

CHAPTER 161

PUBLIC UTILITIES

HOUSE BILL 24-1030

BY REPRESENTATIVE(S) Mabrey and Mauro, Epps, Boesenecker, Froelich, Lindsay, Parenti, Vigil, Amabile, Bacon, Bird, Brown, Daugherty, Duran, Garcia, Hamrick, Hernandez, Herod, Joseph, Kipp, Lieder, Lindstedt, Martinez, Marvin, McCormick, Ortiz, Ricks, Rutinel, Sirota, Snyder, Story, Titone, Weissman, Willford, Woodrow, Young, Jodeh, Lukens, Marshall, Valdez, Velasco, McCluskie;
 also SENATOR(S) Cutter and Exum, Jaquez Lewis, Priola, Winter F., Bridges, Buckner, Coleman, Danielson, Fields, Gonzales, Kolker, Marchman, Michaelson Jenet, Sullivan, Fenberg.

AN ACT

CONCERNING RAILROAD SAFETY, AND, IN CONNECTION THEREWITH, REQUIRING CERTAIN RAILROADS TO OPERATE TRAINS IN A MANNER THAT MINIMIZES THE OBSTRUCTION OF EMERGENCY VEHICLES AT HIGHWAY-RAIL CROSSINGS, AND, WHEN NECESSARY TO ALLOW AN EMERGENCY VEHICLE TO PASS, SEPARATE A TRAIN; AUTHORIZING A CREW MEMBER'S DESIGNATED UNION REPRESENTATIVE TO REQUEST INVESTIGATIONS OF CERTAIN REPORTED INCIDENTS; AUTHORIZING THE PUBLIC UTILITIES COMMISSION TO IMPOSE FINES FOR CERTAIN VIOLATIONS; REQUIRING FINE REVENUE TO BE PAID TO THE TRANSIT AND RAIL DIVISION IN THE DEPARTMENT OF TRANSPORTATION FOR THE PURPOSES OF MAINTAINING AND IMPROVING THE SAFETY OF A PASSENGER RAIL SYSTEM; CREATING THE OFFICE OF RAIL SAFETY; CREATING THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE; CREATING THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE; AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 3 to article 20 of title 40 as follows:

**PART 3
RAILROAD SAFETY**

40-20-301. Legislative declaration. (1) **THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:**

(a) **RAILROAD TRANSPORTATION IS A CRITICAL COMPONENT OF COLORADO'S ECONOMY AND PROVIDES EFFICIENT AND COST-EFFECTIVE MOVEMENT OF GOODS ACROSS THE STATE AND BEYOND;**

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) PROTECTING COLORADO'S RESIDENTS, ECOSYSTEMS, AND INFRASTRUCTURE FROM EXPOSURE TO HAZARDOUS MATERIALS CARRIED BY TRAINS IS A TOP PRIORITY OF THE GENERAL ASSEMBLY;

(c) TRAINS EMIT FEWER GREENHOUSE GAS EMISSIONS THAN OTHER MODES OF TRANSPORTATION, INCLUDING TRUCK TRACTORS, TRAILERS, OR SEMITRAILERS, THEREBY MAKING TRAINS A DESIRABLE CLIMATE-CONSCIOUS OPTION FOR TRANSPORTING LARGE VOLUMES OF WEIGHT AND FOR FREIGHT MOVEMENT;

(d) COLORADO'S FRAGILE ECOSYSTEMS, WEATHER EXTREMES, EXTENSIVE NUMBER OF HARD-TO-MAINTAIN RAILROAD TRACK MILES, AND NUMBER OF COMMUNITIES THROUGH WHICH RAILROADS OPERATE NECESSITATE THAT THE STATE TAKE DECISIVE ACTION TO PREVENT AND MITIGATE POTENTIAL HARM TO THE ENVIRONMENT AND COLORADO RESIDENTS FROM DERAILMENTS AND OTHER ACCIDENTS;

(e) RAILROAD TRACKS FREQUENTLY BISECT COMMUNITIES WITH POPULATIONS OF BLACK PEOPLE, INDIGENOUS PEOPLE, AND OTHER PEOPLE OF COLOR AND LOW-INCOME COMMUNITIES ACROSS COLORADO, MEANING THAT ANY DERAILMENT WILL LIKELY DISPROPORTIONATELY IMPACT THOSE COMMUNITIES, WHICH NECESSITATES THAT COLORADO TAKE EXTRA PRECAUTIONS TO PREVENT DERAILMENTS;

(f) THE FREQUENCY OF TRAIN ACCIDENTS INVOLVING HAZARDOUS MATERIALS HAS INCREASED IN THE LAST TWENTY YEARS. BEGINNING IN 1990, RAILROADS STARTED LOBBYING FOR LESS REGULATION OF THE TRANSPORTATION OF HAZARDOUS MATERIALS, AND A REDUCTION IN REGULATION RESULTED IN A GREATER NUMBER OF DERAILMENTS. WHEN RAILROADS IMPLEMENTED PRECISION SCHEDULING TO INCREASE PROFITS BEGINNING IN 2010, THE NUMBER OF DERAILMENTS INVOLVING HAZARDOUS MATERIALS INCREASED SIGNIFICANTLY.

(g) THE SAFE AND EFFICIENT OPERATION OF RAILROADS REQUIRES SEVERAL FACTORS, INCLUDING REGULARLY MAINTAINING RAILROAD TRACKS AND ROLLING STOCK, APPROPRIATELY USING TECHNOLOGY TO DETECT AND ADDRESS MECHANICAL AND OTHER ISSUES, EMPLOYING EXPERIENCED AND WELL-PAID WORKERS WITH CRITICAL SKILL SETS TO RECOGNIZE AND AVOID ACCIDENTS, AND LIMITING THE NUMBER OF CARS THAT TRAINS CARRY TO ENSURE THAT TRAINS HAVE REASONABLE LENGTHS.

(2) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT:

(a) RAILROADS UTILIZE NUMEROUS FORMS OF AVAILABLE TECHNOLOGY TO DETECT AND PREVENT VARIOUS EQUIPMENT FAILURES, INCLUDING INSTALLING WAYSIDE DETECTOR SYSTEMS ADJACENT TO A MAIN LINE;

(b) TWO OF THE MOST COMMON WAYSIDE DETECTOR TECHNOLOGIES THAT RAILROADS CURRENTLY USE ARE HOT BEARING DETECTORS THAT USE INFRARED SENSORS TO MEASURE THE TEMPERATURES OF BEARINGS ON PASSING TRAINS AND DRAGGING EQUIPMENT DETECTORS THAT DETECT OBJECTS DRAGGING ALONG A TRACK;

(c) USING HOT BEARING DETECTORS AND DRAGGING EQUIPMENT DETECTORS AT REGULAR INTERVALS ALONG A RAILROAD TRACK CAN REDUCE THE RISK OF DERAILMENTS, ACCIDENTS, AND OTHER INCIDENTS AND PROMOTE THE SAFE AND EFFICIENT MOVEMENT OF GOODS ACROSS THE STATE;

(d) THESE WAYSIDE DETECTOR SYSTEMS ARE HIGHLY EFFECTIVE, PREVENTIVE TOOLS THAT CAN ALERT RAILROAD CREWS TO PROBLEMS SO THEY CAN TAKE IMMEDIATE ACTION TO PREVENT ACCIDENTS OR DERAILMENTS;

(e) THE FEDERAL RAILROAD ADMINISTRATION RECOMMENDS BUT DOES NOT REQUIRE THE PLACEMENT OF HOT BEARING DETECTORS AT INTERVALS OF FORTY MILES, WHILE RAILROAD EXPERTS NATIONWIDE HAVE CALLED FOR SIGNIFICANTLY GREATER QUANTITY AND DENSITY OF HOT BEARING DETECTORS;

(f) THE FEDERAL RAILROAD ADMINISTRATION ALSO RECOMMENDS BUT DOES NOT REQUIRE THE INSTALLATION OF DRAGGING EQUIPMENT DETECTORS AT INTERVALS OF NO MORE THAN TWENTY-FIVE MILES ON RAILROAD TRACKS ON WHICH TRAINS OPERATE AT SPEEDS OF SIXTY MILES PER HOUR OR MORE, WHILE RAILROAD EXPERTS NATIONWIDE HAVE CALLED FOR SIGNIFICANTLY GREATER QUANTITY AND DENSITY OF DRAGGING EQUIPMENT DETECTORS;

(g) THE FEDERAL RAILROAD ADMINISTRATION'S RECOMMENDED SPACING DISTANCES DO NOT CONSIDER THE UNIQUE AND CHALLENGING DYNAMICS OF OPERATING RAILROADS SAFELY IN COLORADO, DO NOT ADEQUATELY PREVENT ACCIDENTS AND DERAILMENTS, AND DO NOT PROACTIVELY PROTECT COLORADO'S RESIDENTS, COMMUNITIES, AND ENVIRONMENT FROM HARM;

(h) RAILROADS ARE NOT CURRENTLY REQUIRED TO DISCLOSE WHERE WAYSIDE DETECTORS ARE INSTALLED OR WHETHER THE DETECTORS ARE OPERATIONAL, NOR ARE THEY REQUIRED TO CONSIDER VARIABLE TRACK CONDITIONS IN THE PLACEMENT OF DETECTORS. WITHOUT THIS INFORMATION, THE GENERAL ASSEMBLY, THE PUBLIC UTILITIES COMMISSION, AND THE PUBLIC ARE FORCED TO RELY ONLY ON THE ASSERTIONS OF RAILROADS THAT THEY ARE ADEQUATELY MONITORING TRACKS AND TRAINS FOR PROBLEMS.

(i) RECENT DERAILMENTS AND ACCIDENTS ACROSS THE COUNTRY HAVE HIGHLIGHTED THAT RAILROADS ARE NOT ADEQUATELY MONITORING FOR PROBLEMS OR TAKING PREVENTIVE ACTION, THAT SEVERE INJURY TO INDIVIDUALS AND SEVERE DAMAGE TO THE ENVIRONMENT AND INFRASTRUCTURE ARE PREVENTABLE AND UNNECESSARY, AND THAT THE GENERAL ASSEMBLY MUST TAKE ACTION;

(j) TRANSPARENCY AND ACCOUNTABILITY IN RAILROAD OPERATIONS ARE CRITICAL TO ENSURE THE SAFETY OF COLORADO'S RESIDENTS, PROTECT INFRASTRUCTURE AND THE ENVIRONMENT, AND PROMOTE LONG-TERM SUSTAINABILITY OF THE STATE'S ECONOMY, AND IT IS NECESSARY TO REQUIRE RAILROAD COMPANIES TO ANNUALLY REPORT THE LOCATIONS OF INSTALLED WAYSIDE DETECTOR SYSTEMS AND TRAIN LENGTH TO THE PUBLIC UTILITIES COMMISSION; AND

(k) ABSENT A COLORADO-SPECIFIC RECOMMENDATION FROM THE FEDERAL RAILROAD ADMINISTRATION CONCERNING THE PLACEMENT OF WAYWARD DETECTOR

SYSTEMS, AND WITH NO RECOMMENDATION PENDING IN THE IMMEDIATE FUTURE, THE GENERAL ASSEMBLY DEFERS TO THE EXPERT ADVICE OF RAILROAD OPERATORS.

(3) THEREFORE, THE GENERAL ASSEMBLY HEREBY ENACTS THIS PART 3 TO:

(a) PROMOTE TRANSPARENCY, ACCOUNTABILITY, AND SAFETY IN RAILROAD OPERATIONS IN THE STATE;

(b) LIMIT GREENHOUSE GAS EMISSIONS;

(c) REDUCE THE RISK OF ACCIDENTS, DERAILMENTS, AND OTHER INCIDENTS ASSOCIATED WITH RAILROAD TRANSPORTATION; AND

(d) PROTECT THE HEALTH AND WELL-BEING OF COLORADO'S RESIDENTS AND ECOSYSTEMS.

40-20-302. Definitions. AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACCIDENT" HAS THE MEANING SET FORTH IN 49 CFR 225.5.

(2) "CLASS I RAILROAD" HAS THE MEANING SET FORTH IN 49 U.S.C. SEC. 20102 (1).

(3) "CLASS II RAILROAD" HAS THE MEANING SET FORTH IN 49 U.S.C. SEC. 20102 (1).

(4) "CLASS III RAILROAD" HAS THE MEANING SET FORTH IN 49 U.S.C. SEC. 20102 (1).

(5) "COMMUNITY RAIL SAFETY ADVISORY COMMITTEE" MEANS THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE CREATED IN SECTION 40-20-312.

(6) "DEFECT" INCLUDES, BUT IS NOT LIMITED TO, HOT WHEEL BEARINGS, HOT WHEELS, DEFICIENT BEARINGS DETECTED THROUGH ACOUSTIC MEANS, DRAGGING OF EQUIPMENT, EXCESSIVE HEIGHT, EXCESSIVE WEIGHT, A SHIFTED LOAD, A LOOSE HOSE, IMPROPER RAIL TEMPERATURE, OR A DEFICIENT WHEEL CONDITION.

(7) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

(8) "DRAGGING EQUIPMENT DETECTOR" MEANS AN ELECTRONIC DEVICE OR OTHER TECHNOLOGY THAT MONITORS A PASSING TRAIN TO ACTIVELY DETECT AND ALERT OPERATORS OF THE TRAIN OF THE EXISTENCE OF ANY OBJECTS DRAGGING FROM THE TRAIN.

(9) "FUND" MEANS THE RAIL DISTRICT MAINTENANCE AND SAFETY FUND CREATED IN SECTION 40-20-309.

(10) "HAZARDOUS MATERIAL" HAS THE MEANING SET FORTH IN 49 CFR 171.8.

(11) "HIGHWAY-RAIL CROSSING" MEANS:

(a) THE POINT AT WHICH ANY PUBLIC HIGHWAY IS OR WILL BE CONSTRUCTED ACROSS THE TRACKS OR OTHER FACILITIES OF A RAILROAD AT, ABOVE, OR BELOW GRADE;

(b) THE POINT AT WHICH THE TRACKS OR OTHER FACILITIES OF A RAILROAD ARE OR MAY BE CONSTRUCTED ACROSS ANY PUBLIC HIGHWAY AT, ABOVE, OR BELOW GRADE;

(c) THE POINT AT WHICH ANY PUBLIC PATHWAY IS OR WILL BE CONSTRUCTED ACROSS PRIVATE TRACKS ON WHICH ANY RAILROAD MAY OPERATE AT, ABOVE, OR BELOW GRADE; OR

(d) THE POINT AT WHICH PRIVATE TRACKS OVER WHICH ANY RAILROAD MAY OPERATE ARE OR WILL BE CONSTRUCTED ACROSS ANY PUBLIC PATHWAY AT, ABOVE, OR BELOW GRADE.

(12) "HOT BEARINGS DETECTOR" MEANS AN INFRARED DETECTOR LOCATED ALONG RAILROAD TRACKS TO DETECT AND ALERT THE OPERATORS OF A PASSING TRAIN TO ANY OVERHEATING OF A TRAIN'S BEARINGS, AXLES, OR WHEELS.

(13) "INCIDENT" HAS THE MEANING SET FORTH IN 49 CFR 225.5.

(14) "MAIN LINE" MEANS A SEGMENT OR ROUTE OF RAILROAD TRACKS OF ANY RAILROAD OVER WHICH FIVE MILLION OR MORE GROSS TONS OF RAILROAD TRAFFIC IS TRANSPORTED ANNUALLY AS DOCUMENTED IN TIMETABLES FILED WITH THE FEDERAL RAILROAD ADMINISTRATION PURSUANT TO 49 CFR 217.7. "MAIN LINE" DOES NOT INCLUDE TOURIST, SCENIC, HISTORIC, OR EXCURSION OPERATIONS AS DEFINED IN 49 CFR 238.5.

(15) "PASSENGER RAIL SYSTEM" HAS THE MEANING SET FORTH IN SECTION 32-22-102 (9).

(16) "PATHWAY CROSSING" MEANS:

(a) THE POINT AT WHICH ANY PUBLIC PATHWAY IS OR WILL BE CONSTRUCTED ACROSS THE TRACKS OR OTHER FACILITIES OF A RAILROAD AT, ABOVE, OR BELOW GRADE;

(b) THE POINT AT WHICH ANY TRACKS OR OTHER FACILITIES OF A RAILROAD ARE OR WILL BE CONSTRUCTED ACROSS ANY PUBLIC PATHWAY AT, ABOVE, OR BELOW GRADE;

(c) THE POINT AT WHICH ANY PUBLIC PATHWAY IS OR WILL BE CONSTRUCTED ACROSS PRIVATE TRACKS OVER WHICH ANY RAILROAD MAY OPERATE AT, ABOVE, OR BELOW GRADE; OR

(d) THE POINT AT WHICH PRIVATE TRACKS OVER WHICH ANY RAILROAD MAY OPERATE ARE OR WILL BE CONSTRUCTED ACROSS ANY PUBLIC PATHWAY AT, ABOVE, OR BELOW GRADE.

(17) "PUBLIC CROSSING" MEANS A HIGHWAY-RAIL CROSSING OR PATHWAY CROSSING WHERE THE HIGHWAY OR PATHWAY ON BOTH SIDES OF THE CROSSING IS UNDER THE JURISDICTION OF OR IS MAINTAINED BY A STATE OR LOCAL ROAD AUTHORITY AND IS OPEN TO PUBLIC TRAVEL.

(18) "PUBLIC UTILITIES COMMISSION" OR "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION CREATED IN SECTION 40-2-101.

(19) "RAIL INDUSTRY SAFETY ADVISORY COMMITTEE" MEANS THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE CREATED IN SECTION 40-20-313.

(20) "RAILROAD" MEANS A PERSON PROVIDING RAILROAD TRANSPORTATION.

(21) "RAILROAD TRANSPORTATION" MEANS ANY FORM OF NONHIGHWAY GROUND TRANSPORTATION THAT RUNS ON RAILS OR ELECTROMAGNETIC GUIDEWAYS. "RAILROAD TRANSPORTATION" DOES NOT INCLUDE RAPID TRANSIT OPERATIONS, PUBLIC TRANSPORTATION, RAIL FIXED GUIDEWAY OPERATIONS, OR COMMUTER PASSENGER RAIL THAT:

(a) IS IN AN URBAN OR A SUBURBAN AREA; AND

(b) IS NOT CONNECTED TO A GENERAL OR AN INTERSTATE RAILROAD SYSTEM.

(22) "SIDING" HAS THE MEANING SET FORTH IN 49 CFR 218.93.

(23) "TRAIN" MEANS A LOCOMOTIVE UNIT OR LOCOMOTIVE UNITS, WITH OR WITHOUT CARS, THAT REQUIRE AN AIR BRAKE TEST PURSUANT TO 49 CFR 232 AND 49 CFR 238.

(24) "WAYSIDE DETECTOR" MEANS AN ELECTRONIC DEVICE OR A SERIES OF CONNECTED DEVICES THAT MONITORS A PASSING TRAIN TO DETERMINE WHETHER THE TRAIN HAS A DEFECT, INCLUDING A HOT BEARINGS DETECTOR AND A DRAGGING EQUIPMENT DETECTOR.

40-20-303. Wayside detector systems - obstructions at public crossings - reports. (1) ON OR BEFORE JANUARY 1, 2025, AND ON OR BEFORE JANUARY 1 OF EACH YEAR THEREAFTER, A RAILROAD OPERATING ANY MAIN LINE IN THE STATE SHALL SUBMIT TO THE PUBLIC UTILITIES COMMISSION A PUBLIC REPORT THAT DISCLOSES, AT A MINIMUM, THE FOLLOWING INFORMATION:

(a) AN OVERVIEW OF THE TYPES OF, GENERAL LOCATIONS OF, AND SPACING BETWEEN WAYSIDE DETECTORS ON MAIN LINES IN COLORADO;

(b) A GENERAL DESCRIPTION OF HOW THE WAYSIDE DETECTOR SYSTEM PROMOTES SAFETY, INCLUDING PLANS TO ADJUST OR IMPROVE THE WAYSIDE DETECTOR SYSTEM OR REVIEW WAYSIDE DETECTOR TECHNOLOGY;

(c) A GENERAL DESCRIPTION OF THE PROCESS BY WHICH DEFECTS OR OTHER DETECTIONS ARE MANAGED IN ORDER TO PROVIDE NOTICE TO TRAIN OPERATORS AND OTHERS; AND

(d) THE PERCENTAGE OF TIME THAT EACH TYPE OF WAYSIDE DETECTOR WAS OPERATIONAL FOR THE PREVIOUS YEAR.

(2)(a) EXCEPT FOR TRAINS OR EQUIPMENT STOPPED DUE TO MECHANICAL FAILURE WHERE SEPARATION OR MOVEMENT IS NOT POSSIBLE, THE STATE EXPECTS THAT ANY TRAIN OR EQUIPMENT OPERATING ON A MAIN LINE OR SIDING IN THE STATE SHOULD BE OPERATED IN SUCH A MANNER AS TO MINIMIZE OBSTRUCTION OF EMERGENCY VEHICLES AT HIGHWAY-RAIL CROSSINGS. UPON THE APPROACH OF AN EMERGENCY VEHICLE TO ANY BLOCKED CROSSING, AN EMERGENCY VEHICLE MAY GIVE WARNING OF ITS APPROACH BY THE SOUNDING OF SIRENS, FLASHING OF LIGHTS, WAVING OF A FLAG, OR ANY OTHER WARNING SUFFICIENT TO ATTRACT ATTENTION TO THE EMERGENCY VEHICLE TO ALLOW THE TRAIN CREW TO SEPARATE THE TRAIN OR EQUIPMENT AND CLEAR THE CROSSING WITH ALL POSSIBLE DISPATCH TO PERMIT THE EMERGENCY VEHICLE TO PASS. IF A BLOCKED CROSSING IS NOT CLEARED, THE ENTITY OPERATING THE EMERGENCY VEHICLE OR THE DEPARTMENT OF PUBLIC SAFETY SHALL REQUEST THAT THE RAILROAD IMMEDIATELY TAKE ANY ACTION, CONSISTENT WITH SAFE OPERATING PROCEDURES, NECESSARY TO CLEAR THE HIGHWAY-RAIL CROSSING.

(b) THE DEPARTMENT OF PUBLIC SAFETY SHALL, AND OTHER EMERGENCY VEHICLE OPERATORS MAY, REPORT TO THE OFFICE OF RAIL SAFETY THE DETAILS OF ANY EVENT IN WHICH AN EMERGENCY VEHICLE WAS STOPPED OR DELAYED BY A TRAIN BLOCKING A HIGHWAY-RAIL CROSSING, ANY REQUEST THAT WAS MADE TO CLEAR THE CROSSING, THE RESOLUTION OF ANY SUCH REQUEST, AND ANY EFFECTS THAT THE DELAY OF THE EMERGENCY VEHICLE HAD ON THE EMERGENCY RESPONSE.

(c) AS USED IN THIS SUBSECTION (2), "EMERGENCY VEHICLE" MEANS:

(I) AN AMBULANCE OPERATED BY A PUBLIC AUTHORITY OR BY A PRIVATE PERSON;

(II) A POLICE VEHICLE;

(III) A FIRE ENGINE;

(IV) A VEHICLE OPERATED BY A POWER COMPANY, ELECTRIC COMPANY, OR OTHER PUBLIC UTILITY;

(V) A VEHICLE USED FOR EMERGENCY PURPOSES BY THE FEDERAL GOVERNMENT OF THE UNITED STATES; OR

(VI) ANY OTHER VEHICLE THAT IS BEING OPERATED FOR THE PURPOSE OF SAVING LIFE OR PROPERTY OR RESPONDING TO ANY PUBLIC PERIL.

40-20-304. Emergency operations. (1) STATE EMERGENCY RESPONSE AUTHORITIES MAY RECOMMEND ACTIONS NECESSARY TO PROTECT RAILROADS, RAIL WORKERS, AND PUBLIC SAFETY IN THE EVENT OF AN EMERGENCY SUCH AS WILDFIRE, FLOOD, EARTH MOVEMENT, OR CIVIL DISORDER, INCLUDING STOPPING OR REROUTING RAIL TRAFFIC IF DEEMED NECESSARY.

(2) A RAILROAD SHALL RESPOND TO A STATE EMERGENCY RESPONSE AUTHORITY PROMPTLY AND WORK CLOSELY WITH STATE AND LOCAL OFFICIALS DURING

EMERGENCIES TO COORDINATE RESPONSE EFFORTS AND ENSURE THE SAFETY OF RAIL PERSONNEL AND THE PUBLIC.

40-20-305. Incident response requirements. (1) (a) A RAILROAD OPERATING IN COLORADO THAT ACCOMMODATES HIGH-HAZARD FLAMMABLE TRAINS OR HIGH-HAZARD HIGH-CONSEQUENCE HAZARDOUS MATERIAL SHALL COORDINATE WITH THE DEPARTMENT OF PUBLIC SAFETY REGARDING EMERGENCY RESPONSE AND SPILL RESPONSE CAPACITY AND PLANNING. THE RAILROAD AND THE DEPARTMENT OF PUBLIC SAFETY SHALL COORDINATE REGARDING THE ADEQUACY OF CACHES OF EQUIPMENT, SUPPLIES, AND AVAILABLE STAFF TO MITIGATE ALL HAZARDS LIKELY WITHIN THE AREA COVERED BY EACH CACHE, INCLUDING CONSIDERATION OF:

- (I) FIRE SUPPRESSION FOAM AND FOAM SYSTEMS;
- (II) ABSORBENT MATERIALS AND CONTAINMENT BOOMS;
- (III) SPECIALIZED LEAK MITIGATION AND REPAIR KITS;
- (IV) CHEMICAL PROTECTIVE CLOTHING;
- (V) PERSONNEL DECONTAMINATION SUPPLIES;
- (VI) INTEROPERABLE COMMUNICATION EQUIPMENT; AND
- (VII) RESPONSE TIMES.

(b) A RAILROAD SHALL ENSURE THAT LOCAL AND STATE FIRST RESPONDERS HAVE ACCESS TO THE CACHED EQUIPMENT NECESSARY TO RESPOND TO RAIL INCIDENTS.

(c) RESOURCES DESCRIBED IN THIS SUBSECTION (1) MAY BE MAINTAINED:

(I) AS PARTNERSHIPS WITH FEDERAL, STATE, COUNTY, OR LOCAL AGENCIES, INCLUDING LOCAL FIRE DEPARTMENTS AND POLICE DEPARTMENTS; OR

(II) PURSUANT TO CONTRACTS WITH OTHER RAILROADS OR EMERGENCY RESPONSE ENTITIES.

(2) NOTHING IN THIS SECTION CREATES ANY DUTY FOR A LOCAL GOVERNMENT; EXCEPT THAT A LOCAL GOVERNMENT MAY AGREE TO ASSUME DUTIES DELEGATED TO THE LOCAL GOVERNMENT BY A RAILROAD.

(3) A RAILROAD MAY PARTNER WITH ONE OR MORE COUNTIES OR OTHER REGIONAL ENTITIES TO SUPPORT REGIONAL HAZARDOUS MATERIALS TEAMS AND CAPABILITIES.

(4) EACH RAILROAD SHALL COORDINATE WITH THE DEPARTMENT OF PUBLIC SAFETY TO CONDUCT AT LEAST TWO HAZARDOUS MATERIALS RESPONSE TABLETOP EXERCISES EACH YEAR WITH OTHER FEDERAL, REGIONAL, STATE, AND LOCAL AGENCIES, INCLUDING AT LEAST ONE SCENARIO INVOLVING DERAILMENT AND RELEASE OF CRUDE OIL OR OTHER FLAMMABLE MATERIALS AND AT LEAST ONE INCIDENT WITH DERAILMENT INVOLVING INHALATION HAZARDS.

40-20-306. Emergency notifications. (1) WITHIN THIRTY MINUTES AFTER DISCOVERING AN EMERGENCY INVOLVING A TRAIN, UNLESS COMMUNICATION IS IMPOSSIBLE, THE RAILROAD OPERATING THE TRAIN SHALL NOTIFY THE STATE'S WATCH CENTER OF THE EMERGENCY BY TELEPHONE OR ANOTHER AGREED-UPON METHOD OF COMMUNICATION TO ENSURE THAT AUTHORITIES CAN RESPOND SWIFTLY AND APPROPRIATELY. EMERGENCY CONDITIONS THAT REQUIRE A RAILROAD TO PROVIDE SUCH NOTICE INCLUDE:

(a) RELEASE OF ANY HAZARDOUS MATERIAL;

(b) DEATH OF ANY INDIVIDUAL;

(c) INJURY TO ANY INDIVIDUAL THAT REQUIRES MEDICAL TREATMENT IN ADDITION TO FIRST AID;

(d) ANY FIRE OR RISK OF FIRE; AND

(e) PROPERTY DAMAGE AMOUNTING TO FIFTY THOUSAND DOLLARS OR MORE.

(2) THE NOTIFICATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION MUST INCLUDE:

(a) DETAILS ABOUT THE NATURE AND SEVERITY OF THE EMERGENCY, SUCH AS THE TYPE OF INCIDENT, THE LOCATION OF THE INCIDENT, THE POTENTIAL HAZARDS INVOLVED, AND ANY IMMEDIATE ACTIONS TAKEN OR REQUIRED;

(b) THE EXTENT OF THE IMPACT OF THE EMERGENCY, INCLUDING ANY INJURIES, FATALITIES, PROPERTY DAMAGE, OR ENVIRONMENTAL DAMAGE;

(c) IMPACTS ON OTHER SURFACE TRANSPORTATION, INCLUDING BLOCKED ROADWAYS;

(d) IF THE EMERGENCY INVOLVES THE TRANSPORTATION OF HAZARDOUS MATERIALS, SPECIFIC INFORMATION ABOUT THE MATERIALS INVOLVED, THEIR QUANTITIES, AND ANY POTENTIAL RISKS TO PUBLIC SAFETY OR THE ENVIRONMENT;

(e) RESPONSE ACTIONS TAKEN TO MITIGATE THE EMERGENCY;

(f) REQUESTS FOR ASSISTANCE, INCLUDING EVACUATIONS, CONTAINMENT, AND ADDITIONAL RESOURCES; AND

(g) ANY IMMEDIATE COORDINATION EFFORTS THAT HAVE TAKEN PLACE WITH LOCAL AUTHORITIES.

(3) AFTER PROVIDING THE EMERGENCY NOTIFICATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION, A RAILROAD SHALL SUBMIT FOLLOW-UP REPORTS TO THE COMMISSION AND COORDINATE RESPONSE EFFORTS.

(4) A RAILROAD THAT PROVIDES A NOTIFICATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL ALSO NOTIFY THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE AND THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE OF THE

INCIDENT WITHIN THIRTY DAYS AFTER PROVIDING THE NOTIFICATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

40-20-307. Reporting violation to union representative - request for investigation. (1) A CREW MEMBER OF A TRAIN OPERATED BY A RAILROAD IN THE STATE MAY REPORT TO THE CREW MEMBER'S DESIGNATED UNION REPRESENTATIVE:

(a) A VIOLATION OF ANY OF THE SAFETY REQUIREMENTS SPECIFIED IN THIS PART 3;

(b) AN INJURY THE CREW MEMBER OR ANOTHER CREW MEMBER SUSTAINED WHILE OPERATING A TRAIN ON ANY TRACK IN CONNECTION WITH RAILROAD TRANSPORTATION IN THE STATE; OR

(c) A DEATH THAT OCCURRED DURING THE OPERATION OF A TRAIN.

(2) A DESIGNATED UNION REPRESENTATIVE RECEIVING A REPORT MAY REQUEST AN INVESTIGATION FROM THE OFFICE OF RAIL SAFETY.

40-20-308. Violations - penalties - rules. (1) IF A RAILROAD OR ANY OFFICER, AGENT, OR EMPLOYEE OF THE RAILROAD VIOLATES SECTION 40-20-303, THE PUBLIC UTILITIES COMMISSION MAY IMPOSE A FINE OF NOT LESS THAN TEN THOUSAND DOLLARS BUT NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS ON THE RAILROAD. EACH DAY OF A CONTINUING VIOLATION CONSTITUTES A SEPARATE VIOLATION.

(2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, THE PUBLIC UTILITIES COMMISSION MAY IMPOSE A FINE OF UP TO ONE HUNDRED THOUSAND DOLLARS PER VIOLATION IF THE COMMISSION FINDS:

(a) THE RAILROAD INTENTIONALLY OR KNOWINGLY VIOLATED SECTION 40-20-303; OR

(b) THE RAILROAD'S VIOLATION WAS PART OF A PATTERN AND PRACTICE OF REPEATED VIOLATIONS OF SECTION 40-20-303.

(3) THE PUBLIC UTILITIES COMMISSION SHALL TRANSFER ALL FINES COLLECTED PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THE FINES TO THE FUND.

(4) THE PUBLIC UTILITIES COMMISSION SHALL PROMULGATE RULES FOR THE DETERMINATION, IMPOSITION, AND APPEAL OF FINES UNDER THIS SECTION.

40-20-309. Rail district maintenance and safety fund - created. (1) THE RAIL DISTRICT MAINTENANCE AND SAFETY FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF ANY MONEY CREDITED TO THE FUND PURSUANT TO SECTION 40-20-308 (3) AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

(2) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(3) (a) FOR THE 2025-26 STATE FISCAL YEAR AND EACH STATE FISCAL YEAR THEREAFTER, MONEY IN THE FUND IS ANNUALLY APPROPRIATED TO THE TRANSIT AND RAIL DIVISION IN THE DEPARTMENT OF TRANSPORTATION. THE DIVISION MAY EXPEND THE MONEY RECEIVED FOR THE PURPOSES OF:

(I) SAFETY PLANNING AND DEVELOPMENT DURING THE RESEARCH, DEVELOPMENT, AND CONSTRUCTION OF A PASSENGER RAIL SYSTEM;

(II) PLANNING, DESIGN, CONSTRUCTION, OR MAINTENANCE AND OPERATION OF SAFETY IMPROVEMENTS ON ANY RAILROAD OR RAILROAD CROSSING IN THE STATE; AND

(III) COMPLETING CAPITAL DEVELOPMENT PROJECTS TO IMPROVE THE SAFETY OF A PASSENGER RAIL SYSTEM.

(b) MONEY IN THE FUND IS NOT INTENDED TO INCREASE THE NUMBER OF FULL-TIME EMPLOYEES OF THE DEPARTMENT OF TRANSPORTATION.

40-20-310. Training - rules. (1) ON OR BEFORE JULY 1, 2025, AND AT LEAST ONCE EVERY THREE YEARS THEREAFTER, EACH RAILROAD SHALL OFFER TRAINING TO EACH FIRE DEPARTMENT AND OTHER FIRST RESPONDER ORGANIZATION HAVING JURISDICTION ALONG TRACKS UPON WHICH THE RAILROAD OPERATES IN THE STATE. IN SATISFYING THIS REQUIREMENT, A RAILROAD MAY OFFER SUCH TRAINING SIMULTANEOUSLY TO MORE THAN ONE FIRE DEPARTMENT AND OTHER FIRST RESPONDER ORGANIZATION.

(2) THE TRAINING DESCRIBED IN SUBSECTION (1) OF THIS SECTION MUST:

(a) ADDRESS THE GENERAL HAZARDS OF HAZARDOUS MATERIALS, TECHNIQUES TO ASSESS RISKS POSED TO THE ENVIRONMENT AND TO THE SAFETY OF EMERGENCY RESPONDERS AND THE PUBLIC, FACTORS AN INCIDENT COMMANDER MUST CONSIDER IN DETERMINING WHETHER TO ATTEMPT TO SUPPRESS A FIRE OR TO EVACUATE THE PUBLIC AND EMERGENCY RESPONDERS FROM AN AREA, PUBLIC NOTIFICATION PROCESSES, ENVIRONMENTAL CONTAMINATION RESPONSE, RESOURCE COORDINATION, AND OTHER STRATEGIES FOR INITIAL RESPONSE BY EMERGENCY RESPONDERS; AND

(b) INCLUDE SAFETY DRILLS THAT IMPLEMENT SUGGESTED PROTOCOLS OR PRACTICES FOR EMERGENCY RESPONDERS TO USE TO SAFELY ACCOMPLISH THE TASKS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION. EACH RAILROAD OPERATING TRAINS IN COLORADO SHALL CONDUCT AT LEAST ONE OIL CONTAINMENT, RECOVERY, AND SENSITIVE AREA PROTECTION WALKTHROUGH; TABLETOP EXERCISE; OR FUNCTIONAL EXERCISE INVOLVING OIL OR HAZARDOUS SUBSTANCES EVERY YEAR, AND AT LEAST ONE FULL-SCALE EXERCISE EVERY FIVE YEARS, IN COORDINATION WITH LOCAL EMERGENCY MANAGEMENT ORGANIZATIONS AND LOCAL FIRE CHIEFS.

(3) THE PUBLIC UTILITIES COMMISSION SHALL PROMULGATE RULES FOR THE IMPLEMENTATION OF THIS SECTION, INCLUDING RULES CONCERNING TRAINING CONTENT, SAFETY DRILLS, COMMUNICATION, AND RAILROAD INCIDENT RESPONSE REQUIREMENTS.

(4) IN SATISFYING THE REQUIREMENTS OF THIS SECTION, A RAILROAD SHALL COORDINATE ITS EFFORTS WITH LOCAL LAW ENFORCEMENT AGENCIES AND THE HAZARDOUS MATERIALS SECTION OF THE COLORADO STATE PATROL.

(5) A CLASS II OR CLASS III RAILROAD MAY SATISFY THE REQUIREMENTS OF THIS SECTION BY EITHER:

(a) ENTERING INTO AN AGREEMENT WITH A CLASS I RAILROAD TO BE A PARTNER WITH THE CLASS I RAILROAD IN ITS PROGRAM; OR

(b) ADOPTING THE TRAINING PROGRAMS PROVIDED BY THE SHORT LINE SAFETY INSTITUTE.

40-20-311. Office of rail safety - agreement with federal railroad administration - duties of commission, department of public safety, and department of transportation - inspections - report - rules - repeal. (1) THE OFFICE OF RAIL SAFETY IS CREATED WITH THE MISSION OF ENSURING FREIGHT, PASSENGER, COMMUNITY, AND ENVIRONMENTAL RAIL SAFETY IN THE STATE FOR THE STATE'S UNIQUE AND DELICATE TERRAIN, ITS HEADWATERS, ITS COMMUNITIES, AND ITS RAIL WORKERS. THE COMMISSION SHALL ADMINISTER THE OFFICE IN ACCORDANCE WITH THIS ARTICLE 20.

(2)(a) AS SOON AS IS PRACTICABLE, THE COMMISSION, ON BEHALF OF THE STATE, SHALL ENTER INTO AN AGREEMENT WITH THE FEDERAL RAILROAD ADMINISTRATION PURSUANT TO 49 CFR PART 212 TO PARTICIPATE IN INSPECTION AND INVESTIGATION ACTIVITIES. UNDER THE AGREEMENT, THE COMMISSION SHALL SECURE THE AUTHORITY TO ADDRESS ALL RAILROAD SAFETY DISCIPLINES, INCLUDING CROSSINGS, TRACK, SIGNAL AND TRAIN CONTROL, MOTIVE POWER AND EQUIPMENT, OPERATING PRACTICES, COMPLIANCE, AND HAZARDOUS MATERIALS.

(b) IF AN AGREEMENT CANNOT BE REACHED AS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION, THE COMMISSION, ON BEHALF OF THE STATE, SHALL FILE AN ANNUAL CERTIFICATION PURSUANT TO 49 CFR 212.107.

(3) THE COMMISSION, THE DEPARTMENT OF PUBLIC SAFETY, AND THE DEPARTMENT OF TRANSPORTATION SHALL ENGAGE IN INSPECTION AND INVESTIGATION ACTIVITIES AS DESCRIBED IN 49 CFR 212 TO ADDRESS COMPLIANCE WITH THE REQUIREMENTS OF THIS PART 3. NOTWITHSTANDING ANY PROVISION OF THIS SECTION, THE AUTHORITY OF THE COMMISSION, THE DEPARTMENT OF PUBLIC SAFETY, AND THE DEPARTMENT OF TRANSPORTATION TO ENGAGE IN INSPECTION AND INVESTIGATION ACTIVITIES PURSUANT TO THIS SECTION IS LIMITED TO:

(a) CLASS I RAILROADS;

(b) RAILROADS OPERATING ANY LINES THAT WERE USED BY CLASS I RAILROADS AS OF THE EFFECTIVE DATE OF THIS PART 3; AND

(c) PASSENGER RAILROADS.

(4) THE ATTORNEY GENERAL MAY BRING AN ACTION, CONSISTENT WITH 49 CFR PART 212, TO ENFORCE STATE AND FEDERAL RAILROAD SAFETY REGULATIONS. IN

BRINGING SUCH AN ACTION, THE ATTORNEY GENERAL SHALL COMPLY WITH 49 CFR 212.115.

(5) AN INTERESTED PARTY MAY REQUEST THAT THE COMMISSION, THE DEPARTMENT OF PUBLIC SAFETY, OR THE DEPARTMENT OF TRANSPORTATION INVESTIGATE AN ALLEGED VIOLATION OF THIS PART 3.

(6) THE COMMISSION, THE DEPARTMENT OF PUBLIC SAFETY, OR THE DEPARTMENT OF TRANSPORTATION MAY REPORT AN ALLEGED VIOLATION OF THIS PART 3 OR ANY OTHER SAFETY CONCERN TO THE FEDERAL RAILROAD ADMINISTRATION OR THE FEDERAL SURFACE TRANSPORTATION BOARD.

(7) THE COMMISSION MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, AND DONATIONS AND FEDERAL GRANT MONEY TO PURCHASE TRAINING MATERIALS AND OTHER EQUIPMENT AS NEEDED FOR THE IMPLEMENTATION OF THIS SECTION.

(8) THE COMMISSION SHALL REGULARLY ENGAGE WITH RAILROADS, UNIONS REPRESENTING RAILROAD EMPLOYEES, LOCAL GOVERNMENTS OF COUNTIES, SPECIAL DISTRICTS, AND MUNICIPALITIES THAT CONTAIN RAILROAD LINES, FIRST RESPONDER ORGANIZATIONS, DISPROPORTIONATELY IMPACTED COMMUNITIES, AND ENVIRONMENTAL ORGANIZATIONS IN IMPLEMENTING THIS SECTION.

(9) THE COMMISSION, THE DEPARTMENT OF PUBLIC SAFETY, AND THE DEPARTMENT OF TRANSPORTATION ARE IMMUNE FROM LIABILITY FOR ACTIONS PERFORMED PURSUANT TO THIS SECTION, AS DESCRIBED IN ARTICLE 10 OF TITLE 24.

(10) THE OFFICE OF RAIL SAFETY SHALL COLLECT AND REPORT INFORMATION REGARDING BLOCKED HIGHWAY-RAIL CROSSINGS IN THE STATE, INCLUDING INFORMATION REGARDING EMERGENCY VEHICLES AFFECTED BY BLOCKED HIGHWAY-RAIL CROSSINGS.

(11) (a) THE OFFICE OF RAIL SAFETY SHALL CREATE A STANDARD PROCESS FOR INVESTIGATORS TO USE DURING INVESTIGATIONS UNDER THIS SECTION FOR DETERMINING THE APPROPRIATE TIME AND METHOD FOR:

(I) GATHERING INFORMATION ABOUT AN INVESTIGATION FROM RAILROADS, CONTRACTORS, OR EMPLOYEES OF RAILROADS OR FROM REPRESENTATIVES OF EMPLOYEES OF RAILROADS, AND OTHERS, AS DETERMINED RELEVANT BY THE OFFICE OF RAIL SAFETY; AND

(II) CONSULTING WITH RAILROADS, CONTRACTORS, OR EMPLOYEES OF RAILROADS, OR WITH REPRESENTATIVES OF EMPLOYEES OF RAILROADS, AND OTHERS, AS DETERMINED RELEVANT BY THE OFFICE OF RAIL SAFETY, FOR TECHNICAL EXPERTISE ON THE FACTS OF AN INVESTIGATION.

(b) IN DEVELOPING THE PROCESS REQUIRED UNDER SUBSECTION (11)(a) OF THIS SECTION, THE OFFICE OF RAIL SAFETY SHALL INCLUDE CONSIDERATION OF HOW TO MAINTAIN THE CONFIDENTIALITY OF ANY ENTITY IDENTIFIED PURSUANT TO SUBSECTION (11)(a) OF THIS SECTION IF:

(I) THE ENTITY REQUESTS CONFIDENTIALITY;

(II) THE ENTITY WAS NOT INVOLVED IN THE ACCIDENT OR INCIDENT; AND

(III) MAINTAINING THE ENTITY'S CONFIDENTIALITY DOES NOT ADVERSELY AFFECT AN INVESTIGATION BY THE OFFICE OF RAIL SAFETY.

(c) (I) EXCEPT AS PROVIDED IN SUBSECTION (11)(c)(II) OF THIS SECTION, THE OFFICE OF RAIL SAFETY MAY NOT DISCLOSE THE NAME OF AN EMPLOYEE OF A RAILROAD WHO HAS PROVIDED INFORMATION ABOUT AN ALLEGED VIOLATION OF THIS PART 3 OR MATTERS DESCRIBED IN SUBSECTION (11)(c)(II) OF THIS SECTION UNLESS THE OFFICE OF RAIL SAFETY OBTAINS THE EMPLOYEE'S WRITTEN CONSENT FOR SUCH DISCLOSURE.

(II) THE OFFICE OF RAIL SAFETY SHALL DISCLOSE TO THE ATTORNEY GENERAL OR THE FEDERAL RAILROAD ADMINISTRATION THE NAME OF AN EMPLOYEE DESCRIBED IN SUBSECTION (11)(c)(I) OF THIS SECTION IF THE MATTER IS REFERRED TO THE ATTORNEY GENERAL OR THE FEDERAL RAILROAD ADMINISTRATION FOR ENFORCEMENT. BEFORE MAKING SUCH A DISCLOSURE, THE OFFICE OF RAIL SAFETY SHALL PROVIDE REASONABLE ADVANCE NOTICE TO THE AFFECTED EMPLOYEE AND TO A DESIGNATED EMPLOYEE REPRESENTATIVE IF SUCH A REPRESENTATIVE EXISTS.

(d) THE OFFICE OF RAIL SAFETY SHALL PROMULGATE RULES TO PROTECT EMPLOYEES FROM RETALIATION FOR THEIR PARTICIPATION IN INVESTIGATIONS UNDER THIS SECTION AND SHALL CREATE A MECHANISM TO ACCEPT AND RESOLVE COMPLAINTS REGARDING VIOLATIONS OF THE RULES, WHICH MECHANISM IS CONSISTENT WITH FEDERAL LAW.

(12) THE OFFICE OF RAIL SAFETY SHALL COORDINATE WITH THE DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, THE DEPARTMENT OF NATURAL RESOURCES, AND STAKEHOLDERS SUCH AS RAILROADS, FIRST RESPONDERS, LOCAL GOVERNMENTS, METROPOLITAN PLANNING ORGANIZATIONS, AND LABOR ORGANIZATIONS TO IDENTIFY AND IMPLEMENT INITIATIVES AND PRIORITIES TO REDUCE THE FREQUENCY OF BLOCKED HIGHWAY-RAIL CROSSINGS, IMPROVE EMERGENCY PREPAREDNESS AND RESILIENCE, AND IMPROVE RAIL SAFETY. THIS MAY INCLUDE INNOVATIVE USE OF DATA AND TECHNOLOGY TO PRIORITIZE ELIMINATION OR PROTECTION OF HIGHWAY-RAIL CROSSINGS, INFORMATION SHARING, AND FIRST RESPONDER DECISION SUPPORT. THE OFFICE OF RAIL SAFETY SHALL ALSO COORDINATE WITH THE AFOREMENTIONED ENTITIES REGARDING POSSIBLE FEDERAL GRANTS TO IMPROVE RAIL AND PUBLIC SAFETY.

(13) (a) ON OR BEFORE DECEMBER 1, 2024, THE COMMISSION, THE DEPARTMENT OF PUBLIC SAFETY, AND THE DEPARTMENT OF TRANSPORTATION SHALL PROVIDE A REPORT TO THE GOVERNOR; THE TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES; AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE. THE REPORT MUST BE DEVELOPED IN CONSULTATION WITH THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE AND THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE AND INCLUDE:

(I) AN ASSESSMENT OF THE STAFFING LEVELS AND EQUIPMENT NECESSARY TO ENSURE RAILROADS' COMPLIANCE WITH FEDERAL AND STATE RULES AND

REGULATIONS AND MINIMIZE RAIL SAFETY RISKS FOR RAILROADS, FACILITIES, WORKERS, AND COMMUNITIES THAT INCLUDE RAIL LINES;

(II) AN INDICATION THAT PUBLIC DATA NOT SUBJECT TO EXCEPTIONS UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, WILL BE SHARED WITH THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE AND THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE;

(III) AN ASSESSMENT OF DATA COLLECTION AND REPORTING NEEDS TO ENSURE ANNUAL REPORTING ON RAIL SAFETY, INCLUDING TRAIN LENGTH, FOR COVERED RAILROADS AND FACILITIES;

(IV) AN ASSESSMENT OF EMERGENCY RESPONSE AND CLEANUP CAPACITY NEEDED FOR HAZARDOUS MATERIALS INCIDENTS INVOLVING RAILROADS;

(V) A QUANTIFICATION OF THE ADEQUATE LEVELS OF INVESTMENT NECESSARY TO REDUCE HIGHWAY-RAIL CROSSING INCIDENTS AND OTHER RISKS;

(VI) MECHANISMS FOR ENSURING EQUITABLE INPUT FROM MEMBERS OF THE PUBLIC TO STATE AGENCIES REGARDING RAIL SAFETY;

(VII) AN ASSESSMENT OF BEST PRACTICES FOR ENSURING FINANCIAL RESPONSIBILITY FOR RESPONSE, CLEANUP, AND DAMAGES FROM MAJOR RAIL EVENTS, WHICH ASSESSMENT REVIEWS BEST PRACTICES FROM OTHER STATES;

(VIII) A REPORT CONCERNING COMMUNICATION ISSUES IMPACTING RAIL LINES IN THE STATE, INCLUDING COMMUNICATION WITH STATE ENTITIES SUCH AS THE DEPARTMENT OF PUBLIC SAFETY; COMMUNICATION ISSUES BETWEEN CREWS WORKING LONG TRAINS; AND COMMUNICATION FROM WAYSIDE DETECTORS TO CREWS; AND

(IX) (A) A LEGISLATIVE PROPOSAL CONCERNING THE CREATION OF A FEE STRUCTURE OR OTHER REVENUE SOURCE, AN ASSESSMENT, AND A GOVERNANCE BODY AND AN OFFICE OF RAIL SAFETY TO ADDRESS THE NEEDS DESCRIBED IN SUBSECTIONS (13)(a)(I) TO (13)(a)(VIII) OF THIS SECTION, WHICH FEE STRUCTURE, ASSESSMENT, AND GOVERNANCE BODY CAN BE INTRODUCED AS LEGISLATION AS SOON AS THE 2025 REGULAR LEGISLATIVE SESSION AND BEGIN OPERATING NO LATER THAN JANUARY 1, 2027.

(B) THE REPORT MUST INCLUDE A RECOMMENDATION AS TO WHICH STATE AGENCY WOULD HOST THE PROPOSED GOVERNANCE BODY TO ENSURE PROPER COMPLIANCE WITH STATE AND FEDERAL LAW, EQUITABLE ACCESS TO COMMUNITY AND WORKER ORGANIZATIONS, AND ENFORCEMENT OF SAFETY REQUIREMENTS.

(b) IN PREPARING THE REPORT DESCRIBED IN SUBSECTION (13)(a) OF THIS SECTION, THE COMMISSION, THE DEPARTMENT OF PUBLIC SAFETY, AND THE DEPARTMENT OF TRANSPORTATION SHALL CONSULT WITH THE ATTORNEY GENERAL, THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE AND THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE, AND INTERESTED STAKEHOLDERS, INCLUDING RAILROADS, UNIONS REPRESENTING RAILROAD EMPLOYEES, LOCAL GOVERNMENTS OF COUNTIES, SPECIAL DISTRICTS, AND MUNICIPALITIES THAT CONTAIN RAILROAD

LINES, THE FEDERAL RAILROAD ADMINISTRATION, FIRST RESPONDER ORGANIZATIONS, DISPROPORTIONATELY IMPACTED COMMUNITIES, AND ENVIRONMENTAL ORGANIZATIONS.

(c) THIS SUBSECTION (13) IS REPEALED, EFFECTIVE JULY 1, 2026.

(14) THE COMMISSION MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION.

40-20-312. Community rail safety advisory committee - membership - duties - rail safety plan - discrimination, adverse action, retaliation prohibited - repeal. (1) THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE IS CREATED.

(2) (a) THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(I) ONE MEMBER WHO REPRESENTS UNION WORKERS WHO WORK FOR A CLASS I FREIGHT RAIL LINE IN THE STATE, TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

(II) ONE MEMBER WHO REPRESENTS UNION WORKERS WHO WORK FOR A CLASS I FREIGHT RAIL LINE IN THE STATE, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE; EXCEPT THAT THE MEMBER MUST REPRESENT UNION WORKERS WHO WORK FOR A CLASS I FREIGHT LINE OTHER THAN THE CLASS I FREIGHT LINE WHOSE UNION WORKERS ARE REPRESENTED BY THE MEMBER APPOINTED PURSUANT TO SUBSECTION (2)(a)(I) OF THIS SECTION;

(III) ONE MEMBER WHO REPRESENTS UNION WORKERS WHO WORK FOR A CLASS II OR III RAILROAD IN THE STATE, TO BE APPOINTED BY THE GOVERNOR;

(IV) ONE MEMBER WHO REPRESENTS UNION WORKERS WHO WORK FOR A PASSENGER RAIL OPERATOR, TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

(V) ONE MEMBER WHO REPRESENTS A DISPROPORTIONATELY IMPACTED COMMUNITY, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE;

(VI) ONE MEMBER WHO REPRESENTS A STATEWIDE ENVIRONMENTAL ORGANIZATION, TO BE APPOINTED BY THE GOVERNOR; AND

(VII) ONE MEMBER WHO REPRESENTS AN ORGANIZATION WITH A MISSION TO COLLABORATE WITH ENVIRONMENTAL ORGANIZATIONS AND UNION REPRESENTATIVES, TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

(b) THE APPOINTING AUTHORITIES DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION SHALL MAKE THE INITIAL APPOINTMENTS ON OR BEFORE AUGUST 1, 2024.

(c) THE MEMBERS OF THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE EACH SERVE TERMS OF THREE YEARS; EXCEPT THAT:

(I) THE MEMBERS OF THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE

INITIALLY APPOINTED PURSUANT TO SUBSECTIONS (2)(a)(VI) AND (2)(a)(VII) OF THIS SECTION SHALL EACH SERVE AN INITIAL TERM OF ONE YEAR; AND

(II) THE MEMBERS OF THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE INITIALLY APPOINTED PURSUANT TO SUBSECTIONS (2)(a)(III), (2)(a)(IV), AND (2)(a)(V) OF THIS SECTION SHALL EACH SERVE AN INITIAL TERM OF TWO YEARS.

(d) MEMBERS OF THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE SERVE AT THE PLEASURE OF THEIR RESPECTIVE APPOINTING AUTHORITIES.

(e) MEMBERS OF THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE MAY SERVE AN UNLIMITED NUMBER OF TERMS.

(3) MEMBERS OF THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE WHO ARE NOT COMPENSATED FOR ACTING IN OFFICIAL JOB ROLES MAY RECEIVE PER DIEM COMPENSATION FROM THE OFFICE OF RAIL SAFETY CREATED IN SECTION 40-20-311. MEMBERS OF THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE MAY BE REIMBURSED FOR EXPENSES INCURRED WHILE PERFORMING THE MEMBERS' DUTIES.

(4) AN EMPLOYER SHALL NOT DISCRIMINATE, TAKE ADVERSE ACTION, OR RETALIATE AGAINST AN EMPLOYEE IN RESPONSE TO THE EMPLOYEE:

(a) SERVING IN GOOD FAITH ON THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE; OR

(b) RAISING A REASONABLE CONCERN ABOUT A POSSIBLE WORKPLACE VIOLATION OF GOVERNMENT SAFETY RULES, OR ABOUT AN OTHERWISE SIGNIFICANT WORKPLACE THREAT TO SAFETY, TO THE EMPLOYER, THE EMPLOYER'S AGENT, ANOTHER EMPLOYEE, A GOVERNMENT AGENCY, OR THE PUBLIC IF THE EMPLOYER CONTROLS THE WORKPLACE CONDITIONS GIVING RISE TO THE ALLEGED VIOLATION OR THREAT.

(5) THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE IS REPEALED, EFFECTIVE SEPTEMBER 1, 2034. BEFORE THE REPEAL, THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

40-20-313. Rail industry safety advisory committee - membership - duties - rail safety plan - repeal. (1) THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE IS CREATED.

(2) (a) THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING NINE MEMBERS, EACH TO BE APPOINTED BY THE GOVERNOR:

(I) TWO MEMBERS WHO REPRESENT OPERATORS OF CLASS I RAILROADS OPERATING FREIGHT RAIL LINES;

(II) ONE MEMBER WHO REPRESENTS A CLASS II OR CLASS III RAILROAD IN THE STATE;

(III) ONE MEMBER WHO REPRESENTS A RAILROAD THAT OPERATES A PASSENGER RAIL LINE;

(IV) TWO MEMBERS WHO REPRESENT FIRST RESPONDER ORGANIZATIONS; AND

(V) THREE MEMBERS WITH EXPERTISE CONCERNING RAIL SAFETY, RAIL OPERATIONS, EMERGENCY RESPONSE, OR TRANSPORTATION REGULATION.

(b) THE GOVERNOR SHALL MAKE THE INITIAL APPOINTMENTS ON OR BEFORE AUGUST 1, 2024.

(c) THE MEMBERS OF THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE EACH SERVE TERMS OF THREE YEARS; EXCEPT THAT:

(I) THE MEMBERS OF THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE INITIALLY APPOINTED PURSUANT TO SUBSECTIONS (2)(a)(I) AND (2)(a)(II) OF THIS SECTION SHALL EACH SERVE AN INITIAL TERM OF ONE YEAR; AND

(II) THE MEMBERS OF THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE INITIALLY APPOINTED PURSUANT TO SUBSECTIONS (2)(a)(III) AND (2)(a)(IV) OF THIS SECTION SHALL EACH SERVE AN INITIAL TERM OF TWO YEARS.

(d) MEMBERS OF THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE SERVE AT THE PLEASURE OF THE GOVERNOR.

(e) MEMBERS OF THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE MAY SERVE AN UNLIMITED NUMBER OF TERMS.

(3) MEMBERS OF THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE SERVE WITHOUT COMPENSATION BUT MUST BE REIMBURSED FROM MONEY IN THE FUND FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THE MEMBERS' DUTIES PURSUANT TO THIS SECTION.

(4) THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE IS REPEALED, EFFECTIVE SEPTEMBER 1, 2034. BEFORE THE REPEAL, THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

40-20-314. Enforcement. THE PUBLIC UTILITIES COMMISSION SHALL CONDUCT PERIODIC COMPLIANCE REVIEWS TO ENSURE EACH RAILROAD IS IN COMPLIANCE WITH THIS PART 3.

40-20-315. Severability. IF ANY PROVISION OF THIS PART 3 OR THE APPLICATION OF THIS PART 3 TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, SUCH INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS PART 3 THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS PART 3 ARE DECLARED TO BE SEVERABLE.

SECTION 2. In Colorado Revised Statutes, 2-3-1203, **add** (25)(a)(VI) and (25)(a)(VII) as follows:

2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal. (25) (a) The following statutory authorizations for the designated advisory committees will repeal on September 1, 2034:

(VI) THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE CREATED IN SECTION 40-20-312;

(VII) THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE CREATED IN SECTION 40-20-313.

SECTION 3. Appropriation. (1) For the 2024-25 state fiscal year, \$391,057 is appropriated to the department of regulatory agencies for use by the public utilities commission. This appropriation is from the public utilities commission fixed utility fund, created in section 40-2-114 (1)(b)(II), C.R.S. To implement this act, the commission may use this appropriation as follows:

(a) \$359,897 for personal services, which amount is based on an assumption that the commission will require an additional 3.5 FTE; and

(b) \$31,160 for operating expenses.

SECTION 4. Effective date. This act takes effect July 1, 2024.

SECTION 5. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: May 10, 2024