

**TR-200536 – Train Crew Size Rulemaking  
Stakeholder Comments regarding Draft Rules – May 2022**

	<b>Question/Topic</b>	<b>Commenter</b>	<b>Comment</b>	<b>UTC Staff Response</b>
1.	Definitions	Cascade and Columbia River Railroad (CSCD), Olympia and Belmore Railroad (OYLO), and Puget Sound and Pacific Railroad (PSAP)	<ul style="list-style-type: none"> <li>The definition of a short line company in the proposed rule is perplexing. To be clear, CSCD, OYLO and PSAP are individually their own legal entities, and are considered as such by both the Federal Railroad Administration and the Surface Transportation Board (STB). Each is considered a separate Class III short line common carrier freight railroad. They do not physically connect, and each have their own unique sets of on-line customers. Each has its own financial statements, and the revenue earned by each railroad determines the amount of capital reinvested by that railroad. Employees of each railroad operate under operating timetables specific to their own railroad. Furthermore, there is no legitimate basis to attempt to classify a short line railroad based on its ownership structure for the purpose of operational regulations.</li> <li>The proposed regulation arbitrarily and needlessly attempts to redefine “Class I”, “Class II”, and “Class III” railroads. These definitions are determined by the STB under section 1201.1–1 of title 49, Code of Federal Regulations. The proposed language is not compliant with the current definitions as provided by the STB.</li> </ul>	<ul style="list-style-type: none"> <li>The Commission must exercise its authority in accordance with the Legislature’s directives. The proposed rule implements the laws of 2020, chapter 170, in language that tracks the language of the statute.</li> </ul>
		American Short Line and Regional Railroad Association (ASLRRA)	WAC 480-62-255 is inconsistent with established STB railroad classifications. WAC 480-62-255 uses ambiguous phrases such as “owned” and “operated” to distinguish certain short lines that may be affiliated with other short lines through a holding company structure without an appropriate understanding of the fact that these short lines are discrete legal entities. There is no justification offered in the proposed rulemaking, based on relevant safety and performance history, to differentiate between Class III short line railroads based on ownership structure.	<ul style="list-style-type: none"> <li>The Commission must exercise its authority in accordance with the Legislature’s directives. The proposed rule implements the laws of 2020, chapter 170, in language that tracks the language of the statute.</li> </ul>
2.	Operations	CSCD, OYLO, PSAP	The proposed rule would arbitrarily require a specific train crew size based on train speed. This could lead a small freight railroad to maintain its tracks to a lower speed limit. Unfortunately, the result would be a freight service that is less competitive with trucking and Washington residents coping with an ever-increasing number of trucks on public roadways.	<ul style="list-style-type: none"> <li>The Commission must exercise its authority in accordance with the Legislature’s directives. The proposed rule implements the laws of 2020, chapter 170, in language that tracks the language of the statute.</li> </ul>
		ASLRRA	WAC 480-62-255 suggests that Class III short line operations would be excluded from the crew size restrictions because they would	<ul style="list-style-type: none"> <li>The Commission must exercise its authority in accordance with the</li> </ul>

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			choose to operate at speeds less than 25 m.p.h., qualifying for an exemption from the minimum crew size requirement. The regulations therefore create a financial disincentive for small railroads to invest in their infrastructure, upgrade their track, and improve their performance times.	Legislature’s directives. The proposed rule implements the laws of 2020, chapter 170, in language that tracks the language of the statute.
3.	Train crew size	CSCD, OYLO, PSAP	The proposed rule would create an arbitrary and erratic process resulting in new operating mandates. Concerningly, there is no requirement for the mandates to be based on an unbiased factual analysis. Railroads could be required to use additional crewmembers simply at the behest of the Commission without any guidance on how the process would work or how the Commission would determine that more crew members are needed.	<ul style="list-style-type: none"> <li>The Commission must exercise its authority in accordance with the Legislature’s directives. The proposed rule implements the laws of 2020, chapter 170, in language that tracks the language of the statute.</li> </ul>
		ASLRRA	WAC 480-62-255 states that the commission may order railroad carriers to increase the number of railroad employees, to require additional crewmembers, or direct the placement of additional crewmembers. It does not provide any regulatory guidance on how this process would work, nor does it provide any process by which a railroad may appeal any such order. WAC 480-62-255 gives the commission unfettered ability to dictate train crew staffing in Washington, which will result in an increase in the cost of shipping commodities by rail in Washington, which could then force a modal shift of traffic from rail to the less-environmentally friendly and more dangerous option of trucks on the highway.	<ul style="list-style-type: none"> <li>The Commission must exercise its authority in accordance with the Legislature’s directives. The proposed rule implements the laws of 2020, chapter 170, in language that tracks the language of the statute.</li> </ul>
4.	Preemption	Association of American Railroads	<ul style="list-style-type: none"> <li>The draft rules remain preempted by federal law.</li> <li>The FRA has announced its intention to promulgate rules addressing minimum crew size under authority delegated to the agency in the Federal Railroad Safety Act.</li> <li>The UTC should withdraw the rulemaking.</li> </ul>	<ul style="list-style-type: none"> <li>The Commission must exercise its authority in accordance with the Legislature’s directives. The proposed rule implements the laws of 2020, chapter 170, in language that tracks the language of the statute.</li> </ul>
		ASLRRA	<ul style="list-style-type: none"> <li>The rules remain preempted by federal law.</li> <li>The UTC should withdraw the rulemaking.</li> </ul>	<ul style="list-style-type: none"> <li>The Commission must exercise its authority in accordance with the Legislature’s directives. The proposed rule implements the laws of 2020, chapter 170, in language that tracks the language of the statute.</li> </ul>

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		CSCD, OYLO, PSAP	<ul style="list-style-type: none"> <li>• The proposed rulemaking serves as a significant contradiction to the authority of the Federal Railroad Administration in determining minimum crew size standards.</li> <li>• The UTC should withdraw the rulemaking.</li> </ul>	<ul style="list-style-type: none"> <li>• The Commission must exercise its authority in accordance with the Legislature’s directives. The proposed rule implements the laws of 2020, chapter 170, in language that tracks the language of the statute.</li> </ul>