

**From:** Wass David [mailto:David.Wass@networkrail.co.uk]  
**Sent:** 27 April 2010 15:59  
**To:** Valentino, Stefano  
**Cc:** Shah, Chandrika; O'Donnell Charlie; Elliott Martin ( Principal T&RS Engineer ); Vigor Graham; Collinson James  
**Subject:** Consultation on the Railways and Guided Transport (Miscellaneous Amendments) Regulations 2010

Dear Stefano,

On behalf of PWRA, Charlie O'Donnell and I have reviewed the amendments to the Regulations and the accompanying explanation and our comments are below:

### Consultation document

#### 1 Introduction

Page 1, clause 1.3 says that the RSD establishes a maintenance system. Is this true? Or should this say that the RSD mandates the requirement for a maintenance system?

Page 4, clause 1.20 says that you will consider all responses received. Will you be replying to the respondents?

#### 2 Background to Directive 2008/110/EC

Page 6 clause 2.3 says that the ECM *should* be registered on the NVR. Ought the *should* read *shall*?

Page 6 clause 2.3 says that the ECM certificate will provide assurance that the maintenance requirements of the directive are being met for any freight wagon for which the ECM has responsibility. Does this mean that the ECM certificate will be vehicle-specific?

Page 7 clause 2.7b) first bullet point. Should this state 'the maintenance system to be established by the ECM for the vehicles specified'?

Page 7 clause 2.9 refers to 'heritage' vehicles. Is heritage defined elsewhere?

Page 7 clause 2.9 and elsewhere uses the abbreviation kph. The usual abbreviation is km/h.

Page 9 Question 2. We believe that there may be Swiss-owned vehicles operating in the UK (for example AAE-owned Mefagret container carriers).

#### 4 Proposals for regulations implementing Directive 2008/110/EC

Page 14 clause 4.7 [and the RSD] says that “A railway undertaking, an infrastructure manager, or a keeper may be an entity in charge of maintenance”. This seems to imply that these categories of organisation alone can become ECMs. Is this true, or can an ECM be someone other than an RU, IM or Keeper? If other types of organisation are permitted to become ECMs, perhaps this clause ought to state this more clearly.

Page 16 clause 4.14 says that ‘certain information’ is to be recorded on the NVR. Can we be more specific? i.e. what information and how the information should be presented and to whom and by when.

Page 16 clause 4.14 Typo. The second reference to GM/RT2543 should read GM/RT2453.

Page 16 clause 4.15 says that the requirement for vehicles to have a assigned ECM is a prerequisite to ensuring that the vehicles are maintained safely. Given that most vehicles (if not all) are and have been maintained safely for many decades prior to the invention of the ECM suggests that this cannot be a prerequisite to safe maintenance!

Page 16 clause 4.16 refers to ‘authorised’ vehicles. What is the definition of an ‘authorised’ vehicle?

Page 16 Question 8 asks if the NVR registration should be by a given date.

Elsewhere in the Directive (Page L345/63 clause (6) of the Directive), it says that an RU can take responsibility in cases where an ECM has not been identified.

Given this alternative, should a date be specified?

Page 17 clause 4.22 second sentence says ‘These include’, suggest that this should read ‘These people may include’

Page 19 clause 4.30 says that the new Schedule 3 changes the emphasis of CSIs to the impact of accidents on society. Does this mean that the modal shift effect that occurs when a line is closed due to an accident has been included? I’m thinking about accidents such as Ladbroke Grove where the GWML was closed for many days. Passengers on that route would have made alternative journey arrangements, presumably by road, with the increased accident risk and also additional congestion/pollution costs to other existing road users.

#### Statutory Instruments 2010 No. \* Health and Safety The Railways and Guided Transport Miscellaneous Amendments) Regulations 2010

Page 3 clause (4) specifies that a vehicle must be maintained in accordance with (a) maintenance file; (b) maintenance rules; (c) applicable TSIs. Does this mean that we only need to provide the maintenance policy and plan reference numbers to RSL (provided that the plan and policy meet the requirements of GM/RT2004 and the TSI)?

Page 5 Item 6(d) requires the cost of delays as a consequence of accidents to be taken into consideration. Should this include the costs of delays on the roads due to transfer of passengers/goods off the railway while the line is closed? The same comment applies to Page 9 clauses 5(c) and 5(d).

Page 7 clause 4 'Indicators relating to precursors of accidents' items (1) and (2) refers to specific track defects that could lead to derailments (i.e. buckled and broken rails). However, there are other track faults that can lead to derailments e.g. cyclic top and gauge spread. Shouldn't all potential causes of derailment due to track defects be included?

Page 8 clause 4 'Indicators relating to precursors of accidents' item (5) highlights broken wheels and axles. Should this include all wheelset defects with potential to cause derailments e.g. cracked wheels and toe radius build-up etc?

Page 10 clause 7 defines audit. Is this a standard definition of audit?

#### Directives: Directive 2008/110/EC of the European Parliament and of the Council of 16 December 2008

Page L345/63 clauses (6) and (8) appear to conflict with each other. In clause (8) it permits the use of wagons that are not registered against an ECM. For how long would this be tolerated?

Page L345/64 Article 1 clause 5 (c) Requires CSMs to be revised at 'regular intervals'. This is a bit vague. Should these intervals be specified, even if it's a range?

Page L345/66 clause 5(d) says the Commission shall review the measure by 24 December 2018. Is this date correct?

#### Annex 1 Common Safety Indicators

Page 313/67 clauses 1.1 and 1.2 have 'Others' as categories. Should these be defined?

Page 313/68 clause 4 references track buckles. Shouldn't all potential causes of derailment due to track defects be included?

#### Evidence base for summary sheets

##### Section 3: The preferred option

Clause 3.1 Has the process for assigning a different ECM for particular vehicles been defined?

Clause 3.18 says that ORR envisages that the impact on private wagon owners will be negligible. This should be the case if Network Rail can offer the ESPA.

However, if we were unable to offer ESPA, then some of the Private Wagon owners may struggle to meet the ECM requirements.

Regards

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