



Government Gazette

REPUBLIC OF SOUTH AFRICA

Regulation Gazette

No. 7882

Vol. 464

Pretoria

2

February

2004

No. 25975



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GOVERNMENT NOTICE

DEPARTMENT OF TRANSPORT

No. R. 118

2 February 2004

RAILWAY SAFETY REGULATOR**NATIONAL RAILWAY SAFETY REGULATOR ACT, 2002 (ACT NO. 16 OF 2002): DRAFT REGULATIONS REGARDING SAFETY MANAGEMENT SYSTEMS, SAFETY MANAGEMENT SYSTEM REPORTS, RAILWAY OCCURRENCE REPORTING AND ASSESSMENT OF PERFORMANCE OF OPERATOR**

I, Abdulah Mohamed Omar, Minister of Transport intend, in terms of sections 28, 37 and 42 of the National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002), to make the regulations in the Schedule.

Interested persons are invited to submit their written comments on these regulations to the National Department of Transport (Mr. Sipho Khumalo: Deputy Director-General; Tel. +27 (012) 309 3335; Fax +27 (012) 309 3396; Postal address: Private Bag X193, Pretoria, 0001; E-mail: skhumalo@ndot.pwv.gov.za) within 60 days from the date of publication.

A.M. Omar
Minister of Transport

SCHEDULE

DRAFT REGULATIONS REGARDING SAFETY MANAGEMENT SYSTEMS, SAFETY MANAGEMENT SYSTEM REPORTS, RAILWAY OCCURRENCE REPORTING AND ASSESSMENT OF PERFORMANCE OF OPERATOR

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates—

- (a) **“accident”** means an unplanned event that results in harm to people or damage to property or the environment;
- (b) **“incident”** means an unplanned event, which, under different circumstances, could have resulted in an accident;
- (c) **“occurrence”** means an accident or incident, including a railway occurrence, which the operator must manage in accordance with his safety management system
- (d) **“safety critical work”** means the functions and activities related to the authorisation and control of the movement of rolling stock, including the direct supervision thereof;
- (e) **“safety related work”** means the functions and activities that have an impact on safe railway operations, and includes safety critical work; and
- (f) **“the Act”** means the National Railway Safety Regulator Act, 2002 (Act No 16 of 2002).

Applicability of standard

2. When interpreting a provision of these Regulations, any reasonable interpretation that is consistent with the South African Standard for Railway Safety Management (SANS 3000-1) must be preferred over any alternative interpretation that is inconsistent with that standard.

Safety management system

3. (1) A railway operator shall implement and maintain an adequately resourced and documented safety management system that complies with the standard referred to in regulation 2 .

(2) The safety management system contemplated in subregulation (1) shall include, but not be limited to—

- (a) structures, policies and procedures for managing railway safety including, but not limited to—
 - (i) the railway operator safety policy statement declaring the operator's commitment to manage safety at all levels in the organization;
 - (ii) the nomination of a senior manager responsible for ensuring that the provisions of these regulations and the associated standards are complied with;
 - (iii) clearly defined authorities, responsibilities and accountabilities regarding safety within all functional areas and at all levels in the operator organization;
 - (iv) the involvement of employees and/or their representatives in the development and implementation of the railway operator's safety management system;
 - (v) a safety plan which is to include annual safety performance targets and the associated safety initiatives to achieve these targets, approved by the operator's chief executive officer and communicated to the employees;
 - (vi) internal safety audits of these structures, policies and procedures;

- (vii) the identification and demonstration of compliance with legal requirements relating to safe railway operations;
- (viii) the control, updating, distribution and retraction of safety-related documents and data ; and
- (ix) the regular review of the safety management system;
- (b) operational risk management processes including, but not limited to—
 - (i) risk assessment processes to identify and prioritise risks;
 - (ii) risk control strategies to address risks which have been identified;
 - (iii) occurrence management, including emergency response;
 - (iv) procedures for—
 - (aa) occurrence reporting and recording, safety data collection and safety performance analysis;
 - (bb) occurrence investigations to determine the cause and the corrective actions needed to be taken in order to prevent recurrence; and
 - (cc) the development of corrective action plans, including management approval thereof and the monitoring of the execution and effectiveness of the corrective actions.
- (c) management of human factors including, but not limited to—
 - (i) procedures to ensure that human factors are addressed and their effects mitigated in order to enhance operational safety;
 - (ii) procedures, policies and criteria for employees involved in safety related and safety critical work, including those relating to—
 - (aa) their selection and placement;
 - (bb) their training;
 - (cc) their mental and physical fitness in order to perform the functions required of them;
 - (dd) their literacy, numeracy and language skills; and
 - (ee) the control of substance abuse.

- (d) procedures for the procurement of goods and contracted services to ensure that—
 - (i) goods supplied comply with the safety requirements of the specifications; and
 - (ii) the safety aspects related to contracted services are complied with, including where deemed necessary by the operator, a review of the contractor safety records and safety procedures.
- (e) procedures for developing and demonstrating compliance with safety standards contained in documented sets of engineering and operational systems which cover the network, stations, rolling stock, operations and train control systems, and interfaces with other modes.
- (f) procedures for management at interfaces between operators for ensuring compliance with the safety aspects related to technical and operational interfaces where networks, rolling stock or stations are used by more than one operator.

Safety management system report

4. (1) A safety management system report which, in terms of section 23(3)(c) of the Act, is to accompany an application by an operator for a safety permit, shall demonstrate the operator's or prospective operator's ability to manage railway operations safely.

(2) The safety management system report contemplated in subregulation (1) shall include at least the following information:

- (a) The name, address and registration number of the operator;
- (b) a statement of the operator's business focus and objectives;
- (c) a brief description of the operator's safety management system which has been developed in accordance with regulation 3;
- (d) the safety plan of the operator;
- (e) a list of relevant safety related legislation, and engineering and operational standards relating to safe railway operations, including the date of publication of each of them;

- (f) a list of the type of training and training courses required for each grade of employee who is to undertake safety related and safety critical work;
 - (g) subject to the agreements contemplated in subregulation (3) which have to be concluded by a train operator or prospective train operator, a summary by—
 - (i) the network operator describing—
 - (aa) the features of the network;
 - (bb) the traffic which shall be making use of the network; and
 - (cc) the stations on the network;
 - (ii) the train operator describing the rolling stock which it intends to operate and the network and stations to be utilized; and
 - (iii) station operator describing —
 - (aa) the stations which resort under its control;
 - (bb) the network on which the stations contemplated in sub-subparagraph (aa) are to be found; and
 - (cc) the train operators who shall be making use of the stations contemplated in sub-subparagraph (aa).
 - (h) a list of all the agreements contemplated in sub-regulation (3) which have to be concluded by a train operator or prospective train operator.
- (3) A train operator or prospective train operator shall conclude agreements relating to the access and usage of networks and stations with the relevant network and station operators prior to applying to the chief executive officer of the Regulator for a safety permit in terms of section 23 of the Act.
- (4) Failure to comply with the provisions of subregulation (3) shall render the application invalid.
- (5) An operator or prospective operator must hand-deliver or post the safety management system report, under the cover of the application for a safety permit to the chief executive officer of the Regulator.

(6) Subject to the additional requirements as contemplated in subsections 23(4) and (5) of the Act, the chief executive officer of the Regulator shall notify the applicant of the decision as soon as possible, but no longer than 90 days after receipt of the application for the safety permit.

Changes to an operator's safety management system or safety management system report

5. (1) An operator may be required by the board to revise or amend its safety management system or safety management system report based on the results of—

- (a) audit reports from the operator;
- (b) operator and industry occurrence trend analyses;
- (c) occurrence investigation reports by the operator or the Regulator;
- or
- (d) audits and inspections by the Regulator to determine compliance by the operator with its safety management system or safety management system report.

(2) In order to comply with the provisions of Section 2 of the Act, the Regulator must be notified of significant changes to the information contained in the safety management system and safety management system report.

(3) A request to change any condition contained in a Safety Permit which has been granted, as contemplated in section 24 of the Act and which necessitates that the safety management system or the safety management system report shall be amended, shall be submitted to the Regulator for approval prior to implementation.

Railway occurrence reporting

6. (1) Railway occurrences are to be categorized as follows:

- (a) Collisions and derailments.
- (b) Unauthorised movements.
- (c) Level crossings.
- (d) Persons struck during shunting or train movements.
- (e) People and train related.
- (f) People and station related.

- (g) Electrical shock.
 - (h) Dangerous goods.
 - (i) Fires.
 - (j) Security related.
 - (k) Crowd related.
 - (l) Labour unrest.
- (2) An operator is to record and report the railway occurrences contemplated in subregulation (1) to the chief executive officer of the Regulator to enable the board to decide whether the relevant railway occurrence warrants an investigation as contemplated in section 38 of the Act.
- (3) Except as provided for in subregulation 4, railway occurrences are to be reported to the chief executive officer of the Regulator on a quarterly basis or as instructed by or agreed upon between the operator and the board.
- (4) In addition to the provisions of subregulations (2) and (3), railway occurrences which result in injury, death or significant damage to property, including the environment, are to be recorded by the operator and reported immediately to the chief executive officer of the Regulator telephonically or by facsimile, followed by a report in writing (paper or electronic form) as soon as possible, but within twenty four hours after the occurrence, or as otherwise instructed by or agreed upon between the operator and the board.

Assessment of performance of operator

7. (1) An operator is to provide the following information to the chief executive officer of the Regulator for the purpose of assessment of the performance of the said operator as contemplated in section 42(b) of the Act:

- (a) quarterly and annually the following—
- (i) railway occurrence trends per category reported in terms of regulation (6);
 - (ii) explanations of noticeable changes in the trends for each category;
 - (iii) description of corrective actions taken to address trends; and

- (iv) traffic information.
- (b) Annually the following—
 - (i) the operator's safety plan;
 - (ii) any other information required by the Regulator in terms of the operator's safety management system and safety management system report relevant to enable the Regulator to assess the performance of the operator.
- (2) The information contemplated in subregulation (1) shall be submitted to the Regulator in both electronic and hard copy formats.

Short title

8. These Regulations shall be called the Railway Safety Management Regulations, 2004.
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