

## DEPARTMENT OF REGULATORY AGENCIES

### Public Utilities Commission

## RULES REGULATING RAILROADS, RAIL FIXED GUIDEWAYS, TRANSPORTATION BY RAIL, AND RAIL CROSSINGS

### 4 CCR 723-7

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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### 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, 40-6-111(3), 40-9-108(2), 40-18-102, 40-18-103, 40-29-110, and 40-32-108, C.R.S.

### GENERAL PROVISIONS

#### 7000. Scope and Applicability.

- (a) The rules in this Part 7, the "7000" series, apply to 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 all Commission proceedings concerning such entities.
- (b) Except as otherwise required by law, the Commission's jurisdiction over statutory transportation districts (e.g., Regional Transportation District) shall be limited to matters concerning the following rules:
  - (I) 7001 - 7003;
  - (II) 7007;
  - (III) 7200 - 7211;
  - (IV) 7301; and
  - (V) 7340 - 7349.
- (c) Specific applicability provisions are found in rules 7100, 7200, 7300, 7320, 7340, and 7400.

**7001. Definitions.**

The following definitions apply throughout this Part 7, except where a specific rule or statute provides otherwise:

- (a) "Common carrier" is defined by § 40-1-102(3)(a)(II), C.R.S.
- (b) "Rail fixed guideway" means any person possessing rail fixed guideway system facilities by ownership or lease.
- (c) "Rail fixed guideway system" means "rail fixed guideway system," as defined by § 40-18-101(3), C.R.S. Rail fixed guideway systems include "street railroads," "street railways," and "electric railroads," as those terms are used in Article 24 of Title 40, C.R.S.
- (d) "Railroad:"
  - (I) "Railroad" means either of the following, as the context may require:
    - (A) facilities, including without limitation: tracks; track roads; bridges used or operated in connection therewith; switches; spurs; and terminal facilities, freight depots, yards, and grounds, including rights-of-way, used or necessary for the transportation of passengers or property; or
    - (B) any person possessing such facilities by ownership or lease.
  - (II) "Railroad" does not include rail fixed guideways or rail fixed guideway systems.
- (e) "Railroad corporation" means five or more persons associating to form a company for the purpose of constructing and operating a railroad, in accordance with the provisions of § 40-20-101, C.R.S.
- (f) "Transit agency" means "transit agency," as defined by § 40-18-101(6), C.R.S.

**7002. Applications.**

Commission action may be sought regarding any of the following matters through the filing of an appropriate application:

- (a) For a certificate of public convenience and necessity, as provided in rule 7101.
- (b) To amend a certificate of public convenience and necessity, or to change, extend, curtail, abandon, or discontinue any service, as provided in rule 7102.
- (c) For authority to transfer a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets or stock, or to merge a utility with another entity, as provided in rule 7103.
- (d) For authority to construct, alter, or abolish a utility crossing, or a highway-rail crossing; or for authority to install or modify crossing warning devices, as provided in rule 7204.
- (e) For authority to allocate costs for highway-rail grade separations, as provided in rule 7205.
- (f) For approval of a transit agency's system safety program plan, as provided in rule 7343, or system security plan, as provided in rule 7344.
- (g) For any other matter provided by statute or rule but not specifically described in this rule.

**7003. Petitions.**

Commission action may be sought regarding any of the following matters through the filing of an appropriate petition:

- (a) For a variance of any rule, as provided in rule 1003.
- (b) For a declaratory order, as provided in paragraph 1304(i).

**7004. [Reserved].**

**7005. [Reserved].**

**7006. Annual Report.**

- (a) Each railroad, railroad corporation, and holder of a certificate of public convenience and necessity to operate by rail shall, on or before April 30th of each year, file an annual report for the preceding calendar year. The annual report shall be submitted on forms prescribed by the Commission. The annual report shall be verified and signed by a person authorized to do so. Submission of a federal R-1 form in lieu of the form prescribed by the Commission shall be sufficient as long as a Colorado supplement containing apportioned Colorado information is also filed.
- (b) If the railroad, railroad corporation, or holder of the certificate of public convenience and necessity publishes an annual report or annual statistical report for the federal government, a federal agency, stockholders, other security holders, or members, or receives an annual report from a certified public accountant, it shall file a copy of such report(s) within 30 days after publication or receipt. It shall also include a Colorado-specific supplement detailing Colorado revenues.
- (c) If the railroad, railroad corporation, or holder of the certificate of public convenience and necessity is granted an extension of time to file its annual report, it must nevertheless file, on or before April 30th, its total gross operating revenue from intrastate business transacted in Colorado for the preceding calendar year.
- (d) The annual report shall disclose the method of depreciation used.

**7007. Formal and Informal Complaints.**

Formal and informal complaints may be filed or made pursuant to the Commission's Rules Regulating Practice and Procedure.

**7008. Incorporation by Reference.**

The Commission incorporates by reference the National Electrical Safety Code, C2-2002 edition, published by the Institute of Electrical and Electronics Engineers and endorsed by the American National Standards Institute. No later amendments to or editions of the National Electrical Safety Code are incorporated into these rules. Any person seeking information regarding how the incorporated material may be obtained or examined may contact the Director or his/her designee, Colorado Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202. The material incorporated by reference may be examined at any state publications depository library.

**7009. - 7099. [Reserved].**

**OPERATING AUTHORITY**

**7100. Applicability.**

Rules 7101 through 7104 apply to all common carriers that:

- (a) operate on intrastate lines that are not connected to the interstate system of lines;
- (b) are not railroad corporations; and
- (c) do not operate under authority from the United States Surface Transportation Board.

**7101. Certificate Applications.**

An application for the issuance of a certificate of public convenience and necessity, including authority for approval of the exercise of franchise rights, must include all of the following information, as applicable:

- (a) The applicant's name and complete physical and mailing addresses.
- (b) The trade name under which the applicant's operations are being or will be conducted.
- (c) If the applicant is a corporation: the name of the state in which it is incorporated; the location of its principal office, if any, in Colorado; the names of its directors and officers; the name and address of its Colorado agent for service of process; and a certified copy of its certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the application. If the applicant does not possess authority qualifying it to do business in Colorado, the applicant shall:
  - (I) acknowledge that the Commission will not grant the application without such authority, and
  - (II) file such authority as soon as possible.
- (d) If the applicant is a limited liability company: a statement of that fact; the name of the state in which it is organized; the complete mailing address and physical address of its principal office; the name of its managers; and a certified copy of its certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the application. If the applicant does not possess authority qualifying it to do business in Colorado, the applicant shall:
  - (I) acknowledge that the Commission will not grant the application without such authority, and
  - (II) file such authority as soon as possible.
- (e) If the applicant is a partnership: the names, titles, and addresses of all general and limited partners; and a copy of the partnership agreement establishing the partnership and all subsequent amendments.
- (f) The name, address, telephone number, facsimile number, and e-mail address of the applicant's representative to whom all inquiries concerning the application may be made.

- (g) A statement describing the authority sought, or franchise rights proposed to be exercised. The statement shall include a description of the type of utility service to be rendered and a description of the area sought to be served. The statement also shall include a description of applicant's existing operations and general service area.
- (h) A statement describing in detail the extent to which the applicant is affiliated with any other company and the extent to which the applicant, or any person affiliated with applicant, holds authority duplicating in any respect the authority sought.
- (i) A copy of the applicant's most recent balance sheet, covering a period ending not earlier than six months before the date of the filing of the application.
- (j) Statements of income and retained earnings, if available, for the same time period as the balance sheet referred to in paragraph (i) of this rule.
- (k) A statement disclosing whether the applicant or any affiliate of the applicant is currently in violation of any provision of Title 40, C.R.S., or any Commission rule or order. The disclosure, if applicable, shall include a description of the violations.
- (l) A statement that the applicant understands it must present evidence at the hearing to show its qualifications to conduct the operations proposed in the application.
- (m) A statement of the facts (not conclusory statements) relied upon by the applicant to show that the public convenience and necessity require the granting of the application.
- (n) Where the application is to exercise franchise rights: a certified copy of the franchise ordinance; and proof of publication, adoption, and acceptance by the applicant.
- (o) A statement indicating the town or city where the applicant prefers any hearing regarding the application to be held, as well as any alternative choices.
- (p) A statement indicating the applicant's understanding that the mere filing of the application does not, by itself, constitute authority to operate.
- (q) A verified statement or affidavit, signed by an officer, partner, or owner, as applicable, who is authorized to act on behalf of the applicant, stating that the contents of the application and supporting documentation are true, accurate, and correct.

**7102. Revocation or Amendment of Certificate; Changing, Extending, Curtailing, Abandoning, or Discontinuing Service.**

- (a) The Commission may, after at least ten days' notice to the common carrier, hold a hearing to revoke, alter, or amend said common carrier's certificate of public convenience and necessity for any of the following reasons:
  - (I) Failure to comply with any statutory requirement;
  - (II) Failure to comply with the terms and conditions of, or exceeding the authority granted in, the certificate of public convenience and necessity; or
  - (III) Failure to comply with any lawful order, rule, or regulation of the Commission.
- (b) Except as provided in paragraph (c) of this rule, an application to amend a certificate of public convenience and necessity, or to change, extend, curtail, abandon, or discontinue any service, must contain all of the information required under rule 7101.

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- (c) For applications to curtail or abandon any service, or for applications to in any manner restrict a certificate of public convenience and necessity:
- (I) The applicant shall indicate the requested effective date for the curtailment, abandonment, or restriction.
  - (II) The applicant's response to paragraph 7101(g) shall contain a statement describing the curtailment, abandonment, or restriction sought. The statement shall include maps, as applicable. The statement shall also include a description of the applicant's existing operations and general service area.
  - (III) The applicant need not respond to paragraph 7101(h).
  - (IV) The applicant's response to paragraph 7101(l) shall contain a statement that the applicant understands it must present evidence at the hearing showing how the public interest will be affected by the grant of the application.
  - (V) The applicant's response to paragraph 7101(p) shall contain a statement indicating the applicant's understanding that the mere filing of the application does not, by itself, constitute authority to curtail or abandon any service, or to restrict a certificate of public convenience and necessity.
  - (VI) In addition to the notice requirements of the Rules Regulating Practice and Procedure, the applicant shall prepare a written notice as provided in subparagraph (VII) of this paragraph and shall mail or deliver the notice at least 30 days before the application's requested effective date to the Board of County Commissioners of each affected county, and to the mayor of each affected city, town, or municipality.
  - (VII) The notice of subparagraph (VI) of this paragraph shall contain all of the following:
    - (A) The name of the applicant.
    - (B) A statement detailing the requested curtailment, abandonment, or restriction, and its requested effective date.
    - (C) A statement indicating that any person may file a written objection with the Commission no later than ten days prior to the requested effective date; but that a written objection alone will not preserve any right to participate as a party in any Commission proceeding on the matter.
    - (D) A statement indicating that in order for any person to participate as a party, such person must file an appropriate and timely intervention according to the Commission's Rules Regulating Practice and Procedure.
    - (E) The Commission's full address.
  - (VIII) Prior to 15 days before the requested effective date, the applicant shall file with the Commission a written affidavit stating its compliance with the notice requirements of subparagraphs (VI) and (VII) of this paragraph. The affidavit shall state the date the notice was completed and the method used to give notice. The applicant shall attach a copy of the notice to the affidavit.
- (d) No proposed amendment, change, extension, curtailment, or abandonment shall be effective unless and until the Commission has entered an order approving it.

**7103. Transfers, Mergers, and Encumbrances.**

- (a) For purposes of this rule, "transferee" means any entity newly acquiring control of operations under a certificate of public convenience and necessity.
- (b) An application to transfer or encumber a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets or stock, or to merge a utility with another entity, shall take the form of a joint application if possible, and must include:
  - (I) Each applicant's name, trade name if applicable, physical address, and mailing address.
  - (II) The name, address, telephone number, facsimile number, and e-mail address of the applicant's representative to whom all inquiries concerning the application may be made.
  - (III) A statement detailing the purpose of the application.
  - (IV) In the case of an application to transfer a certificate of public convenience and necessity, to obtain a controlling interest in any utility, or to merge a utility with another entity:
    - (A) The transferee's most recent balance sheet, covering a period ending not earlier than six months before the date of the filing of the application;
    - (B) The transferee's statements of income and retained earnings, if available, for the same time period as provided by subparagraph (IV)(A); and
    - (C) The transferee's statement that it understands it must present evidence at the hearing to show its qualifications to operate under the certificate of public convenience and necessity.
  - (V) A statement disclosing whether any applicant or any affiliate of an applicant is currently in violation of any provision of Title 40, C.R.S., or any Commission rule or order. The disclosure, if applicable, shall include a description of the violations.
  - (VI) Copies of any agreement or contract and all documents pertaining to the transfer, encumbrance, or merger.
  - (VII) Facts showing that the transfer, encumbrance, or merger is in the public interest, and an evaluation of the benefits and detriments, if any, to the customers of each party and to all other persons who will be affected by the transaction.
  - (VIII) A comparison of the kinds and costs of service rendered before and after the proposed transaction.
  - (IX) A statement indicating the town or city where the applicant(s) prefer(s) any hearing regarding the application to be held, and any alternative choices.
  - (X) A verified statement or affidavit, signed by an officer, partner, or owner of each applicant, as applicable, who is authorized to act on behalf of the applicant, stating that the contents of the application and supporting documentation are true, accurate, and correct.

- (c) When control of a utility is transferred to another utility, or the name is changed, the utility that will afterwards operate under the certificate shall file an adoption notice with the Commission and have the adoption notice available for public inspection at each local office. Adoption notice forms are available from the Commission. The adoption notice shall contain all of the following information:
- (I) The name, phone number, and complete address of the adopting utility.
  - (II) The name of the previous utility.
  - (III) The number of the tariff adopted, and the description or title of the tariff adopted.
  - (IV) A statement that the adopting utility is making its own all rates, rules, terms, conditions, agreements, concurrences, instruments, and all other provisions that have been filed or adopted by the previous utility.
- (d) Upon approval of a transfer application, the transferor and transferee shall file an acceptance of transfer form, which form shall be provided by the Commission. The form shall be signed by both parties, indicating acceptance of the terms and conditions of the Order authorizing the transfer. The acceptance of transfer shall contain a statement indicating that the transferee has complied with all provisions of the agreement of sale, lease, or other transfer.
- (e) A transferee shall not begin operations until after the Commission has advised the transferee that it is in compliance with all requirements and is authorized to begin operations.
- (f) A transferor shall not cancel its tariffs until the Commission has approved the transfer, the transferee has filed all required documents in the transferee's own name, and the Commission has advised the transferee that it is authorized to begin operations.

**7104. - 7199. [Reserved].**

**CROSSINGS AND WARNING DEVICES**

**7200. Applicability.**

- (a) Rules 7201 through 7211 apply to railroads, railroad corporations, rail fixed guideways, and transit agencies.
- (b) Rules 7201 through 7211 apply to all governmental or quasi-governmental entities that own and/or maintain public highways at rail crossings.

**7201. Definitions.**

The following definitions apply only in the context of rules 7200 through 7211.

- (a) "ADT" means average daily traffic.
- (b) "Arterial" means "arterial," as that term is used in Chapter 1 (Highway Functions: Systems and Classifications) of the 2001 edition of *A Policy on Geometric Design of Highways and Streets*, published by the American Association of State Highway and Transportation Officials.
- (c) "Collector" means "collector," as that term is used in Chapter 1 (Highway Functions: Systems and Classifications) of the 2001 edition of *A Policy on Geometric Design of Highways and Streets*, published by the American Association of State Highway and Transportation Officials.



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- (d) "Exposure factor" means the ADT multiplied by the average daily number of train movements.
- (e) "Freeway" means "freeway," as that term is used in Chapter 1 (Highway Functions: Systems and Classifications) of the 2001 edition of *A Policy on Geometric Design of Highways and Streets*, published by the American Association of State Highway and Transportation Officials.
- (f) "Highway-rail crossing" means:
- (I) the point at which any public highway may be constructed across the tracks or other facilities of any railroad corporation, railroad, or rail fixed guideway , at, above, or below grade; or
  - (II) the point at which the tracks or other facilities of any railroad corporation, railroad, or rail fixed guideway may be constructed across any public highway at, above, or below grade; or
  - (III) the point at which any public highway may be constructed across private tracks, over which any railroad corporation, railroad, or transit agency may operate, at, above, or below grade; or
  - (IV) the point at which private tracks, over which any railroad corporation, railroad or transit agency may operate, may be constructed across any public highway at, above, or below grade.
- (g) "Reasonably adequate facility," except as may be otherwise demonstrated, means:
- (I) A rural collector roadway that allows for two 12-foot travel lanes with two 5-foot shoulders;
  - (II) A rural arterial roadway that allows for two 12-foot travel lanes with two 8-foot shoulders and an 8-foot pedestrian-bikeway;
  - (III) An urban collector roadway that allows for two 12-foot travel lanes with two 10-foot parking lanes and an 8-foot pedestrian-bikeway;
  - (IV) An urban arterial roadway that allows for four 12-foot travel lanes with an 11-foot median and an 8-foot pedestrian-bikeway on one side;
  - (V) A single main line track that allows for mainline track, one passing track on 15-foot centers and a 12-foot maintenance road or a 4-foot walkway on one side;
  - (VI) A double mainline track that allows for two mainline tracks and one passing track on 15-foot centers and a 12-foot maintenance road or a 4-foot walkway on one side; and
  - (VII) Railroad yards or terminals that allow for currently existing tracks and service facilities.
- (h) "Utility crossing" means the point at which the tracks or facilities of any public utility may be constructed across the facilities of any other public utility at, above, or below grade, or at the same or different levels.

**7202. Incorporation by Reference.**

The Commission incorporates by reference Chapter 1 (Highway Functions: Systems and Classifications) of the 2001 edition of A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS AND STREETS, published by the American Association of State Highway and Transportation Officials. No later amendments to or editions of the incorporated material are incorporated into these rules. Any person seeking information regarding how the incorporated material may be obtained or examined may contact the Director or his/her designee, Colorado Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202. The material incorporated by reference may be examined at any state publications depository library.

**7203. Who May Apply.**

- (a) An application for authority to construct a highway-rail crossing where the highway currently exists may only be made by the railroad, rail fixed guideway, or other person, firm, or corporation that will own the tracks proposed to be constructed.
- (b) An application for authority to construct a highway-rail crossing where the tracks or other facilities currently exist may only be made by the appropriate municipality, county, state agency, or other governmental entity.
- (c) An application for authority to alter or abolish a highway-rail crossing may only be made by the appropriate railroad corporation, railroad, rail fixed guideway, municipality, county, state agency, or other governmental entity.
- (d) An application for authority to install or modify signal lights or other warning devices may only be made by a railroad corporation, railroad, rail fixed guideway, municipality, county, state agency, or other governmental entity.
- (e) An application for authority to construct, alter or abolish a utility crossing may only be made by the appropriate public utility, railroad, rail fixed guideway, or other person, firm, or corporation that will own the tracks or other facilities proposed to be constructed.
- (f) An application for authority to install temporary safety measures in advance of an application to install or modify active warning or passive warning devices may only be made by a railroad corporation, railroad, rail fixed guideway, municipality, county, state agency, or other governmental entity.

**7204. Application Contents — Generally.**

- (a) For purposes of this rule only, the Commission incorporates by reference Section 8A.01 of the 2003 Edition of the Manual on Uniform Traffic Control Devices for Streets and Highways and the Colorado Supplement to the Federal Manual on Uniform Traffic Control Devices 2003 as adopted by the Transportation Commission of Colorado on September 14, 2004. No later amendments to or editions of the Manual on Uniform Traffic Control Devices are incorporated into these rules. Any person seeking information regarding how the incorporated material may be obtained or examined may contact the Director or his/her designee, Colorado Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202. The material incorporated by reference may be examined at any state publications depository library.
- (b) Any engineering schematics, plans, drawings, or maps submitted pursuant to this rule shall be submitted on pages no larger than 11" x 17".

- (c) In the case of an application (other than to modify or replace the existing crossing surface without changing the width or configuration of a crossing) to construct, alter, or abolish a utility crossing, a highway-rail crossing, or to install or modify crossing warning devices, the applicant shall submit the information required by this paragraph, to the extent applicable, either in the application or in appropriately identified attached exhibits. If the applicant is unable to provide certain information required by this paragraph, or if the applicant believes certain required information is excessive compared to the scope of the proposed project, the applicant may omit the required information provided that the application specifically justifies the omission. If the applicant desires Commission approval of special application procedures not otherwise contemplated by this paragraph (e.g., a design-build process or expedited approval), the application shall so state, shall specify the relief sought, and shall justify the request. Applications shall contain the following:
- (I) the applicant's name and mailing address;
  - (II) if the applicant is a corporation or limited liability company: the name of the state in which the applicant is incorporated or organized and the location of its principal office, if any, in Colorado;
  - (III) if the applicant is a partnership: the names and addresses of all general and limited partners;
  - (IV) the name, address, telephone number, facsimile number, and e-mail address of the applicant's representative to whom all inquiries concerning the application may be made;
  - (V) the U.S. Department of Transportation National Inventory Number of the crossing, the railroad or rail fixed guideway milepost, and the roadway milepost;
  - (VI) a detailed statement as to the nature of and need for the construction, alteration, abolition, installation, or modification for which approval is sought;
  - (VII) a statement of:
    - (A) the existing number, character, and timetable speed of trains and vehicles passing the crossing each day, and
    - (B) the five-year projection, and the ten-year or twenty-year projections if available, of increases or decreases of the number, character, and speed of such trains and vehicles, if any;
  - (VIII) a statement of the scope of the project, including without limitation:
    - (A) highway design, crossing warning devices, and traffic signal interconnection and preemption;
    - (B) the itemized estimated cost of the proposed construction, alteration, abolition, or crossing warning device installation or modification; and
    - (C) how applicant proposes to provide for the cost, explaining the proposed apportionment between or among the parties in interest if applicable;

- (IX) in the case of an application for the installation or modification of crossing warning devices, a statement describing the type of crossing warning devices the applicant proposes to install (reference may be made to recommended standards on highway-rail grade crossing warning devices as published in current revisions of the Manual on Uniform Traffic Control Devices and/ or American Railway Engineering and Maintenance-of-Way Association's Signal Manual of Recommended Practice);
- (X) a statement of the estimated start and completion dates for the construction, alteration, abolition, or crossing warning device installation or modification, and a statement of the estimated date for crossing's commencement of operation;
- (XI) a vicinity map that includes the proposed project limits (i.e., a map that includes the general area circumscribing the project);
- (XII) detailed plans/drawings of a suitable scale, showing the grade crossing, including signing and striping, tracks, buildings, structures, property lines, and public highways within the right-of-way limits of the railroad, railroad corporation, or rail fixed guideway;
- (XIII) a profile drawing showing grade lines and proposed grade lines of approaches on the public roads, highways, streets railroads, or rail fixed guideway systems that may be affected by the proposed or existing highway-rail crossing;
- (XIV) the schematic diagram of the crossing warning devices (commonly known as the "front sheet");
- (XV) in the case of an application to install or modify interconnection and preemption at a highway traffic signal:
  - (A) the traffic signal timings (e.g. signal cycle length, yellow change, red clearance) and traffic signal phasing diagram including preemption sequence;
  - (B) a statement of the type of preemption (e.g. simultaneous, advance)
  - (C) an analysis of the following timings as defined in Section 8A.01 of the Manual on Uniform Traffic Control Devices;
    - (i) the maximum highway traffic signal preemption time;
    - (ii) the right-of-way transfer time;
    - (iii) the queue clearance time;
    - (iv) the separation time;
    - (v) the minimum warning time - through train movements;
    - (vi) the advance preemption time, if applicable;
    - (vii) the exit gate clearance time (required for four-quadrant gate systems only); and
    - (viii) any additional timings the Commission may request.

- (XVI) the names and mailing addresses of all persons, including adjacent property owners, public utilities, municipalities, counties, and state that may be interested in or affected by the application;
  - (XVII) if the crossing is at grade: a statement fully justifying why a separation of grades is not practicable under the circumstances;
  - (XVIII) a statement that the applicant agrees to respond to all questions propounded by the Commission or its Staff concerning the application:
  - (XIX) a statement indicating the town or city, and any alternate town or city, where the applicant prefers any hearings to be held; and
  - (XX) a sworn statement verifying and attesting to the facts stated in the application as described in rule 1403(a).
- (d) If the applicant adopts a substantive change to any map, drawing, plan, or schematic that has been filed with the application, the applicant shall file the new map, drawing, plan, or schematic within ten days of the change. In all cases, the applicant shall submit final maps, drawings, plans, or schematics, as applicable, within ten days of the availability of such final maps, drawings, plans, and schematics. An application filed pursuant to paragraph 7203(f) may only be filed after discussion with and consensus among a diagnostic team of the proposed temporary safety measure. The diagnostic team shall consist of: the road authority; the railroad, railroad corporation, or rail fixed guideway transit authority; Commission staff; and, for projects funded under 23 U.S.C. § 130, the Colorado Department of Transportation. The application shall contain the following: a statement that the application is being filed pursuant to paragraph 7203(f); the information listed above in subparagraphs 7204(c)(I) through (VI), (VII)(A), (VIII)(A) through (C), (X), (XI), (XVI), (XVII), (XIX), and (XX); and a copy of the notes from the diagnostic assessment, which shall include a list of the diagnostic team members in attendance, a statement of the temporary safety measure being sought, and a statement that the diagnostic team is in consensus of the proposed temporary safety measure being sought.

**7205. Additional Application Contents for Cost Allocation Requests in Grade Separation Applications.**

- (a) Any engineering schematics, plans, drawings, or maps submitted pursuant to this rule shall be submitted on pages no larger than 11" x 17".
- (b) In the case of applications concerning highway-rail grade separations for which contribution from one or more railroad corporations is requested, the applicant shall, in addition to the information required by paragraph 7204(c), as applicable include the following additional information in the application:
  - (I) a complete description of the scope of the proposed separation project;
  - (II) a preliminary set of construction plans, including engineering costs;
  - (III) a preliminary engineer's cost estimate, including engineering costs;
  - (IV) the estimated costs of right-of-way, parcel by parcel, including railroad right-of-way;
  - (V) a proposed construction timetable;
  - (VI) a list of affected railroad corporations;

- (VII) a preliminary design of the theoretical structure for a reasonably adequate facility; and
- (VIII) a cost estimate of the theoretical structure, including the costs described in subparagraphs (III) and (IV) of this paragraph.

**7206. Grade Separations — Minimum Criteria for Cost Allocation Consideration.**

- (a) For a highway-rail grade separation application to be considered for cost allocation, the following minimum criteria shall be met:
  - (I) Exposure factor, actual or projected, shall exceed 75,000 at urban locations and 35,000 at rural locations;
  - (II) The roadway shall be a collector, arterial, or freeway with an actual or projected traffic volume of 5,000 ADT or greater for urban locations or 2,500 ADT or greater for rural locations; and
  - (III) Any rail lines shall have an actual or projected volume of four train movements per day or greater.
- (b) The Commission may consider other locations for cost allocation, if warranted by unusual conditions or circumstances.

**7207. Cost Allocation for Grade Separation.**

- (a) Upon receipt of an application for a highway-rail grade-separation project, which application meets the criteria of rule 7206, the Commission shall allocate the costs of right-of-way acquisition, engineering, and construction of the minimum project that separates a reasonably adequate roadway facility from a reasonably adequate railroad facility. The Commission shall impose allocation of costs in the following manner:
  - (I) Except as provided in subparagraph (II) of this paragraph, 50 percent of the cost shall be borne by the railroad corporation or corporations and 50 percent of the cost shall be borne by the State, County, Municipality, or public authority in interest.
  - (II) Notwithstanding subparagraph (I) of this paragraph, the Commission may impose a different allocation if demonstrated by evidence of benefit and need. Among other things, the Commission shall consider whether piers or abutments of a roadway overpass hinder the construction of future additional rail lines within the railroad right-of-way and whether the projected life of the overpass structure exceeds the anticipated construction date of the additional rail lines.
- (b) The Commission may determine whether to treat the replacement or realignment of existing grade separations as if there were an at-grade crossing requiring separation. The Commission may determine whether to treat grade separation of roadways on a new alignment as if there were an existing at-grade crossing requiring separation.

**7208. Notice.**

The Director shall give notice of any application filed under rules 7204 and/or 7205. The Director shall mail said notice to all persons who, in the opinion of the Commission, would be interested in or affected by the grant or denial of the application, including those interested persons the applicant lists in its application.

- (a) The notice mailed by the Commission shall take the form of a Notice and Order, and shall contain the following information in addition to the information required by rule 1206(b):
  - (I) The name of the applicant;
  - (II) The docket number assigned to the application;
  - (III) The application's caption, which shall include the crossing's designation, if any;
  - (IV) The date of the notice;
  - (V) A statement that any person desiring to participate as a party in any proceedings to be held must file an appropriate intervention as required under the Commission's Rules Regulating Practice and Procedure;
  - (VI) The date by which interventions must be filed which shall ordinarily be not less than 30 days after mailing of the notice;
  - (VII) A statement regarding whether the application has been deemed complete as of the date of the notice;
  - (VIII) A statement that the Commission may, without a hearing, issue an order granting or denying the application, if no intervention contesting the application has been timely filed;
  - (IX) A statement that if a hearing regarding the application is set, the parties will be notified of the setting; that applicants must appear at the hearing to present evidence in support of the application; and that other parties may appear to present evidence in support of their positions;
  - (X) A statement that, unless previously filed, the applicant shall file an original and three copies of its list of witnesses and an original and three copies of its exhibits at least 20 days prior to the first day of hearing; and that the applicant shall serve each party with its list of witnesses and copies of its exhibits;
  - (XI) A statement that each intervenor shall file an original and three copies of its list of witnesses and an original and three copies of its exhibits at least 10 days prior to the first day of hearing; and that each intervenor shall serve each party with its list of witnesses and copies of its exhibits; and
  - (XII) Any other information that the Commission deems appropriate.
- (b) Where the application is for authority to install or modify crossing warning devices under § 40-4-106(2)(b), C.R.S., the notice shall state, in addition to the requirements of paragraph (a) of this rule, that the question of how costs will be borne and paid will be considered at and determined as a result of the hearing.

- (c) Where the application is for authority to close a highway-rail crossing, the applicant shall give notice by posting notice of the closing on both sides of the trackage of the crossing proposed to be closed. The notice shall be posted at the crossing 15 days after the application is filed with the Commission. The Commission shall mail the Notice of Application Filed 15 days after receiving the application. The notice is to be posted at the crossing for a period of 30 days. The applicant shall file a written affidavit stating the date the notice was posted at the crossing and shall attach a copy of the notice posted at the crossing to the affidavit.
- (I) The notice shall contain, at a minimum, the following information:
- (A) The title: Notice of Proposed Closing of This Crossing;
  - (B) A statement that an application to close the crossing has been filed with the Colorado Public Utilities Commission;
  - (C) The current correct address of the Commission;
  - (D) The date the closing of the crossing is requested;
  - (E) The U.S. DOT National Crossing Inventory number of the crossing;
  - (F) A sufficient description of the crossing so as to identify it, or the Docket Number assigned to the application;
  - (G) A statement that parties have the right to file written interventions or objections with the Commission at the address stated on the notice; and
  - (H) A statement of the last date for filing interventions or objections.
- (II) The notice must meet the following requirements:
- (A) The posted notice to close the crossing shall be printed on a substantial placard, no less than 18" x 24";
  - (B) The title: Notice of Proposed Closing of This Crossing shall be printed in letters no less than one inch in height;
  - (C) All other information printed on the notice shall be in letters no smaller than one half inch in height;
  - (D) The background of the notices shall be white; and
  - (E) The letters of the notice shall be black.
- (III) The notices shall be posted so as to be clearly visible from a distance of no less than 100 feet from the notice, and shall not be posted so as to obstruct the vision of motorists or trains at the crossing.
- (d) The Commission shall give 14 days' notice of the filing of an application made pursuant to paragraph 7203(f).

**7209. Uncontested Applications.**

Except as provided by § 40-4-106(2)(b), C.R.S., an uncontested and unopposed application may be processed as such under the Commission's Rules Regulating Practice and Procedure.



**7210. Failure to Provide Required Information.**

If an application does not provide the information required by rules 7204 and 7205, as applicable, the Commission may summarily dismiss the application and close the docket.

**7211. Crossing Construction and Maintenance.**

- (a) A railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track shall maintain the grade crossing surface from the outside end of the tie to the outside end of the tie at single track crossings. The roadway authority shall bear the cost of materials to maintain, repair, or replace the crossing surface. The railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track shall bear the cost of installation, maintenance, repair, or replacement of the crossing surface. Railroads, railroad corporations, rail fixed guideways, transit agencies, and owners of the track shall promptly assist any roadway authority to the extent required to maintain the roadway surface between tracks at multiple track crossings.
- (b) The crossing surface shall be of plank, concrete, rubber, flangeway and asphalt, or other suitable material that is compatible with the highway approaches, and shall be of the same width as the pavement or other surfacing material in the approaches of the adjacent highway including the roadway shoulders. The crossing surface material shall make a reasonably smooth riding surface over the track or tracks and be approximately level with the top of the rails. Wherever practicable, the tracks at multiple track crossings shall be level with the mainline track.
- (c) The governmental or quasi-governmental entity that owns the highway shall maintain at its own expense the highway approaches up to the outside end of the ties.
- (d) Whenever a grade crossing is widened the governmental or quasi-governmental entity that owns the highway shall pay the cost of the highway improvement, including the highway approaches and the initial cost of the necessary crossing surface extension.
- (e) Whenever a track is constructed at, or removed from a highway-rail crossing, the owner of the track shall pay the cost of the track construction or removal, including the crossing surface and the highway approaches.
- (f) Wherever practicable, sidewalks and/or bike paths should be detached from the curb and constructed behind the crossing signal mast. The crossing surface material for said sidewalks and/or bike paths need not be continuous with the crossing surface material of the vehicle travel lanes.
- (g) Except at locations of existing highway-rail grade crossings, sidewalk and/or bike path crossings of mainline trackage shall be grade separated. Rail fixed guideway systems are exempted from this requirement. Sidewalk and/or bike path crossings under railroad open deck bridges or trestles shall have a protective cover (roof) extending a reasonable distance beyond the edges of the bridge or trestle to prevent material or debris from striking users of the sidewalk and/or bike path crossings.
- (h) Every railroad, railroad corporation, rail fixed guideway, transit agency, or owner of the track, at all points in Colorado where its tracks cross at grade any public highway, shall remove all obstructions along the tracks that block the view of motorists as outlined in rule 7301(c). The Commission may determine what obstructions are to be removed to secure reasonable safety.
- (i) The Commission may determine the materials to be used in a crossing at the time the Commission considers the application regarding the crossing.

7212. [Reserved].

**7213. Minimum Crossing Safety Requirements.**

- (a) All public crossings in the state of Colorado shall have posted, at a minimum; one Manual on Uniform Traffic Control Devices (MUTCD) R15-1 crossbuck sign; one MUTCD R15-2P number of tracks sign for crossings with more than one track; and one MUTCD R1-2 yield sign, mounted on the same support, for each direction of vehicle and/or pedestrian traffic that crosses the tracks. Any signage configuration different from these minimum standards requires approval from the Commission through the filing and granting of an application.
- (b) All public crossings shall have posted, at a minimum, one advance warning sign applicable to the roadway geometry posted for each direction of traffic that crosses the tracks. Applicable advance warning signs include MUTCD signs W10-1, W10-2, W10-3, and W10-4. The road authority may install warning beacons on advance warning signs in accordance with Section 4L.03 of the MUTCD.

7214. – 7299. [Reserved].

**SAFETY**

**Generally**

**7300. Applicability.**

Rules 7301 through 7302 apply to all railroads, railroad corporations, rail fixed guideways, and transit agencies. Additionally, rule 7302 applies to common carriers.

**7301. Installation and Maintenance of Crossing Warning Devices.**

- (a) All crossing warning devices, whether electrically operated or otherwise, and of whatsoever nature, which have been installed at highway-rail crossings in the state of Colorado, shall be efficiently maintained and kept in good operating condition by the entity owning the track at the crossing.
- (b) Whenever crossing warning devices are interconnected to standard highway traffic signals, the highway traffic signal shall be efficiently maintained and kept in good operating condition by the public highway authority in interest.
- (c) Every person to whom this rule applies shall at all times keep its right-of-way free and clear from all obstructions which substantially interfere with the safe sight distance of approaching trains at highway-rail crossings; provided, however, that:
  - (I) This paragraph (c) shall not apply to existing buildings, permanent structures, and natural obstructions other than trees and vegetation.
  - (II) This paragraph (c) shall not apply to rolling stock or materials temporarily on the right-of-way in connection with switching movements or with the loading or unloading of shipments.

- (III) This paragraph (c) shall not apply to highway-rail crossings at which automatic signals and gates are installed. The exception provided by this subparagraph (III) shall only be applicable if such automatic signals and gates are kept free and clear of all obstructions interfering with either:
  - (A) the operation of the automatic signals and gates; or
  - (B) the ability of drivers to detect the automatic signals and gates.
- (d) No grain elevators, storage tanks, warehouses or other buildings which substantially obstruct the view of approaching trains at crossings shall be built on the right-of-way unless and until the railroad complies with any requirements which the Commission may impose as to signals or other safety installation in connection with such obstruction.

**7302. Notification of Accidents.**

Except as preempted by federal law or as otherwise provided by rules 7340 through 7349, the following provisions apply with regard to accident notification to the Commission.

- (a) Facsimile or telephone notification. When any wreck, collision of trains, or collision of trains with vehicles or pedestrians, results in loss of life or injury to persons and occurs upon the line of any person to whom this rule applies, such person shall notify the Commission by facsimile or telephone as soon as practicable. The notification shall disclose the details of such accident, stating the location and the nature of the accident, the number of persons killed or injured, and the name of the railroad involved.
- (b) Supplemental letter. As soon as possible after the notification, such person shall supplement the notification by letter to the Commission. The supplemental letter shall describe in detail:
  - (I) the date, time, and location of the accident;
  - (II) the vehicles involved, and the vehicles' approximate speeds;
  - (III) the extent of injuries and other damages;
  - (IV) the names of all parties involved; and
  - (V) the circumstances relative to accident, including weather, visibility, type of safety devices, and any other pertinent information.
- (c) Notification of formal investigation. Every person to whom this rule applies, upon the setting of any formal investigation by either the Federal Railroad Administration or the National Transportation Safety Board, shall notify the Commission by telephone or facsimile of the date, time, and place of such investigation.

**7303. - 7319. [Reserved].**

**Railroad Clearances**

**7320. Applicability.**

Rules 7321 through 7328 apply to all railroads and railroad corporations which operate on standard gauge railroad track.

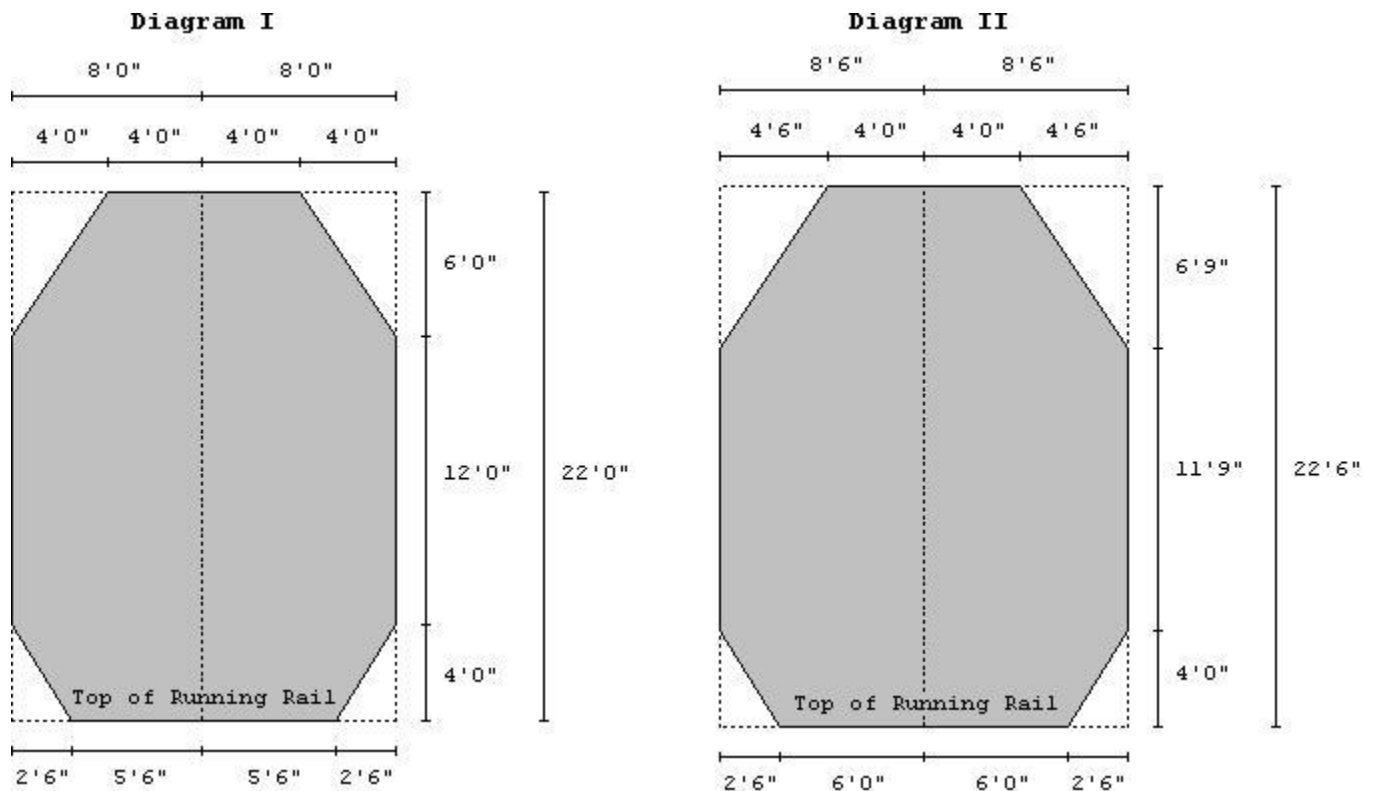
**7321. Definitions.**

The following definitions apply only in the context of rules 7321 through 7328.

- (a) "Overhead clearance" means the vertical distance from the top of the highest rail to a structure or obstruction above.
- (b) "Side clearance" means the shortest horizontal distance from the center line of track to a structure or obstruction at the side of the track.
- (c) "Track clearance" means the shortest horizontal distance between the center lines of adjacent tracks.

**7322. Diagrams.**

The following two diagrams are referenced in rules 7321 through 7328 as "Diagram I" and "Diagram II":



- (a) Diagram I is described as follows: starting at the center line of track at top of rail and extending 5'6" both sides horizontally and level therewith, thence upward diagonally to a point 4'0" above top of rail and 8'0" laterally from center line of track, thence vertically to a point 16'0" above top of rail, thence diagonally upward to a point 22'0" above top of rail and 4'0" horizontally from center of track, thence horizontally to center of track.
- (b) Diagram II is described as follows: starting at the center of track at top of rail and extending 6'0" both sides horizontally and level therewith, thence diagonally upward to a point 4'0" above top of rail and 8'6" laterally from center line of track, thence vertically upward to a point 15'9" above top of rail, thence diagonally upward to a point 22'6" above top of rail and 4'0" horizontally from center of track, thence horizontally to center of track.

**7323. Special Provisions.**

- (a) All existing structures, operating appurtenances, pole lines, service facilities, and track arrangements shall be exempt from these rules, except as hereinafter provided.
- (b) No change in existing track location or elevation shall be made which will reduce existing vertical or horizontal structural clearance below the minimum specified in rules 7320 through 7328.
- (c) No repair or maintenance work shall be done on structures, facilities or appurtenances adjacent to tracks which will reduce existing vertical or horizontal structural clearance below the minimum specified in rules 7320 through 7328.
- (d) As used in paragraphs (b) and (c), minimum clearance shall be as in Diagram I.
- (e) Where an existing structure does not provide clearance equal to the minimum of paragraph (d) or such other minima less than that which may be herein specified, the portion of the structure producing the impaired clearance may be repaired and maintained by partial replacements, which shall in no case reduce the clearance available at the time this order takes effect.
- (f) When the owner shall replace in its entirety the portion of a structure which has not previously provided standard clearance, the rebuilt portion must, when complete, provide the full standard clearance of this order unless otherwise ordered by the Commission.
- (g) Existing tracks.
  - (I) Existing tracks of all kinds may be maintained by reballasting, resurfacing, and replacing rails and ties subject to the limitations of paragraph (b). Where existing yards are completely replaced or are partially replaced as a unit or section of a master plan, the arrangement must meet the provisions of this order both as to track centers and clearances to structures and other facilities being built in connection with and as a part of such plan. Existing structures which are to remain and which do not provide the minimum clearance of paragraph (d) with respect to the proposed new tracks must be approved by the Commission for exemption from the terms of this order.
  - (II) Existing tracks having less vertical clearance than that specified in paragraph (d) may be maintained but the top of rail may not be raised without a corresponding raise of the overhead structure so as to maintain the existing available clearance.
  - (III) Existing tracks having less horizontal clearance between them than is herein specified for new construction or having less horizontal clearance to structures than is specified in paragraph (d) may be maintained but they may not be shifted horizontally to reduce either the existing track centers or the existing structural clearance.

**7324. Overhead Clearances.**

- (a) Generally.
  - (I) Overhead clearance generally shall be at least 22'6".
  - (II) Overhead clearances may be reduced to comply with paragraphs (d) and (e).

- (b) Inside enclosed buildings.
  - (I) Overhead clearance inside of enclosed buildings may be reduced to 18'0", provided that this clearance shall apply only to tracks terminating within the building or in the immediate plant area if said tracks should extend through the building.
  - (II) Overhead clearance of doors may be reduced to 17'0".
- (c) Tunnels.
  - (I) The minimum overhead clearance in tunnels shall be 23'0".
  - (II) The clearance may be decreased to the extent defined by the half-circumference of a circle having a radius of 8'0" and tangent to a horizontal line 23'0" above the top of rail at a point directly over the center line of track.
- (d) Through Bridges.
  - (I) The minimum overhead clearance in through bridges shall be 22'0".
  - (II) See paragraph 7323(d) and Diagram I.
- (e) All other structures.
  - (I) The minimum overhead clearance for all other structures shall be 22'6".
  - (II) Except as herein specifically provided, all other structures shall have at least the clearances illustrated by Diagram II.
  - (III) Overhead clearance for structures other than buildings may be reduced if approved by the Commission.
- (f) All wires in general shall have a minimum vertical clearance of not less than that specified by the National Electrical Safety Code, as incorporated by reference in rule 7008.
- (g) Engine houses and shop buildings are exempt from paragraphs (a) through (e) of this rule.

**7325. Side Clearances.**

- (a) Generally.
  - (I) Side clearance generally shall be at least 8'6".
  - (II) Wherever practicable, all posts, pipes, warning signs, and other small obstructions should be given a side clearance of at least 10'0".
  - (III) Side clearance may be reduced to comply with provisions of subparagraph (c)(I).
- (b) Platforms.
  - (I) The side clearances in this paragraph to apply to both main line and side tracks unless otherwise indicated.
  - (II) The minimum side clearance for platforms that are 8" or less above top of rail shall be 5'0".

- (III) For platforms that are greater than 8" above top of rail and 4'0" or less above top of rail:
  - (A) The minimum side clearance for freight platforms on side tracks shall be 6'3" or 8'0".
  - (B) If side clearance is reduced to 6'3" on one side, a full clearance of 8'0" shall be maintained on the opposite side.
  - (C) No intermediated clearance is permitted, except compensation for curvature under paragraph (i).
  - (D) The minimum side clearance for freight platforms on main line tracks or passing tracks shall be 8'6".
- (IV) For platforms that are greater than 4'0" above top of rail:
  - (A) The minimum side clearance on side tracks shall be 8'0".
  - (B) The minimum side clearance on main line and passing tracks shall be 8'6".
- (V) Combination platforms. Platforms covered under subparagraph (b)(II) may be combined with platforms covered under either subparagraph (b)(III) or (b)(IV) provided that the lower platform presents a level surface to the face of the wall of the platform with which it is combined. No other combinations are permitted.
- (VI) The minimum side clearance for all other platforms shall be 8'0".
  - (A) This subparagraph (VI) applies to side tracks only.
  - (B) Retractable platforms, either sliding or hinged, which are attached to a permanent structure, must be so constructed that, when retracted or in a non-working position and firmly secured or anchored, the resulting clearance shall not be less than clearances mandated by rules 7321 through 7328.
- (c) The minimum side clearance for bridges and tunnels shall be 8'0".
  - (I) Lower section of bridges and structures of bridges.
    - (A) This subparagraph applies to those sections of bridges and structures of bridges that are at or below 4'0" above top of rail.
    - (B) Hand rails, water barrels and refuge platforms on bridges and trestles, water columns, oil columns, block signals, or cattle guards, or portions thereof, which are 4'0" or less above top of rail, may have clearances decreased to the extent defined by a line extending diagonally upward from a point level with the top of rail and 5'6" distant laterally from center line of track to a point 4'0" above top of rail and 8'0" distant laterally from center line of track.
    - (C) The clearances authorized in this subparagraph (I) are not permitted on through bridges where the work of train-men or yardmen require them to be upon the decks of such bridges for the purpose of coupling or uncoupling cars in the performance of switching service on a switching lead.

- (II) Upper section of bridges and tunnels.
  - (A) This subparagraph applies to those sections of bridges, structures of bridges, and tunnels that are greater than 16'0" (Diagram I) or 15'9" (Diagram II) above top of rail.
  - (B) Side clearances in tunnels and through bridges may be decreased to the extent permitted by paragraphs 7324(c) and (d).
- (d) The minimum side clearance for all of the following shall be 3'0":
  - (I) switch boxes that project 4" or less above top of rail;
  - (II) switch operating mechanisms that are necessary for the control and operation of signals and that project 4" or less above top of rail; and
  - (III) interlockers that project 4" or less above top of rail.
- (e) The minimum side clearance for mail cranes and train order stands shall be 8'6", but only when such cranes or stands are not in an operative position.
- (f) The minimum side clearance for oil and water columns shall be 8'0", except as provided by subparagraph 7325(c)(I)(B).
- (g) Signals or switch stands.
  - (I) The minimum side clearance for signals and switch stands shall be 6'0", if such signals or switch stands are 3'0" high or less above top of rail when located either between tracks or where it is not practicable to provide clearances as otherwise prescribed in rules 7321 through 7328.
  - (II) The minimum side clearance for signals or switch stands that are over 3'0" high shall be 8'3".
  - (III) Signals and signal poles higher than 3'0" above top of rail shall, for the portions thereof that are higher than 4'0" above top of rail and less than 16'0" above top of rail, keep such portions 8'6" from center of track. The portions thereof that are below 4'0" and over 16'0" shall not encroach on the limits illustrated by Diagram II.
- (h) Buildings and entrances.
  - (I) The minimum side clearance inside buildings shall be 8'0".
  - (II) At elevations of 4'0" or less above top of rail inside of buildings, the minimum side clearance may be reduced on one side of the track to 6'3", provided that 8'0" is maintained on the opposite side.
  - (III) The minimum side clearance at building doors shall be 7'0".
  - (IV) Side clearance at doors may be reduced to 5'9" on one side of track only, provided a full clearance of 8'3" is maintained on the opposite side.
- (i) Curved track. The horizontal clearances specified in rules 7320 through 7328 relate to tracks on tangent. On curved track the clearances shall be increased to allow for the over-hang and the tilting of a car 85 feet long, 60 feet between centers of trucks, and 14 feet high.



- (j) The minimum side clearance for material, merchandise, or other articles adjacent to tracks shall be 8'6".
- (k) Engine houses, shop buildings, and passenger platforms, at car floor height, are exempt from this rule.

**7326. Track Clearances.**

- (a) Generally. The minimum distance between the center lines of parallel standard gauge railroad tracks, which are used or proposed to be used for transporting freight cars, shall be 14'0", except as hereinafter prescribed.
  - (I) The minimum distance between two parallel main tracks shall be 14'0".
  - (II) The minimum distance between main and passing tracks shall be 15'0".
  - (III) When another track is constructed adjacent to a passing track the clearance may be as prescribed in paragraph (a).
- (c) The minimum clearance between center lines of parallel team, house, or industry tracks shall be 13'0".
- (d) Ladder tracks.
  - (I) The minimum clearance between a ladder track and any parallel track, except another ladder track, shall be 17'0".
  - (II) The minimum clearance between a ladder track and another parallel ladder track shall be 20'0".
- (e) Existing tracks. Existing tracks built prior to June 1, 1952 may be extended at the railroad company clearances prevailing at the time the tracks were built.

**7327. Public Roads, Highways, and Street Crossings.**

- (a) Where a public road, highway, or street crosses above any railroad or street railroad track used or proposed to be used for transporting freight cars, minimum overhead and side clearances as set forth in this rule must be observed.
- (b) Overhead clearances.
  - (I) Where a railroad or street railroad crosses above any public road, highway or street, a minimum overhead clearance of 14'0" shall be provided above the surface of such road, highway, or street.
  - (II) Where a railroad or a street railroad crosses any highway of the State Highway System or any Federal Aid Highway, a minimum overhead clearance of 16'0" shall be provided above the surface of such highway or street.

- (c) Minimum opening clearances.
  - (I) Where a railroad or street railroad crosses above any public road, highway, or street on a single supporting span, a minimum width of 26'0" shall be provided for the opening for such public road, highway, or street.
  - (II) Where a railroad or street railroad crosses any highway of the State Highway System, or any Federal Aid Highway, on a single supporting span, a minimum width of 30'0" shall be provided for the opening of such highway or street.
  - (III) Where two or more supporting spans are used for such an opening, the minimum widths specified in subparagraphs (I) and (II) of this paragraph shall be provided for each of such supporting spans.

**7328. General Conditions.**

- (a) No restricted clearance set out in rules 7320 through 7328 shall apply to falsework, shoo-fly tracks, or other temporary emergency conditions caused by derailments, washouts, slides, or other unavoidable disasters.
- (b) No restricted clearances set out in rules 7320 through 7328 shall apply to ballast, track material, or construction material unloaded on and adjacent to tracks for contemplated use thereon or in the immediate vicinity, nor shall they apply to falsework or temporary construction necessary on any construction project.

**7329. - 7339. [Reserved].**

**System Safety Program Standard for Rail Fixed Guideway Systems**

**7340. Applicability.**

Rules 7341 through 7354 apply to all transit agencies and rail fixed guideway systems operating within the State of Colorado, which 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 7354:

- (a) "Contractor" means an entity that performs tasks required on behalf of the Commission or transit agency. The transit agency is not a contractor for the Commission.
- (b) "Corrective action plan" ("CAP" ) means a plan developed by the transit agency that describes the actions the transit agency will take to minimize, control, correct, or eliminate hazards, and the schedule for implementing those actions.
- (c) "Finding" means non-compliance with the transit agency's SSPP, SSP, rules, procedures, programs, or other regulatory guidelines, which results in the formulation of a CAP.
- (d) "FRA" means the Federal Railroad Administration, an agency of the United States Department of Transportation.
- (e) "FTA" means the Federal Transit Administration, an agency of the United States Department of Transportation.

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- (f) “Hazard” means any real or potential condition (as defined in the transit agency’s hazard management process) that can cause injury, illness, or death; damage to or loss of a system, equipment or property; or damage to the environment.
  - (g) “Individual” means a passenger; employee; contractor; other rail transit facility worker; pedestrian; trespasser; or any person on rail transit-controlled property.
  - (h) “Investigation” means the process used to determine the causal and contributing factors of an accident or hazard, so that actions can be identified to prevent recurrence.
  - (i) “New starts project” means any rail fixed guideway system funded under FTA’s discretionary construction program in 49 U.S.C. 5309.
  - (j) “NTSB” means the National Transportation Safety Board.
  - (k) “Passenger” means a person who is on board, boarding, or alighting from a rail transit vehicle for the purpose of travel.
  - (l) “Passenger operations” means the period of time when any aspect of transit agency operations are initiated with the intent to carry passengers.
  - (m) “Program standard” means the standards in rules 7340 through 7354, that codify the policies, objectives, responsibilities and procedures used to provide transit agency safety and security oversight.
  - (n) “Rail fixed guideway system” means those rail fixed guideway systems as defined in rule 7001(c) of which:
    - (I) The rail fixed guideway’s route miles are Included in FTA’s calculation of rail fixed guideway route miles;
    - (II) The rail fixed guideway system receives funding under FTA’s formula program for urbanized areas; or
    - (III) The rail fixed guideway system has submitted documentation to FTA indicating its intent to be included in FTA’s calculation of fixed guideway route miles to receive funding under FTA’s formula program for urbanized areas.
  - (o) “Rail transit-controlled property” means property that is used by the transit agency and may be owned, leased, or maintained by the transit agency.
  - (p) “Rail transit vehicle” means the transit agency’s rolling stock, including but not limited to passenger and maintenance vehicles.
  - (q) “Safety” means freedom from harm resulting from unintentional acts or circumstances.
  - (r) “Security” means freedom from harm resulting from intentional acts or circumstances.
  - (s) “System safety program plan” (“SSPP”) means a document developed and adopted by the transit agency, describing its safety policies, objectives, responsibilities, and procedures.
  - (t) “System security plan” (“SSP” ) means a document developed and adopted by the transit agency describing its security policies, objectives, responsibilities, and procedures.
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**7342. Incorporation by Reference.**

References in these rules to 49 C.F.R. 659 are rules issued by the FTA and are hereby incorporated by reference in these rules. References in these rules to 49 C.F.R. 15 are rules issued by the Office of the Secretary of the U.S. Department of Transportation and are hereby incorporated by reference in these rules. References in these rules to 49 C.F.R. 1520 are rules issued by Transportation Security Administration Department of Homeland Security and are hereby incorporated by reference in these rules. These rules may be found at 49 C.F.R. 15, 659, and 1520 revised as of October 1, 2005. References to 49 C.F.R. 15, 659 and 1520 do not include later amendments to, or editions of, 49 C.F.R. 15, 659 and 1520. A copy of all material that has been incorporated by reference is maintained at the offices of the Colorado Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, and is available for inspection during normal business hours. Copies of the incorporated rules shall be provided at cost upon request. The Director of the Commission will provide information regarding how 49 C.F.R. 15, 659 and 1520 may be obtained or examined. This incorporated material may be examined at any state publications depository library.

**7343. System Safety Program Plan.**

Every transit agency shall establish and maintain a written system safety program plan, as a separate document from the SSP, that complies with the program standard and includes the following sections:

- (a) Introduction. The Introduction section of the SSPP shall contain the following:
  - (I) A policy statement supporting the SSPP from the General Manager/Executive Director of the transit agency.
  - (II) A statement of the legal authority for the SSPP.
  - (III) A description of the purpose and scope of the SSPP.
  - (IV) A clear definition of the goals and objectives of the SSPP.
  - (V) A statement of management responsibilities to ensure the goals and objectives of the SSPP are achieved.
  - (VI) Specifications of policies in place to support implementation of the SSPP and a description of the specific activities required to implement the system safety program including:
    - (A) Tasks to be performed by the rail transit safety function, by position and management accountability, specified in matrices and narrative format.
    - (B) Safety-related tasks to be performed by other rail transit departments, by position and management accountability, specified in matrices and narrative format.
  - (VII) Identification of the process and procedures for controlling updates and modifications to SSPP including specification of an annual assessment of whether the SSPP should be updated and a requirement of coordination with the Commission, including timeframes for submission, revision, and approval.
  - (VIII) A description of the process used by the transit agency to implement its hazard management program, including activities for:
    - (A) Hazard identification.

- (B) Hazard investigation, evaluation and analysis.
  - (C) Hazard control and elimination.
  - (D) Hazard tracking.
  - (E) Requirements for on-going reporting to the oversight agency relating to hazard management activities and status.
- (IX) A description of the process used by the transit agency to ensure that safety concerns are addressed in modifications to existing systems, vehicles, and equipment, which do not require formal safety certification but which may have safety impacts.
- (b) System Description. The system description section of the SSPP shall include the following:
- (I) A brief history of the system(s) operated by the transit agency.
  - (II) The scope of service the transit agency provides.
  - (III) A description of the organizational structure of the transit agency, including organizational diagrams of the transit agency and the system safety unit that identify the lines of authority and communications used by the agency to manage safety issues and define responsibilities within the organization.
  - (IV) A description of how the safety function of the agency is integrated into the rest of the rail transit organization.
  - (V) A description of the physical plant including track, signal and communication system, vehicle type and operating characteristics, station facilities and maintenance facilities.
  - (VI) A description of the process to modify the system. The system modification review and approval process shall include the following:
    - (A) The identification of the unit or group of the transit agency responsible for ensuring that the hazards associated with system expansions or modifications are included in the transit agency's hazard resolution process.
    - (B) Participation of operating and safety department personnel in the design review process for new equipment and system expansions or modifications.
    - (C) A sign-off and certification process for verification of operational readiness of new equipment and system expansions or modifications prior to entering revenue service.
    - (D) Documentation of responsibility and authority for approval of modification exceptions to established design criteria for new equipment and system expansions.
    - (E) Procurement procedures that preclude the introduction into the rail fixed guideway system of unauthorized hazardous materials and supplies, as well as defective or deficient equipment.

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- (VII) A description of the safety certification process required by the transit agency to ensure that safety concerns and hazards are adequately addressed prior to the initiation of passenger operations for new starts projects, and subsequent major projects to extend, rehabilitate or modify an existing system, or to replace vehicles and equipment.
  - (c) System Safety Department Activities of the Transit Agency. The system safety department activities of the transit agency section of the SSPP shall contain the following:
    - (I) A description of the responsibilities of those in charge of managing the system safety process within the transit agency.
    - (II) A description of the process used to identify and resolve hazards during operation including any hazards resulting from subsequent system extensions or modifications, operational changes or other changes within the rail transit environment.
    - (III) The hazard management process shall include the following:
      - (A) A description of the transit agency's approach to hazard management and the implementation of an integrated system-wide hazard resolution process.
      - (B) Specification of the sources of, and the mechanisms to support, the on-going identification of hazards.
      - (C) A description of the process by which identified hazards will be evaluated and prioritized for elimination or control including hazards associated with operations, maintenance, and engineering.
      - (D) A description of the process and mechanism used to track through resolution the identified hazard(s).
      - (E) Definition of the minimum thresholds for the notification and reporting of hazard(s) to the Commission.
      - (F) A description of the process by which the transit agency will provide on-going reporting of hazard resolution activities to the Commission.
    - (IV) A procedure for accident and hazard notification, reporting and investigation. This procedure shall comply with rules 7347 and 7348 and shall include the following:
      - (A) Notification thresholds for internal and external organizations.
      - (B) The criteria for determining which accidents require investigation and who is going to conduct the investigation.
      - (C) A description of the process and procedures used for conducting accident investigations which include the reporting of findings to internal and external organizations, conclusions, development, implementation and tracking of corrective actions that address investigation findings, and follow up to verify corrective action implementation.
      - (D) Coordination with the Commission.

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- (V) An employee and contractor training and certification safety program including training and certification, drug and alcohol testing, as well as information about drug and alcohol abuse. The employee and contractor certification and training program shall include a description of the training material and documentation of training test scores and dates. The employee and contractor training and certification shall also include:
    - (A) Categories of safety-related work requiring training and certification.
    - (B) A description of the training and certification program for employees and contractors in safety-related positions including a description of the training material used.
    - (C) Process used to maintain and access employee and contractor records including documentation of training test scores and dates, when applicable.
    - (D) Process used to assess compliance with training and certification requirements.
  - (VI) A process for internal safety inspection of operation and maintenance facilities and equipment including audits and review of procedures that complies with rule 7349 and includes:
    - (A) Identification of the facilities and equipment subject to regular safety-related inspection and testing.
    - (B) Techniques used to conduct inspections and testing.
    - (C) Inspection schedules and procedures.
    - (D) Description of how results are entered into the hazard management process.
  - (VII) A description of the process used by the transit agency to develop an approved coordinated schedule for all emergency management program activities including:
    - (A) Meetings with external agencies.
    - (B) Emergency planning responsibilities and requirements.
    - (C) Process used to evaluate emergency preparedness, such as annual emergency field exercises.
    - (D) After action reports and implementation of findings.
    - (E) Revision and distribution of emergency response procedures.
    - (F) Familiarization training for public safety organizations.
    - (G) Employee training.
    - (H) An emergency plan that includes planning updates.
  - (VIII) A description of the hazardous materials program including the process to ensure knowledge of and compliance with program requirements.
  - (IX) A contractor safety coordination program.
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- (X) A description of the process used to collect, maintain, analyze, and distribute safety data, to ensure that the safety function within the rail transit organization receives the necessary information to support implementation of the system safety program.
  - (XI) A description of the process used by the transit agency to develop, maintain, and ensure compliance with rules and procedures having a safety impact including:
    - (A) Identification of operating and maintenance rules and procedures subject to review.
    - (B) Techniques used to assess the implementation of operating and maintenance rules and procedures by employees, such as performance testing.
    - (C) Techniques used to assess the effectiveness of supervision relating to the implementation of operating and maintenance rules.
    - (D) Process for documenting results and incorporating them into the hazard management program.
  - (XII) A description of the maintenance audits and inspections program, including identification of the affected facilities and equipment, maintenance cycles, documentation required, and the process for integrating identified problems into the hazard management process.
  - (XIII) A description of the configuration management control process including:
    - (A) The authority to make configuration changes.
    - (B) The process for making changes.
    - (C) Assurances necessary for formally notifying all involved departments.
  - (XIV) A description of the safety program for employees and contractors that incorporates the applicable local, state and federal requirements including:
    - (A) Safety requirements that employees and contractors must follow when working on, or in close proximity to transit agency property.
    - (B) Processes for ensuring the employees and contractors know and follow the requirements.
  - (XV) A description of the drug and alcohol program and the process used to ensure knowledge of and compliance with program requirements.
  - (XVI) A description of the measures, control, and assurances in place to ensure that safety principles, requirements and representatives are included in the transit agency's procurement process.
  - (d) Safety-related Activities of Other Departments of the Transit Agency. The safety-related activities of other departments of the transit agency section of the SSPP shall contain the following:
    - (I) A process of coordination of safety related tasks with other departments.
    - (II) A matrix of safety related tasks that shows department responsibility.
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- (e) System Safety Program Plan Implementation and Maintenance. The system safety program plan implementation and maintenance section of the SSPP shall contain the following:
- (I) Program schedule for implementation and maintenance of the SSPP which shall contain the following:
    - (A) Specified time intervals between SSPP reviews to determine whether or not the SSPP needs to be revised because of changed operating conditions and/or system modifications.
    - (B) A detailed description of the SSPP revision process including the identification of the persons responsible for initiating, developing, and approving changes to the SSPP.
    - (C) A statement that the Commission will be notified of all changes to the SSPP and supplied with a copy of all revised pages.
  - (II) A description of the process and procedure for conducting planned and scheduled internal safety reviews to evaluate compliance with the SSPP and comply with rule 7349 including the review and modification of the SSPP based upon audit results. This procedure shall include the following:
    - (A) Identification of departments and functions subject to review.
    - (B) The transit agency's schedule for conducting internal reviews and the responsibility for scheduling such reviews.
    - (C) A description of the process for conducting reviews, including the development of written checklists and procedures and the issuing of findings.
    - (D) Written documentation of the process and procedures of issuing audit findings including an evaluation of the adequacy and effectiveness of the SSPP.
    - (E) A process for the review of reporting requirements.
    - (F) A process for tracing the status of implemented recommendations.
    - (G) A requirement for an annual audit report, a copy of which must be submitted to the Commission by February 15 each year, which summarizes the results of the internal audits performed during the previous year, including a summary of required corrective actions taken, if any, and provision for follow up to ensure timely implementation and to determine effectiveness.
    - (H) Coordination with the Commission.
- (f) System Safety Program Plan Verification. The system safety program plan verification section of the SSPP shall contain the following:
- (I) A process to ensure that the design and construction of new systems and/or extensions comply with the SSPP.
  - (II) A process to ensure compliance of existing operating systems with the SSPP.

- (III) A process to ensure that safety audits and review of the SSPP are conducted including consideration of occupational safety and health, fire protection, safety training, and safety information and reporting.

**7344. System Security Plan.**

Every transit agency shall establish and maintain a written system security plan, as a separate document from the SSPP, that complies with the program standard and includes the following sections:

- (a) Introduction. The Introduction section of the SSP shall contain the following:
  - (I) A policy statement supporting the SSP from the General Manager/Executive Director of the transit agency.
  - (II) A statement of the legal authority for the SSP.
  - (III) A description of the purpose and scope of the SSP.
  - (IV) A clear definition of the goals and objectives of the SSP.
  - (V) A statement of management responsibilities to ensure the goals and objectives of the SSP are achieved.
  - (VI) Specifications of policies in place to support implementation of the security portions of the SSP and a description of the specific activities required to implement the system security program including:
    - (A) Tasks to be performed by the rail transit security function, by position and management accountability, specified in matrices and narrative format.
    - (B) Security-related tasks to be performed by other rail transit departments, by position and management accountability, specified in matrices and narrative format.
  - (VII) Identification of the procedures for controlling updates and modifications to the SSP including specification of an annual assessment of whether the SSP should be updated and a requirement of coordination with the Commission, including timeframes for submission, revision, and approval.
- (b) System Security Department Activities of the Transit Agency. The system security department activities of the transit agency section of the SSP shall contain the following:
  - (I) A description of the transit agency's process for identifying and managing threats and vulnerabilities, both proactive and reactive, during operations, and for major projects, extensions, new vehicles and equipment including integration with the safety certification process. Such process must include the process for assessment and resolution of the threats and vulnerabilities identified.
  - (II) Identification of controls in place that address the personal security of passengers and employees.
  - (III) Documentation of the transit agency's process for conducting internal security reviews to evaluate compliance and measure the effectiveness of the SSP.

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- (IV) Documentation of the transit agency's process for making its SSP and accompanying procedures available to the Commission for review and approval.
  - (V) Emergency response training, coordination and management both internal and external.
  - (VI) A process for the collection and analysis of security data.
- (c) Security-related Activities of Other Departments of the transit agency. The security-related activities of other departments section of the SSP shall contain the following:
- (I) Security related activities of other departments of the transit agency.
  - (II) A matrix of security related tasks that shows department responsibility.
- (d) System Security Plan Implementation and Maintenance. The system security plan implementation and maintenance section of the SSP shall contain the following:
- (I) Program schedule for implementation and maintenance of the SSP which shall contain the following:
    - (A) Specified time intervals between SSP reviews to determine whether or not the SSP needs to be revised because of changed operating conditions and/or system modifications.
    - (B) A detailed description of the SSP revision process including the identification of the persons responsible for initiating, developing, and approving changes to the SSP.
    - (C) A statement that the Commission will be notified of all changes to the SSP and supplied with a copy of all revised pages.
  - (II) A description of the process and procedure for conducting planned and scheduled internal security reviews to evaluate compliance with the SSP and comply with rule 7349 including the review and modification of the SSP based upon audit results. This procedure shall include the following:
    - (A) Identification of departments and functions subject to review.
    - (B) The transit agency's schedule for conducting internal reviews and the responsibility for scheduling such reviews.
    - (C) A description of the process for conducting reviews, including the development of written checklists and procedures and the issuing of findings.
    - (D) Written documentation of the process and procedures of issuing audit findings including an evaluation of the adequacy and effectiveness of the SSP.
    - (E) A process for the review of reporting requirements.
    - (F) A process for tracking the status of implemented recommendations.

- (G) A requirement for an annual audit report, a copy of which must be submitted to the Commission by February 15 each year, which summarizes the results of the internal audits performed during the previous year, including a summary of required corrective actions taken, if any, and provision for follow up to ensure timely implementation and to determine effectiveness.
- (H) Coordination with the Commission.
- (e) System Security Plan Verification. The system security plan verification section of the SSP shall contain the following:
  - (I) A process to ensure that the design and construction of new systems and/or extensions comply with the SSP.
  - (II) A process to ensure compliance of existing operating systems with the SSP.
- (f) A process to ensure that security audits and review of the SSP are conducted including consideration of security aspects of occupational safety and health, fire protection, safety training, and safety information and reporting.

**7345. Submittal and Review of the System Safety Program Plan and System Security Plan.**

- (a) On or before November 1 of the first year of operation for new systems, and each November 1 thereafter, each transit agency subject to rules 7341 through 7354 shall file its SSPP and SSP as separate applications for Commission approval. The Commission shall give ten days notice of the filing of the applications.
- (b) On or before December 20th of the year in which any applications for SSPP or SSP approval are filed, the Commission shall review each plan and shall approve those plans that comply with rules 7340 through 7354. All plans approved shall be approved by Commission order.
- (c) In the event that the Commission finds that the SSPP does not comply with rule 7343 or that the SSP does not comply with rule 7344, the Commission shall specify the sections not in compliance, recommend appropriate modifications and/or additions necessary to bring the SSPP or the SSP into compliance, and set a time frame for bringing the SSPP or SSP into compliance.
- (d) On or before January 1st of each year, the Commission shall certify to the FTA that each rail fixed guideway system subject to 49 C.F.R. Part 659 has a SSPP and SSP that conform to the program standard set forth in rules 7340 through 7354, or in the alternative, when the rail fixed guideway system will have the SSPP or SSP revised and in compliance. Upon receipt of the revised SSPP or SSP, the Commission will review the revised SSPP or SSP. If the Commission finds that the revised SSPP or SSP is in compliance with rules 7343 and 7344, the Commission shall approve the SSPP or SSP and certify to the FTA that the SSPP or SSP is in compliance. If the Commission finds that the revised SSPP or SSP is not in compliance, the Commission shall set the application for hearing and enter an appropriate order resolving the matter.

- (e) All materials submitted to the Commission in accordance with rule 7345 which pertain to security planning shall be submitted under seal in accordance with Commission rule 1100 regarding confidentiality. The Commission and its staff shall treat such reports as confidential pursuant to Commission rule 1100, and §24-72-204, C.R.S., and 49 C.F.R. Part 15 and Part 1520. All materials submitted to the Commission in accordance with rule 7345 which pertain to security planning shall be returned to the transit agency upon review and approval by the Commission. The transit agency shall keep at least one original copy of every security plan submitted to the Commission under rule 7345 for review and inspection by the Commission. The Commission shall not retain or image any material submitted to the Commission in accordance with rule 7345 that has been marked as sensitive security information pursuant to 49 C.F.R. Part 15 and Part 1520.

**7346. Corrective Action Plan**

Every transit agency required to develop a CAP shall develop a CAP that is based upon a hazard analysis, if necessary, and that complies with the following standards:

- (a) CAP Development. The transit agency shall develop a CAP for the following:
- (I) Results from investigations, in which identified causal and contributing factors are determined by the transit agency or Commission as requiring corrective actions.
  - (II) Findings from safety and security reviews performed by the oversight agency.
- (b) Each CAP and associated hazard analysis, if necessary, shall identify:
- (I) The element or activity identified including the assigned tracking number.
  - (II) The action to be taken by the transit agency to prevent recurrence and/or mitigate the element, activity, or hazardous condition(s).
  - (III) The interim measures the transit agency plans to implement to prevent recurrence before the final corrective actions are implemented.
  - (IV) The implementation schedule.
  - (V) The method(s) the transit agency will use to validate the effectiveness of the corrective measures.
  - (VI) The individual or department responsible for the implementation.
  - (VII) Any specific actions required by the Commission.
- (c) A CAP must be reviewed and formally approved by the Commission.
- (I) The Commission shall open an investigation docket and notify the transit agency by order that a CAP is required.
  - (II) The transit agency shall file a CAP and associated hazard analysis, if necessary, in the investigation docket within 30 days of the Commission order.
  - (III) The Commission shall issue an order in the investigation docket approving or rejecting the CAP within 15 days of receiving the transit agency's CAP.

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- (IV) If the CAP is rejected, the Commission order rejecting the CAP will provide the reasons for rejection and recommended revisions.
  - (V) If the CAP is rejected, the transit agency shall submit a revised CAP within 15 days of the Commission's order rejecting the CAP.
  - (VI) The Commission shall issue an order in the investigation docket approving or rejecting the revised CAP within 10 days of receiving the transit agency's CAP.
  - (VII) If the revised CAP is rejected, the Commission shall initiate its dispute resolution process.
- (d) The Commission's dispute resolution process will be used to resolve disputes between the Commission and transit agency resulting from the development or enforcement of a CAP.
  - (e) The Commission will evaluate the findings from any NTSB accident investigation and will determine if a CAP should be developed by either the Commission or the transit agency to address the NTSB findings.
  - (f) The transit agency must provide to the Commission the following:
    - (I) Verification that the corrective action(s) has been implemented as described in the CAP, or that a proposed alternate action(s) has been implemented subject to Commission review and approval.
    - (II) Periodic reports requested by the Commission describing the status of each corrective action(s) not completely implemented as described in the CAP.
  - (g) The Commission will monitor and track the implementation of each approved CAP using the following procedure:
    - (I) The transit agency shall submit quarterly reports on the status of the actions and activities contained in the CAP. The quarterly report shall address, at a minimum, the following:
      - (A) Activity associated with the CAP that has occurred in the interim or since the last report.
      - (B) A statement as to whether the actions and activities are on-schedule, behind schedule, or ahead of schedule.
      - (C) If actions and activities are behind schedule, a statement as to the causes of the delay and the planned measures to meet the schedule.
      - (D) Any changes in key personnel assigned to implementing the CAP.
      - (E) Any management issues.
      - (F) Effectiveness of interim safety measures.
      - (G) A statement as to the effectiveness of actions and/or activities that have already been implemented.
      - (H) If a like accident and/or hazardous condition has been identified subsequently to the CAP, a statement about the possible impacts on the CAP.
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- (II) The Commission shall actively monitor the progress of the CAP by meeting periodically with the transit agency and shall develop a monitoring plan in cooperation with the transit agency.
- (III) All CAP related correspondence between the Commission and the transit agency will include a tracking number.
- (IV) The Commission shall maintain a computerized log for tracking and recordkeeping of CAP's and shall enter and update all quarterly status reports, additional information, and information from the finalization of the CAP and shall check due dates.

**7347. Accident Notification.**

- (a) The Commission shall require the transit agency to notify the Commission's staff within two hours of any incident involving a rail transit vehicle or taking place on rail transit-controlled property where one or more of the following occurs:
  - (I) A fatality at the scene; or where an individual is confirmed dead within thirty days of a rail transit-related incident.
  - (II) Injuries requiring immediate medical attention away from the scene for two or more individuals.
  - (III) Property damage to rail transit vehicles, non-rail transit vehicles, other rail transit property or facilities, and non-transit property that equals or exceeds \$25,000.
  - (IV) An evacuation due to life safety reasons.
  - (V) A collision at a grade crossing.
  - (VI) A main-line derailment.
  - (VII) A collision with an individual on a rail right of way.
  - (VIII) A collision between a rail transit vehicle and a second rail transit vehicle, or a rail transit non-revenue vehicle.
- (b) The Commission shall require each transit agency that shares track with the general railroad system and are subject to FRA notification requirements to notify the Commission within two hours of an incident for which the transit agency must also notify the FRA.
- (c) The Commission's required method of notification of accidents is by telephone first within two hours followed by facsimile or electronic mail of any initial notification checklists and information sheets which shall contain the following information.
  - (I) The nature of the accident as described in rule 7347(a)(I through VIII) above.
  - (II) The time, date, and location of the accident.
  - (III) The time and date of the notification to the Commission.
  - (IV) A description of the vehicles, rail transit vehicles, passengers, individuals, rail transit-controlled property, and other property involved in the accident and the direction they were traveling at the time of the incident, if known.

**7348. Investigations and Reporting Procedures for Accidents and Hazards.**

- (a) The Commission shall investigate, or cause to be investigated, at a minimum, any incident involving a rail transit vehicle or taking place on rail transit-controlled property meeting the notification thresholds identified in rule 7347(a) or any hazard that meets the definition outlined in rule 7341 and to which rules 7343(c)(II) and (III) apply.
- (b) The Commission shall use its own investigation procedures or those that have been formally adopted from the transit agency and that have been submitted to FTA.
- (c) Each transit agency shall notify the Commission's staff of hazards by telephone or facsimile as soon as practicable, but not later than 24 hours from the time of occurrence or discovery.
- (d) Investigating accidents and hazards.
  - (I) Each transit agency shall investigate accidents and hazards on behalf of the Commission's staff. The Commission's staff may also perform separate, independent investigations at its own discretion.
  - (II) When investigating an accident as defined in rule 7347(a), the transit agency shall give prior sufficient telephone or facsimile notice to the Commission's staff of the times that an accident investigation team will convene to conduct interviews, inspections, examinations, or tests to determine the cause of the accident.
  - (III) The transit agency shall investigate each hazard in compliance with the procedures contained in the transit agency's approved SSPP.
  - (IV) The transit agency shall document its investigation in a written report. The transit agency shall submit the report to the Commission on forms available from the Commission. The report shall be submitted within 45 days after the accident occurred or the hazard was discovered. Reports shall be submitted for all accidents and hazards. The Accident/Hazard Report shall contain the following:
    - (A) The name of the transit agency and the name of the rail fixed guideway system if different.
    - (B) An indication showing whether the report concerns an accident or whether it concerns a hazard.
    - (C) The following accident data, if applicable: the accident date and time; the accident's location; the type of accident; whether the accident occurred at a grade crossing; the number of fatalities; the number of injuries; and the estimated damage in dollars to the rail fixed guideway system, vehicles, or other rail transit-controlled property.
    - (D) The following hazard data, if applicable: the date the hazard was identified; the location of the hazard; the type of hazard; the severity of the hazard; the name of the person who identified the hazard; the manner in which such person identified the hazard; and the probability that the hazard could cause death or injury to passengers or employees if not immediately corrected.
    - (E) A written description of the accident or hazard.
    - (F) A diagrammatic sketch of the accident or hazard.



- (G) An explanation of the accident or hazard's most probable cause and any additional contributing causes.
- (H) A CAP to prevent reoccurrence of the accident or to eliminate the hazard, if a determination is made that a CAP is warranted, or a statement that a CAP is not necessary.
- (I) A copy of the schedule for the implementation of the CAP if a CAP is warranted.
- (J) A signature and title of the person authorized to certify the accuracy of the report, together with the date the report is signed.
- (K) Copies of all photographs regarding the accident or hazard, or a statement that no such photographs exist.
- (L) A copy of any evidence that exists in the form of magnetic media, such as video or audio recordings of the event, or a statement that none exists.
- (M) Copies of any report from an outside agency that was involved in the investigation (e.g., local police investigation reports or coroners' reports), or a statement explaining why none is available. Copies of police reports must include, if available, information regarding whether a citation or notice of violation was issued and to whom it was issued.
- (N) A statement regarding whether drug and/or alcohol testing was performed on any transit agency employees or contractors in connection with the accident, and copies of the results of any such drug and/or alcohol tests or an affidavit reporting the results of any such testing.
- (O) Copies of any witness statements.
- (P) Copies of any other information, reports, or statements that would aid in the formation of a conclusion as to the cause of the accident.
- (V) The transit agency shall submit its investigation report, including its CAP and implementation schedule, to the Rail/Transit Safety Section of the Commission. Such report shall be submitted under seal and identified as a Highly Confidential Report filed in accordance with extraordinary protections afforded by Commission rules and §40-18-104, C.R.S. Upon submission, such report is an investigative report of the Commission, defined in § 40-18-104, that shall be afforded extraordinary protections as highly confidential information. Unless modified by subsequent Commission decision, such extraordinary protections shall restrict access to the Highly Confidential Report only to Commissioners, Administrative Law Judges, Commission Advisory Staff, Commission Litigation Staff, and legal counsel for each of these groups.
- (VI) Commission staff may request that the Commission consider the transit agency's investigation and report thereon. The Commission may, after considering the transit agency's investigation and report, make such order as it deems necessary, including an order mandating a staff investigation. If a staff investigation is ordered, the Commission shall consider staff's report and issue an appropriate order. Nothing in this subparagraph shall preclude Commission staff from, in its discretion, performing its own investigation without an order of the Commission.
- (e) The threshold for the Commission's investigation of accidents is the same as the transit agency's threshold for reporting accidents and pursuant to rule 7347(a). All hazards shall be investigated.

- (f) The Commission authorizes the transit agency to conduct investigations on the Commission's behalf and requires the transit agency to use investigation procedures that have been formally approved by the Commission.
- (g) Each investigation must be documented in a final report that includes a description of investigation activities, identified causal and contributing factors, and a corrective action plan and hazard analysis if warranted.
- (h) The Commission shall formally adopt a final investigation report for each investigation. Such adoption shall include the following:
  - (I) If the Commission has conducted the investigation, the Commission shall formally transmit its final investigation report to the transit agency.
  - (II) If the Commission has authorized an entity other than the Commission (including the transit agency) to conduct the investigation on the Commission's behalf, the Commission shall review and formally adopt the final investigation report.
  - (III) If the Commission does not concur with the findings of the transit agency investigation report, the Commission shall either:
    - (A) Conduct a Commission investigation according to rule 7348; or
    - (B) Formally transmit the Commission's dissent to the findings of the investigation, report the Commission's dissent to the transit agency, and negotiate with the transit agency until a resolution on the findings is reached.
- (i) The Commission shall require periodic status reports that document investigation activities and findings on a quarterly basis.

**7349. Internal Safety and Security Reviews.**

- (a) The transit agency is required to develop and document the process for the performance of on-going internal safety and security reviews in its SSPP and SSP.
- (b) The internal safety and security review process must:
  - (I) Describe the process used by the transit agency to determine if all identified elements of its SSPP and SSP are performing as intended.
  - (II) Ensure that all elements of the SSPP and SSP are reviewed in an on-going manner and completed over a three-year cycle.
- (c) The transit agency must notify the Commission at least 30 days before the conduct of scheduled internal safety and security reviews.
- (d) The transit agency shall submit to the Commission any checklists or procedures it will use during the safety portion of its review prior to such review.
- (e) The transit agency shall make available to the Commission any checklists or procedures subject to the security portion of its review, consistent with 49 C.F.R. §659.23(e).

- (f) The Commission requires the transit agency to annually submit a report documenting internal safety and security review activities and the status of subsequent findings and corrective actions. The security part of this report must be made available for Commission review consistent with 49 C.F.R. §659.23(e).
- (g) The annual report must be accompanied by a formal letter of certification signed by the transit agency's chief executive, indicating that the transit agency is in compliance with its system safety program plan and system security plan.
- (h) If the transit agency determines that findings from its internal safety and security reviews indicate that the transit agency is not in compliance with its SSPP, the chief executive must identify the activities the transit agency will take to achieve compliance.
- (i) The Commission must formally review and approve the annual report.
  - (I) The transit agency shall file its annual report on or before February 15 of the first year of operation for new systems, and each February 15 thereafter as an application for Commission approval. The Commission shall give ten days notice of the filing of the application.
  - (II) On or before April 5 of the year in which the application for approval of the annual report is filed, the Commission shall review the annual report and shall approve those annual reports that conform to rule 7349.
  - (III) In the event the Commission finds that the annual report does not comply with rule 7349, the Commission shall specify the sections not in compliance, recommend appropriate modifications and/or additions necessary to bring the annual report into compliance, and set a time frame for bringing the annual report into compliance.

**7350. Commission Safety and Security Reviews.**

At least every three years, beginning with the initiation of transit agency passenger operations, the Commission shall complete an on-site safety review of each transit agency's implementation of its SSPP and SSP in an on-going manner. At the conclusion of the three-year review cycle during which all parts of the SSPP and SSP have been reviewed, the Commission shall prepare and issue a report containing findings and recommendations resulting from that review, which at a minimum must include an analysis of the effectiveness of the SSPP and SSP, and a determination of whether either should be updated.

- (a) The Commission shall conduct six semi-annual safety and security review audits during the three-year review process. The first five semi-annual audits shall involve a review of five to nine areas of interest such that the entire SSPP and SSP are fully examined during the first five semi-annual audits. The sixth semi-annual audit shall be comprised of a review of the auditing process and procedures used during the previous five semi-annual audits in preparation for the next three-year review process.
- (b) For each semi-annual audit during the three-year review process, the Commission staff shall prepare audit checklists that identify the safety and security areas of interest and the compliance criteria to be used for the audit during the specific semi-annual audit.

- (c) For each semi-annual audit during the three-year review process, the Commission staff shall prepare a draft report for the semi-annual audit with completed audit checklists and audit findings. This draft report will be provided to the transit agency for a 30 day review and comment by the transit agency. The transit agency shall provide written responses to all audit report recommendations, any written comments, and proposed CAP's and implementation schedules within 30 days of receipt of the Commission's audit report. The transit agency shall also be allowed to make corrections to any findings outlined in the draft report within the 30 day review period. The transit agency must provide written documentation of the actions implemented to bring any findings into compliance with the accepted criteria as part of the transit agency's written response for the transit agency to avoid inclusion of such findings as documented findings in the final report and avoid development of CAP's for those findings in the final report. The Commission shall incorporate comments, CAP's and implementation schedules in a final audit report for the semi-annual audit. The Commission shall approve the final audit report.
- (d) The transit agency shall notify the Commission prior to the start of any transit agency internal safety and security review as outlined in rule 7349(c).
- (e) The Commission's safety and security review audits may be conducted in conjunction with the transit agency's internal safety and security reviews.
  - (I) If the transit agency chooses to conduct its internal safety and security reviews in conjunction with the Commission's safety and security review audit, the transit agency shall inform the Commission of its intentions 30 days before the start of the Commission's audit.
  - (II) If the transit agency chooses to conduct its internal safety and security reviews in conjunction with the Commission's safety and security review audit, such combined reviews will consist of the following:
    - (A) Pre-audit meetings where areas of interest and checklists can be compared and/or combined and pertinent documents reviewed.
    - (B) Joint on-site audit(s) of the areas of interest and checklist items.
    - (C) Post-audit meetings where the Commission and the transit agency shall present audit findings and recommended corrective actions.
    - (D) Submittal of the joint final audit report for agreement between the Commission and transit agency, or submittal of separate final audit reports for disagreement between the Commission and transit agency.
  - (III) At the conclusion of the three-year review cycle, the Commission shall prepare and issue a report as outlined in rule 7350.

**7351. Safety Oversight of Rail Fixed Guideway System Design, Construction, Pre-Operational Testing and Operation Start-Up.**

The Commission shall provide safety oversight guidance of rail fixed guideway system design, construction, pre-operational testing and operation start-up.

**7352. Inspection of Records.**

All transit agency records required by these rules shall be made available upon request to authorized personnel of the Commission.

**7353. Safety Data Acquisition/Analysis.**

The transit agency shall review and analyze all information and documentation required by these rules. The information or data collected shall be analyzed for potential safety impacts, and identified areas of concern shall be reported to appropriate personnel for investigation and resolution.

**7354. Variances.**

A transit agency may request a variance from these rules. A transit agency seeking such a variance shall comply with the variance request procedures contained in Commission's Rules Regulating Practice and Procedure.

**7355. – 7399. [Reserved].**

**MISCELLANEOUS**

**Employment of Class I Railroad Peace Officers**

**7400. Applicability.**

- (a) Rules 7401 through 7404 are applicable to all Class I railroads operating in the State of Colorado that employ railroad peace officers.
- (b) Rules 7401 through 7404 are in addition to the Class I railroad's standard employment rules and regulations.
- (c) Rules 7401 through 7404 apply to railroad peace officers employed on or after January 30, 1988.

**7401. Definitions.**

The following definitions apply only in the context of rules 7401 through 7404:

- (a) "Railroad peace officer" means any person employed by a Class I railroad corporation operating within the State of Colorado to protect and investigate offenses against the railroad corporation.
- (b) "CLETA" means the Colorado Law Enforcement Training Academy.
- (c) "POST Board" means the Peace Officer Standards and Training Board.

**7402. Minimum Requirements.**

A Class I railroad shall not employ an individual as a railroad peace officer unless such individual meets all of the following requirements:

- (a) Meets any of the following criteria:
  - (I) has a minimum of four years education at an accredited college or university,
  - (II) has a minimum of two years experience in public law enforcement or as a railroad peace officer,
  - (III) has any combination of education at an accredited college or university and law enforcement experience totaling four years,
  - (IV) has completed a basic training course at a training academy approved by CLETA, or

- (V) has been certified by the POST Board, or holds a current equivalent certification from another state.
- (b) Has been fingerprinted by the railroad.
- (c) Has been investigated by the railroad, in local, state, and national files, to disclose any criminal record. (Pursuant to § 24-5-101, C.R.S., prior conviction of a felony or other offense involving moral turpitude shall not, in and of itself, preclude employment).

**7403. Transfer to Colorado.**

A railroad peace officer transferring into Colorado from another state shall meet the requirements of rule 7402 at the time of transfer.

**7404. Variance.**

A Class I railroad may request a variance from rules 7402 and/or 7403. A railroad making such a request shall comply with the variance provisions of the Commission's Rules Regulating Practice and Procedure. In addition to the standards set forth in the Commission's Rules Regulating Practice and Procedure, the Commission shall consider whether granting the variance will endanger the public peace, health, or safety.

**7405. - 7999. [Reserved].**

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**Editor's Notes**

**History**

Sections 7000-7339 eff. 08/01/2007.

Sections B&P, 7002, 7201, 7203, 7204, 7301, 7342 eff. 12/30/2008.

Sections 7203(f), 7204(d), 7208(d), 7213 emer. rules eff. 09/07/2016.