

**TR-170780 – Rail Crew Transportation Rulemaking
Stakeholder Comments in Response to 02-23-18 CR-102 and Opportunity to Submit Written Comments
April 3, 2018**

	Commenter	Topic and WAC (if applicable)	Comment	Staff Response
1.	QM Transport Inc. (QM)	Driver Age 480-62-278(2)	QM comments that drivers should be required to be over 18 years of age. QM states its insurance requires drivers to be 25 years of age or QM will incur a higher insurance fee.	Staff recommends leaving the rule as proposed in the CR-102 draft. In WAC 480-62-278(2), the Commission adopts 49 CFR, Part 391, which requires that drivers be at least 21 years of age. The draft rules do not allow a driver of age 18. A company may impose its own requirements for the age of drivers it hires. QM may require drivers to be 25 years before hiring.
2.	Sheet Metal, Air, Rail and Transportation Union (SMART)	Driver Age 480-62-278(2)	SMART comments that the legal age of drivers should be over age 18.	Staff recommends leaving the rule as proposed in the CR-102 draft. In WAC 480-62-278(2), the Commission adopts 49 CFR, Part 391, which requires that drivers be at least 21 years of age. The draft rules do not allow a driver of age 18.
3.	QM	Vehicle Tires 480-62-278(1)	It appears the new rules require studded winter tires. QM believes winter traction tires would be appropriate, not studded tires.	Staff recommends leaving the rule as proposed in the CR-102 draft. The new rules do not require studded winter tires.
4.	SMART	Vehicle Tires 480-62-278(1)	SMART believes the rules should require studded tires on rail crew transport vehicles across mountain passes in winter snow and icy conditions.	Staff recommends leaving the rule as proposed in the CR-102 draft. In WAC 480-62-278(1), the proposed rules require that drivers "... operate vehicles with due regard to circumstances or conditions at the time of operation..." Staff believes this includes appropriate winter tires for the conditions under which the driver is operating.

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5.	QM	Driver Training 480-62-290	QM states the United Transportation Union “would like driver training to be handled by an outside source.” QM believes this put an unreasonable financial strain on its company.	Staff recommends leaving the rule as proposed in the CR-102 draft. The new rules do not require that driver training be handled by an outside source.
6.	SMART	Driver Training 480-62-290	SMART asserts that professional driver training firms outside of the hiring company should be required to certify railroad crew transport drivers.	Staff recommends leaving the rule as proposed in the CR-102 draft. The proposed rules are consistent with the legislation.
7.	SMART	Driver Training 480-62-290	SMART suggest that prospective drivers be required to pass a specifically developed qualifying exam “focusing on the unique and inherent risks associated with driving within railroad facilities, adjacent to railroad tracks and frequently traversing railroad crossings.”	Staff recommends leaving the rule as proposed in the CR-102 draft. The proposed rules are consistent with the legislation. In addition, the rules require the railroads to provide training directly associated with railroad yards and property, pick-up and drop-off points, any rules or requirements imposed by the railroad, general railroad safety requirements, and grade crossing safety.
8.	BNSF	Driver Training 480-62-290(h)	BNSF suggests that the draft rules, specifically 480-62-290(h) be amended to allow each company providing contract crew transportation “develop its safety training using written safety and operating rules provided by the railroad.”	Staff recommends leaving the rule as proposed in the CR-102 draft. The proposed rules appropriately require the railroad to provide training for which it is uniquely qualified – training associated with railroad yards and property, pick-up and drop-off points, any rules or requirements imposed by the railroad, general railroad safety requirements, and grade crossing safety.

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9.	QM	Medical Certificates 480-62-278(2)	QM does not believe medical certificates should be required for drivers. Current proposed rules require a medical certificate in WAC 480-62-278(2), through adoption of 49 CFR, Part 391.	Staff recommends leaving the rule as proposed in the CR-102 draft. The proposed rules are consistent with other areas of commission regulation, such as auto transportation and charter bus rules. Staff believes it is important that drivers are medically qualified before operating.
10.	SMART	Extend Rulemaking	SMART suggests the Commission allow a “strictly limited rulemaking process” to remain open for the next 12 to 18 months to review effectiveness of rules regarding driver training, hazardous loading and unloading locations, and the need for studded tires in the winter.	Staff recommends closing this rulemaking once rules are adopted and in effect. The Commission can review the effectiveness of its rules at any time and can open a rulemaking to revise rules, if necessary, at any time.
11.	BNSF Railway (BNSF)	Vehicle Safety Requirements 480-62-278(2)	BNSF comments that the Commission should specifically note that vehicle equipment safety requirements include only items that are applicable as the vehicle manufacturer originally intended.	Staff recommends leaving the rule as proposed in the CR-102 draft. BNSF’s comments refer to WAC 480-62-278(2), where the Commission adopts a number of federal requirements for vehicle safety. These include safety requirements that apply to contract crew transportation vehicles and for larger commercial motor vehicles. If a vehicle is not required to have certain equipment, staff would not inspect for that equipment. For example, if a vehicle is smaller and not required to have air brakes, staff would not inspect for air brakes. The proposed rules are consistent with other areas of commission regulation, such as auto transportation, and charter bus rules.

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12.	BNSF	Notice Requirements 480-62-287	BNSF comments that the Commission should provide a general telephone number (rather than an individual staff person, such as the motor carrier manager, as currently proposed) and email address for passengers who wish to file complaints.	Staff agrees with BNSF comments. Staff recommends changing the language as follows in WAC 480-62-287(2): (2) The telephone number and email address of the commission's motor carrier safety manager where passengers may file complaints. The contact information necessary for the motor carrier safety manager <u>filing complaints, which</u> can be found on the agency's public website."
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