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission adopts temporary rules to implement the new risk-based inspection program by updating the State Safety Oversight Program Standard for Rail Fixed Guideway Systems (Program Standard) pursuant to the procedures prescribed in § 24-4-103(6)(a), C.R.S. The temporary rules amend the Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings contained in 4 *Code of Colorado Regulations* 723-7-7343 and 723-7-7351. These temporary rules implement the new Program Standard requirements to implement the requirements of the Federal Transit Administration (FTA) issued risk-based inspection (RBI) program special directive (RBI Special Directive) issued to the Commission on October 21, 2022, as required by 49 U.S.C. § 5329(k)(5) and 49 *Code of Federal Regulations* (CFR) Part 670.

2. As discussed below, the temporary rules are adopted without compliance with the rulemaking procedures prescribed in § 24-4-103, C.R.S., in order to ensure the Commission can timely comply with federal law and regulation, and preserve public health, safety, and welfare for Colorado's traveling public. 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.

B. Discussion, Findings, and Conclusions

3. On October 21, 2022, the FTA issued the RBI Special Directive to the Commission as required by 49 U.S.C. § 5329(k)(5) and 49 CFR Part 670. The RBI Special Directive requires the Commission to submit documentation that demonstrates that the State Safety Oversight Agency (SSOA), the Commission, has developed a risk-based inspection program in accordance with the RBI Special Directive and the criteria set forth in 49 U.S.C. § 5329(k)(5) within two years of the issuance of the RBI Special Directive, and requires that within one year of the FTA's approval of the SSOA's RBI program, submit documentation that demonstrates the SSOA has implemented that approved program for at least six months. If the Commission does not comply with the RBI Special Directive, it could lead to the withholding of FTA SSOA grant funds.

4. By this Decision, we adopt temporary rules that implement the RBI Special Directive compliant Program Standard to allow Colorado to timely submit its application for RBI program review and approval.

5. 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 to file its application with the FTA for certification of compliance with the RBI Special Directive, this would likely leave the FTA only a few months before the October 22, 2024 compliance date to review the application and approve Colorado's RBI program. Further, should any issues arise during the rulemaking process that would require additional hearings and delay the Commission's adoption of the permanent rules, the Commission may not be able to file its application by the FTA's submission deadline. Submitting a late application risks not achieving certification of the RBI program by October 22, 2024 compliance deadline and jeopardizes the Commission's critical FTA SSOA transit funding.

6. We find that this matter requires our immediate and continuing attention to comply with federal law and regulation, and to protect public safety in Colorado. We also find that the time that will transpire before completing a permanent rulemaking for the Program Standard risks timely compliance with federal law and regulation, and the safety of the traveling public in Colorado. Thus, immediate adoption of temporary rules implementing the Program Standard is imperatively necessary to timely comply with federal law and regulation, and preserve public health, safety, and welfare for Colorado's traveling public.

7. The temporary rules shall be effective on the mailed date of this Decision and shall remain in effect until permanent rules become effective or for 210 days, whichever period is less. In the permanent rulemaking that will be opened concurrently with these temporary rules, we will put forth the Program Standard for permanent rules.

8. The statutory authority for the temporary rules is found at §§ 24-4-101 *et seq.*, 40-18-101, -102, -103, and -104, C.R.S.

9. Attachments A and B to this Decision are the temporary rules in legislative (strikeout and underline) format 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=24R-0253R.

II. ORDER

A. The Commission Orders That:

1. The rules in final version format 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 mailed 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 applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

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 (24R-0245R) in the "Proceeding Number" box and then selecting "Search".

4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 29, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners

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.

* * * *

[indicates omission of unaffected rules]

GENERAL PROVISIONS

7000. Scope and Applicability.

* * * *

[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 – 73546.

* * * *

[indicates omission of unaffected rules]

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

7340. Applicability.

Rules 7341 through 73556 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 73556:

* * * *

[indicates omission of unaffected rules]

- (dd) “Program standard” means the standards in rules 7340 through 73556, which codify the policies, objectives, responsibilities, and procedures used to provide RTA safety oversight.

* * * *

[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 21st 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 73556 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~~may 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 735~~56~~ 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.

* * * *

[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.

* * * *

[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 735~~42~~ including the review and modification of the PTASP based upon the results. This procedure shall include the following:

* * * *

[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 735~~56~~ 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 7355~~6~~. All plans approved shall be approved by Commission order.

* * * *

[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.

73524. RTA Internal Safety Reviews.

* * * *

[indicates omission of unaffected rules]

73532. Commission Safety Audits.

* * * *

[indicates omission of unaffected rules]

73543. Safety Oversight of Rail Fixed Guideway System Design, Construction, Pre-Operational Testing and Operation Start-Up.

* * * *

[indicates omission of unaffected rules]

73554. Inspection of Records.

* * * *

[indicates omission of unaffected rules]

73565. Variances.

* * * *

[indicates omission of unaffected rules]

73576. – 7399. [Reserved].

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.

* * * *

[indicates omission of unaffected rules]

GENERAL PROVISIONS

7000. Scope and Applicability.

* * * *

[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.

* * * *

[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:

* * * *

[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.

* * * *

[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 21st 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.

* * * *

[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.

* * * *

[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:

* * * *

[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.

* * * *

[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.

* * * *

[indicates omission of unaffected rules]

7353. Commission Safety Audits.

* * * *

[indicates omission of unaffected rules]

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

* * * *

[indicates omission of unaffected rules]

7355. Inspection of Records.

* * * *

[indicates omission of unaffected rules]

7356. Variances.

* * * *

[indicates omission of unaffected rules]

7357. – 7399. [Reserved].