

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 22R-0070R

---

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 7352.

---

**NOTICE OF PROPOSED RULEMAKING**

---

---

Mailed Date: February 10, 2022  
Adopted Date: February 2, 2022

**TABLE OF CONTENTS**

I.	BY THE COMMISSION .....	2
A.	Statement .....	2
B.	Proposed Rule Changes .....	3
1.	Rule 7340 - Applicability .....	4
2.	Rule 7341 - Definitions .....	4
3.	Rule 7342 - Incorporation by Reference .....	5
4.	Rule 7345 - Public Transportation Agency Safety Plan (PTASP).....	5
5.	Rule 7347 - Corrective Action Plan (CAP).....	5
6.	Rule 7348 - Accident Notification .....	6
7.	Rule 7349 - Investigations and Reporting Procedures for Accidents .....	6
8.	Rule 7350 - Investigations and Reporting Procedures for Hazards .....	7
9.	Rule 7351 - RTA Internal Safety Reviews.....	8
10.	Rule 7352 - Commission Safety Audits .....	8
C.	Conclusion.....	9
II.	ORDER.....	10
A.	The Commission Orders That: .....	10
B.	ADOPTED IN COMMISSIONERS’ WEEKLY MEETING February 2, 2022.....	11

**I. BY THE COMMISSION****A. Statement**

1. The Colorado Public Utilities Commission (Commission) issues this Notice of Proposed Rulemaking to amend the Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings contained in 4 *Code of Colorado Regulations* 723-7-7340 through 7352 regarding the State Safety Oversight (SSO) Program Standard for Rail Fixed Guideway Public Transportation Systems (Rules 7340 through 7355 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* (CFR) Part 673 (Part 673), which were issued by the Federal Transit Administration (FTA) on July 19, 2018 and became effective on July 19, 2019. Second, the final Public Transportation Safety Certification Training Program Rules found at 49 CFR Part 672 (Part 672), which were issued by FTA on July 19, 2018 and became effective on August 20, 2018.

3. In addition, the Commission proposes to add a new rule requirement that rail transit agencies install forward facing and in-cab facing cameras. This requirement comes from the NTSB Safety Recommendation No. R-17-013, adopted August 24, 2017, which requires the installation of forward facing and in-cab facing cameras as investigative and safety tools.

4. Finally, the Commission also proposes in this rulemaking to implement certain changes to the method of reporting accidents to the Commission and to the investigations and

reporting procedures for hazards. The intent of these changes is to reduce the paperwork involved and thereby make the reporting process more efficient.

5. The Commission does not propose amendments to Rules 7000 through 7099 (General Provisions), 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.

6. The proposed rule changes are set forth in legislative (*i.e.*, strikeout and underline) 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 disagrees with the proposed rules, comments should include suggested rule revisions, in legislative format.

7. 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 March 21, 2022 at 9:00 a.m.

#### **B. Proposed Rule Changes**

8. 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. Rule 7340 - Applicability**

9. This rule is modified to clarify that the rules apply to all transit agencies and rail fixed guideway systems operating within Colorado, which *agencies or* systems are regulated by the Commission.

**2. Rule 7341 - Definitions**

10. A number of definitions in Rule 7341 have been modified to align with the regulatory changes recently adopted at the federal level.

11. First, a definition for “cameras” is added to define the cameras required to be installed by the NTSB Safety Recommendation No. R-17-013.

12. Second, the definition for “public transportation safety certification training program” is modified to conform to the final Part 672 Rules. A new “performance measure” definition replaces “performance criteria” as a result of the final Part 673 Rules.

13. Third, the definition for “corrective action plan” is updated in light of the proposed changes to the risk assessment code matrix in the Program Standard. A definition for “near miss” is proposed to provide a distinction between events and events that were close calls. In addition, new definitions are added for the terms “procedure” and “process,” as these terms are used substantially through the proposed rules and through rail transit agency audit checklists. The definition of “safety risk evaluation” is changed to “safety risk assessment” to conform to the final Part 673 Rule.

14. Finally, the definition for “system safety program plan” (SSPP) has been removed as the Commission adopted PTASP rules with its Program Standard in 2018, so the SSPP is no longer a necessary document in the Commission’s rules.

15. These changes 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.

### **3. Rule 7342 - Incorporation by Reference**

16. The list of federal regulations incorporated into the Program Standard is updated to remove the outdated incorporation of Part 659.19 as the SSPP is no longer a document that is necessary, to add the final Part 673 Rules now effective, and to remove the reference to MIL Standard 882E as a new risk assessment matrix has been developed for use that is more uniform than the MIL Standard 882E. The proposed rules also add that the incorporated federal regulations are available from the original issuing agency at: <https://www.govinfo.gov/help/cfr>.

### **4. Rule 7345 - Public Transportation Agency Safety Plan (PTASP)**

17. Proposed Rule 7345 removes references to Part 659.19, removes parts of the Program Standard that were added because they were contained in FTA's draft Part 673 Rules but were not in the final Part 673 Rules, removes many redundancies that were contained in the Program Standard because of referencing information from Part 659.19 and FTA's draft Part 673 Rules, and reorders the remaining language to sort the PTASP requirements into the Safety Management System elements outlined in the final Part 673 Rules, which brings a better flow to this Rule 7345 and the resulting documents that will be filed by rail transit agencies.

18. Given the significant number of changes to this Rule 7345, the previous rule has been stricken in its entirety and replaced with new rule language.

### **5. Rule 7347 - Corrective Action Plan (CAP)**

19. Rule 7347 is modified to add in the new risk assessment code event notification requirements for events reportable directly to the Commission for preliminary CAP approval

(1A, 2A, 1B, or 2B), events reportable that the Commission has delegated preliminary CAP approval to Commission Staff (1C, 2C, 3A or 3B), and events that are not reportable to the Commission. This proposed rule also provides a definition for hazards for which CAPs are to be provided to the Commission, and when hazards are not reportable to the Commission. The rule adds the requirement that all CAPs are required to be filed within 45 days of identification of the need for a CAP unless otherwise ordered by the Commission. Finally, new subparagraph (d)(III) makes clear that, for hazards that do not meet the “high” or “serious” risk assessment codes, a CAP is not required.

#### **6. Rule 7348 - Accident Notification**

20. Rule 7348 is modified to change the Commission’s required method of initial notification of accidents from telephone to electronic mail. This will allow required notification to the Commission and to FTA simultaneously through a single electronic mail and will eliminate the need for a rail transit agency to make two separate notifications for the same accident. The rule is also modified to have only grade crossing accidents not resulting in no serious injury or fatality reported to the Commission only. FTA has advised the State Safety Oversight Agencies that they do not want all grade crossing accidents reported to them, only grade crossing accidents involving serious injuries and fatalities. These changes will provide rail transit agencies with greater specificity of which accidents to report to FTA and the Commission, and which accidents to report only to the Commission.

#### **7. Rule 7349 - Investigations and Reporting Procedures for Accidents**

21. Rule 7349 is revised to require rail transit agencies to equip light rail vehicles with forward facing and operator facing in-cab cameras on all light rail vehicles. This requirement is being added to meet NTSB Safety Recommendation No. R-17-013, which

requires the installation on all controlling cabs and cab car operating compartments with inward and outward facing cameras with appropriate limitations on public release for the investigations of accidents and as a tool to improve operational safety. Such cameras will provide valuable and necessary information for accident investigations to assist with better views of the accidents and operator reaction to the accident. For example, such camera footage would have been greatly beneficial when investigating the derailment that occurred at the Sable/Exposition R line at-grade crossing that occurred on January 28, 2019. The proposed rule changes also allow for accident reports filed with the Commission to be signed either by electronic signature or by wet ink. With the increased use of electronic mail and electronic filing systems, electronic signatures are more convenient and allow reports to be filed quicker. The proposed rule also clarifies that the rail transit agency may maintain and use copies of the accident investigation reports and components thereof in its management of safe light rail operations.

#### **8. Rule 7350 - Investigations and Reporting Procedures for Hazards**

22. A number of significant changes are proposed in Rule 7350. First, the rule defines specific hazard events that are to be reported to the Commission within 24 hours including activation failures; partial activations or false activations of highway-rail grade crossings; broken rail causing impassable track, broken messenger, contact, or overhead contact wires; trains uncoupling in revenue service; incapacitated train operator in revenue service; red signal violations; vehicle doors opening on the wrong side away from stations or opening during train movement; near miss collisions with employees, contractors, or other individuals including trespassers on rail right-of-way; and other hazards that meet either a high risk or serious risk assessment code.

23. Second, the rule implements a move from the use of the MIL-STD-882E risk assessment matrix to a risk assessment matrix that is even in the number of categories of probability and severity. There are now five severity categories and five probability levels with definitions of each severity and probability level, and creation of a new risk assessment matrix.

24. The last major change involves the investigation of hazards. The current rule requires investigation of all hazards and prescribes what information is to be contained in the hazard report. This could require a hazard analysis and report to be written for a minor slip, trip, or fall, or a major hazard involving, for example, a lock out-tag out incident. By adding to the rule specific hazards, the Commission expects to be notified of the hazard within 24 hours, the rules outline the hazards most concerning to the Commission that deal with passenger safety. We will continue requiring hazards that warrant an investigation be documented in a final report including a description of investigation activities, information on causal and contributing factors, and evidence and recordings, including in-cab forward facing and operator facing cameras as needed included in the analysis. Also, as determined by the risk assessment matrix, the hazard investigation report would include a CAP and hazard analysis as needed.

#### **9. Rule 7351 - RTA Internal Safety Reviews**

25. 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.

#### **10. Rule 7352 - Commission Safety Audits**

26. Three minor changes are proposed for Rule 7352. The first is to eliminate recommendations from the audit process. Under the new FTA rules, we are no longer allowed to

provide recommendations in our report, only findings of non-compliance. The second is to clarify that the spring and fall audits are for the calendar year and not the State Fiscal Year. The last change is to include what is to be contained in the final three-year audit cycle report to FTA. The change memorializes our current process, which is to prepare and issue a report summarizing the audits conducted during the three-year cycle and to include the six semi-annual audit reports as part of the report filed with FTA.

**C. Conclusion**

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

28. 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.

29. The proposed rules in legislative (*i.e.*, ~~strikeout~~/underline) 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=22R-0070R](https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=22R-0070R)

30. 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 March 7, 2022. Any person wishing to file comments responding to the initial comments is requested to file such comments by March 14, 2022. 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.

31. 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>.

32. 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 working to prepare a new PTASP conforming to the new rules. All transit agencies will be allowed to update their PTASP conforming to the new rules by November 1, 2022, as required by Rule 7346.

## **II. ORDER**

### **A. The Commission Orders That:**

1. This Notice of Proposed Rulemaking (including Attachment A and Attachment B) attached hereto, shall be filed with the Colorado Secretary of State for publication in the February 25, 2022, 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: March 21, 2022

TIME: 9:00 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 than March 7, 2022, and any comments responsive to the initial comments are requested to be filed no later than March 14, 2022, 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 Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
February 2, 2022.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

ERIC BLANK

---

JOHN GAVAN

---

MEGAN M. GILMAN

---

Commissioners