

**TR 170780 – Rail Crew Transportation Rulemaking
Stakeholder Comments regarding CR-101 Preproposal Statement of Inquiry**

	Topic	Commenter	Comment
a.	Differences between larger and smaller vehicles	Professional Transportation Inc. (PTI)	<p>PTI operates vehicles with a seating capacity of 8 people or more and vehicles with a seating capacity of 7 or fewer, including the driver. Approximately 44% of its fleet seats 8 or more passengers, while 56% seats 7 or fewer. PTI states all vehicles and drivers are managed the same, regardless of size. Specifically:</p> <ol style="list-style-type: none"> 1. Drug and alcohol testing is the same for all drivers, regardless of the size of the vehicle. 2. Driver qualifications are the same for all drivers, regardless of the size of the vehicle. 3. Hours of service requirements are the same for all drivers, regardless of the size of the vehicle. 4. The safety of equipment for each class of vehicle is the same. 5. PTI ensures safety of operations for each class of vehicle in the same manner. 6. PTI ensures safety of passengers for each class of vehicle in the same manner. 7. Recordkeeping standards are the same for each class of vehicle. 8. Training requirements are the same for all drivers, regardless of the size of vehicle.
b.	Driver application requirements	SMART	<p>UTC should consider seeking the expertise of DOL, as well as experts in driver education, to establish requisite minimum qualifications for rail crew transportation drivers. At a minimum, applicants should be required to successfully pass a background check and, in addition, meet the following requirements:</p> <p>Drivers should be required to:</p> <ol style="list-style-type: none"> 1. Be at least 25 years of age and have at least five years of driving experience. The five years immediately preceding hiring should be free of any disqualifying driving offenses, as evidenced by a five year DOL history. 2. Present documented proof of lawful permanent residency or US citizenship. 3. Pass a pre-employment drug and alcohol test conducted by an independent entity not employed by the transportation contractor, railroad company or any of either company's related companies. <ol style="list-style-type: none"> a. The collector must be a qualified breath technician and specimen collector. b. The collections must be obtained at a suitable location following acceptable protocol to prevent tampering or alteration. c. Analysis must be conducted only by an independent certified laboratory. d. Positive test results must be no less stringent than those required of the employees of the railroad contracting for services. 4. Pass a criminal history background check using fingerprint cards submitted to Washington State Patrol for use in obtaining both a Washington State Patrol Identification and Criminal History Section report and a National Crime Information Center III report. 5. Pass a physical examination in accordance with DOT standards and practices as well as any additional standards determined by UTC. <ol style="list-style-type: none"> a. The exam may only be performed by physicians listed in active good standing with USDOT FMCSA National Registry of Certified Medical Examiners. <p>The hiring company should be required to:</p> <ol style="list-style-type: none"> 1. Perform a reference check going back 10 years, documenting the results in the employee's personnel file. 2. Review both the Washington State Patrol Identification and Criminal History Section report and a National Crime Information Center III report (see #4, above). <ol style="list-style-type: none"> a. Record criminal offenses such as capital offenses, fraud, theft, robbery, burglary, assault, sex crimes, alcohol or drug offenses or usage, prostitution and human trafficking related crimes and predatory sex offenses.

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			<ul style="list-style-type: none"> b. Record relevant serious traffic violations that may have a bearing on a prospective drivers' fitness for occupations working in security sensitive transportation facilities as well as fitness to operate vehicles transporting passengers. c. Report the information obtain in (a) and (b), above, to the railroad company for their review prior to hiring. <p>3. Retain driver medical reports and records, as required in #5 above, permanently in the driver's personnel file.</p>
c.	New driver training	SMART	<p>UTC should consider seeking the expertise of DOL, as well as experts in driver education, to establish requisite minimum training for rail crew transportation drivers. At a minimum, drivers should be required to:</p> <ul style="list-style-type: none"> 1. Undergo a course of at least 16 hours or longer administered by DOL-approved commercial driver's license training school. <ul style="list-style-type: none"> a. Instructors should be DOL licensed driver training school instructors. b. Drivers currently employed by contracting companies have 6 months from the effective date of the rules to successfully complete the training. <p>UTC should be required to:</p> <ul style="list-style-type: none"> 1. Establish, approve, maintain and review the curriculum, to include: <ul style="list-style-type: none"> a. At least 4 hours of specific hazards unique to driving in and around railroad yards, railroad loading facilities, in close proximity to stationary and moving locomotives and other railroad equipment, cargo container operations and equipment and traversing off-road areas adjacent to railroad rights of way. b. Railroad crossing laws, requirements and best practices to safely travel over railroad crossings. c. Driving off-road terrain including ballast, dirt roads, mud, snow and ice. d. Driving in adverse weather conditions including heavy rain, wind, snow, ice, fog, extreme heat, etc. e. Driving in mountain conditions with steep grades in all weather conditions. f. Defensive driving techniques. g. Distracted driving awareness. h. Emergency procedures. i. Use of emergency equipment. j. Best practices for safely transporting passengers. k. Hours of service requirements. l. Obligation to be adequately rested (i.e., other jobs worked). m. Drive fatigue. n. Drug and alcohol use, including procedures for reporting use of prescription medications. o. Loading and unloading passengers and materials in adverse conditions alongside roadways. p. Stowage of railroad equipment, passenger equipment and baggage. q. Safe backing procedures. r. Proper daily vehicle safety inspection procedures. s. Cell phone use. t. Reporting requirements for changes in driver's license status and criminal convictions.
		PTI	<p>New drivers are required to take:</p> <ul style="list-style-type: none"> 1. 8 hours of classroom training, conducted by trained personnel, to cover:

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			<ul style="list-style-type: none"> a. Defensive driving. b. Fatigue management. c. Rail yard safety. d. Operation lifesaver. e. Safety rules. f. Winter Driving. <p>2. 4 hours of road test and in-vehicle training.</p>
c.	Qualifying Examinations	SMART	<p>At the conclusion of classroom training, prospective drivers should be required to pass a qualifications exam that meets the following requirements:</p> <ul style="list-style-type: none"> 1. The exam is established by UTC, developed in conjunction with DOL. 2. Exam administrators are licensed, qualified and approved by DOL to perform driver’s license testing. 3. The exam ensures that drivers successfully demonstrate: <ul style="list-style-type: none"> a. The ability to speak and read English sufficiently to fulfill the duties of a driver. b. Knowledge of: <ul style="list-style-type: none"> i. Requirements and laws for operating passenger carrying vehicles. ii. Specific safety requirements and dangers involving motor vehicles and railroads. iii. Vehicle safety requirements. iv. Basic geography of the region. v. Risk factors involving railroad operations. vi. Risk factors involving emergency procedures. vii. Risk factors involving personal safety equipment. viii. Laws to travel over railroad crossings. ix. Hours of service limitations. x. Driver fatigue. xi. Requirements to report use of prescription medications. xii. Driver reporting requirements for changes in driver’s license status and criminal convictions.
d.	Driver familiarization	SMART	<p>UTC should consider seeking the expertise of DOL, as well as experts in driver education, to establish minimum driver familiarization regulatory requirements for rail crew transportation drivers. At a minimum, contract crew transportation providers should be required to establish and implement new driver familiarization programs, as follows:</p> <ul style="list-style-type: none"> 1. Programs should ensure that each qualified driver is able to safely transport railroad passengers to their various outlying destinations and terminals. 2. UTC should establish minimum standards for the actual familiarization requirements of drivers, including: <ul style="list-style-type: none"> a. Programs are standardized in writing. b. Proposed programs must be submitted to UTC for review and approval. 3. UTC uses enforcement tools to ensure programs are followed.

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			<ol style="list-style-type: none"> 4. Providers should be required to equip each vehicle, or provide all drivers, with detailed briefing books containing: <ol style="list-style-type: none"> a. Explicit and easy to follow geographic traveling instructions to reach remote and obscure locations where train crews regularly require transportation services. b. Information regarding any specific hazards involved in reaching or traversing such locations.
e.	Ongoing training and renewals	SMART	<p>Drivers should be required to:</p> <ol style="list-style-type: none"> 1. Prior to renewal of their driver's license, take a refresher course of at least 8 hours through a DOL-approved commercial driver's license training school. <ol style="list-style-type: none"> a. Instruction must be provided by DOL-licensed driver training school instructors. b. UTC, in conjunction with DOL, must establish, approve, maintain and review the curriculum. 2. Upon completion of the class, be required to take and pass a qualifications examination, administered by examiners who are licensed, qualified and proved by DOL to perform driver license testing. 3. Upon returning to duty after a period of disqualification, undergo the complete full training program as though he/she is a newly employed driver. 4. Additional continuing education during time periods between license renewals should be required as determined by UTC.
		PTI	<p>Current drivers are required to take refresher training as follows:</p> <ol style="list-style-type: none"> 1. Fatigue management – annually and post-accident, depending on the type of accident. 2. Rail yard safety – annually and post-accident, depending on the type of accident. 3. Operation lifesaver – annually and post-accident, depending on the type of accident. 4. Winter Driving – annually. 5. Animal/Driving in rural areas – Annually. <p>Road test – biannually and post-accident, depending on the type of accident.</p>
f.	Insurance	SMART	Require companies to file proof of insurance annually, including the name of any and all designated registered agents of contract crew transportation companies, including secondary or third parties.
g.	Common pick-up and drop-off locations	SMART	Provisions should be adopted for UTC to investigate dangerous transportation staging locations and areas. Additionally, UTC should require railroad companies to take appropriate corrective measures to reduce risks where it is deemed necessary for the safety of railroad crewmembers or drivers. Risks include narrow shoulders of busy roadways, steep unsafe footpaths and areas without adequate night-time lighting.
i.	Vehicles and equipment	SMART	<p>UTC should adopt minimum standards for vehicle safety, including:</p> <ol style="list-style-type: none"> 1. Vehicles must be equipped with safety headrests for the driver and all passengers. 2. Contract crew vehicles regularly assigned or used in Washington must be licensed within the state. 3. An annual vehicle safety inspection program. UTC could change this to biannual after several years of compliance. (Although it is not clear if the commenter suggests UTC should complete the inspections or just require the companies to complete or have them completed). 4. UTC inspections of contract crew vehicles must be unannounced unless special circumstances require scheduled visits. 5. UTC must inspect and approve all contract crew vehicles prior to putting to in service.

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			<ul style="list-style-type: none"> 6. Vehicles passing inspection must display a decal, in a location viewable by passengers, that is designed and affixed in a way that any attempted removal or tampering is obvious. The decal must include: <ul style="list-style-type: none"> a. Vehicle fleet identification number. b. Individual traceable identification number unique to each decal. c. The date and location of the passing inspection. 7. Mandatory vehicle maintenance programs. 8. A requirement for operators to document all complaints received from passengers. 9. A requirement for operators to document all repair activity. 10. For vehicles used in all weather conditions, requirements for appropriate traction tires. 11. For vehicles used in ice and snow, requirements for studded tires.
j.	Drug and alcohol testing	SMART	<p>UTC should establish specific thresholds and standards for drug and alcohol testing requirements for drivers as follows:</p> <ul style="list-style-type: none"> 1. Probably cause testing. 2. Random testing. 3. Post-accident testing. <p>UTC should make it unlawful for a railroad or contract crew company to withhold post-accident or incident drug and alcohol testing results by requiring companies to report post-accident or incident results to the investigation law enforcement officer, his/her agency and UTC.</p>
k.	Hours of service and driver fatigue	SMART	<p>UTC rules should address:</p> <ul style="list-style-type: none"> 1. The impact of other employment of drivers as it pertains to adequate rest before reporting for duty. <ul style="list-style-type: none"> a. Include limitations for outside employment related to consecutive waking hours of drivers and anchor sleep issues. 2. Sleep apnea and other medical conditions that could impact driver alertness.
l.	Recordkeeping	SMART	<p>UTC should require contract crew companies to maintain standardized record keeping subject to UTC inspection and review, to include:</p> <ul style="list-style-type: none"> 1. Documentation of all incidents and accidents, regardless of the level of damage or injuries. 2. Documentation of all scenarios where contract crew transportation vehicles improperly came into contact with railroad infrastructure or equipment.
m.	Posted notices	SMART	<p>Any notices posted in a vehicle must:</p> <ul style="list-style-type: none"> 1. Include the driver's name and vehicle identification number. 2. Be clearly and obviously visible to all passengers, with multiple posting within one vehicle if necessary. 3. Include assurance that confidentiality of a complainant's identity is protected by state law.
n.	Third-party operators	SMART	<p>UTC should adopt regulatory standards for third-party operators, to include:</p> <ul style="list-style-type: none"> 1. Reporting requirements for the contracted use of other transportation firms including taxis, limousines, charter carriers, etc. 2. Operating requirements for the contracted use of other transportation firms including taxis, limousines, charter carriers, etc. 3. Requirements for extending insurance coverage provisions to any and all agents, contractors, subcontractors, secondary vendors or subcarriers who are used to provide railroad crew transportation services.