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## Document Review – Comment Sheet

*Document commented: Common Safety Methods on the assessment of Safety Level and Safety Performance of railway operators at national and Union level (CSM ASLP)*

<i>Requestor:</i>	Consultation.ERA1219@era.europa.eu
<i>Deadline for submitting comments:</i>	17 March 2021

	<i>Reviewer 1</i>	<i>Reviewer 2</i>	<i>Reviewer 3</i>	<i>Reviewer 4</i>	<i>Reviewer 5</i>
<i>Date:</i>	16 March 2021				
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### Document History

<i>Version</i>	<i>Date</i>	<i>Comments</i>
0.1		
0.2		

0.3		

*Conventions:*

<i>Type of Comment</i>		<i>Reply by requestor</i>	
<i>G</i>	General	<i>R</i>	Rejected
<i>M</i>	Mistake	<i>A</i>	Accepted
<i>U</i>	Understanding	<i>D</i>	Discussion necessary
<i>P</i>	Proposal	<i>NWC</i>	Noted without need to change

*Review Comments <if necessary add extra lines in the table>*

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
1.	Art 2, Art 4	G, U	VCI	The scope of the proposed delegated regulation is unclear. The definition in Art 2.1 (“any party who may contribute”) is too general and raises the question whether the reporting obligations in Art 4 apply to - “any party who may contribute” (Art 2.1), - “railway operators” (wording of Art 4) or to - “any railway operator holding a valid safety certificate or safety authorisation to operate on the European Union railway system” (scope as defined in article 2.2)	A	This has been clarified with the redrafting of article 2 and 4, giving clearly visible requirements to railway operators and other entities.

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2.	Art 4	P	VCI	It should be clarified that the reporting obligations for collection of data used for the assessments in article 4 are only applicable to “railway operators holding a valid safety certificate or safety authorisation to operate on the European Union railway system” as defined in Art 2.2	A	Article 4 was re-drafted and clarified.
3.	Art 3 (a), Art 4	G	VCI	Art. 3 (a) defines railway operators as “any infrastructure manager and any railway undertaking”. The proposed delegated regulation lacks a definition of railway infrastructure. Therefore, the scope may include private branch lines or sidings, including private railway infrastructure at industrial production sites.  Applying the reporting obligations of Art 4 to private railway infrastructure at industrial production sites would introduce additional reporting burden for industrial operators. The safety of private railway infrastructure and operations at industrial production sites is governed by supervisory authorities. This includes regular safety checks and reporting obligations on the occurrences of events.	NWC  NWC	The Union railway system is defined by Article 2(1) of Directive (EU) 2016/797, including its Annex I.  This is covered by the Directive (EU) 2016/798 introducing the CSM ASLP as secondary legislation.  The application to this type of infrastructure is depending on the decision taken by each EU MS in accordance with their transposition of the Article 3(2) of this Directive.

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4.	Art 3 (a)	P	VCI	<p>It should be clarified that, for the purposes of the proposed draft delegated regulation, railway infrastructure excludes private railway infrastructure at industrial production sites.</p> <p>This could be accomplished by applying the definition of Council Directive 91/440/EEC, which refers to Annex I.A of Commission Regulation (EEC) No 2598/70: "Railway infrastructure consists of the following items, provided they form part of the permanent way, including sidings, but excluding lines situated within railway repair workshops, depots or locomotive sheds, and private branch lines or sidings:"</p>	NWC	See comment 3, it depends on national transposition law.

5.	Art 5.1.2.1	G	VCI	<p>The Data set for reporting the context of the occurrence of an event includes “LOADING/FILLING” and “UNLOADING/EMPTYING” if they involve dangerous goods – even though these are not considered as railway operations.</p> <p>Reporting obligations for events involving dangerous goods are sufficiently covered by TDG legislation as specified in RID 1.8.5 - Notifications of occurrences involving dangerous goods:</p> <p>- “If a serious accident or incident takes place during loading, filling, carriage or unloading of dangerous goods on the territory of an RID Contracting State, the loader, filler, carrier, unloader, consignee or if the case may be the railway infrastructure manager, respectively, shall ascertain that a report conforming to the model prescribed in 1.8.5.4 is made to the competent authority of the RID Contracting State concerned at the latest one month after the occurrence”.</p> <p>Loading/filling and unloading/emptying in general are covered by multiple regulations that apply to industrial activities and include reporting obligations to supervisory authorities.</p> <p>There is no justification to double existing reporting obligations: A requirement to report to ERA in addition to reporting required by TDG legislation and reporting obligations to supervisory authorities would increase burden,</p>	A	<p>Those reporting items have been noted as <u>Optional</u> in the context of this CSM.</p> <p>It is also indicated in a comment that those items may be subject to other legislation requirements.</p> <p>Thus it is both in line with railway legislation and dangerous goods legislation.</p>
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				but not bring any safety benefit to industrial operators.		
6.	Art 5.1.2.1	P	VCI	Delete "LOADING/FILLING" and UNLOADING/EMPTYING", because - these activities are not considered as railway operations, and - reporting obligations for events involving dangerous goods are sufficiently covered by TDG legislation and other reporting obligations.	NWC	We agree that it is covered by the TDG legislation, however the amendment indicated in the previous comment provides a solution to the issues you have commented, taking into account consistently all applicable EU legislation, and giving flexibility to the EU MS who would like also to use the ISS for this purpose.

*Note: This table could be changed according to the requestor's needs*

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