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GOVERNMENT NOTICE

DEPARTMENT OF TRANSPORT

No. R. 862

30 August 2005

National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002)

Regulations Regarding procedures to be followed in Development of Standards for safe railway Operations, 2005

The Minister of Transport has, under section 29 of the *National Railway Safety Regulator Act, 2002* (Act No. 16 of 2002), made the regulations in the Schedule.

Interested persons are invited to submit their written comments on these regulations to the Director-General, Department of Transport (for attention Adv. Johannes G. Makgatho), Private Bag X193, Pretoria, 0001, or transmitted by facsimile to (012) 309 3326/3044 or by e-mail to Makgathi@dot.gov.za within 60 days from date of publication.

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SCHEDULE

Definitions and Interpretation

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 indicate —

“develop, development, developing” means the development of new standards, the amendment of existing standards and the retraction of existing standards.

“local standard” means a standard developed in accordance with these regulations to meet specific local geographical, route or operational requirements, and which generally applies to a specific operator or where operators interface.

“industry standard” means a standard developed and approved by the railway industry in accordance with these regulations, and which generally applies throughout the industry.

“regulator standard” means a standard developed in accordance with SANS 1-1:2003 or in accordance with these regulations.

“SANS” means a South African National Standard recognised or developed by STANSA in accordance with SANS 1-1:2003, and shall include regulator standards

“standard” means a document, compiled by a recognised body, that provides for common and repeated use, rules, guidelines or characteristics for activities or their results, aimed at the achievement of the optimum degree of order in a given context and includes vocabularies, methods, specifications, codes of practice, guides and recommendations;

“standards committee” means the industry standards committee contemplated in regulation 5(5)(a); and

“STANSA” means Standards South Africa, a division of the South African Bureau of Standards.

Purpose

2. (1) The purpose of these regulations is to provide for the procedure to be followed in the development, approval and adoption of new standards, amendments to existing standards, and retraction of existing standards pertaining to safe railway operations.

(2) At the date of promulgation of these regulations, relevant existing standards pertaining to safe railway operations, which include operating and technical rules and codes of practice, that are contained in an operator's safety management system developed in accordance with regulations published in Government Notice No. **R866** of 20 July 2004, are deemed to be applicable until replaced by new standards or amendments to the existing standards, which have been developed, approved and adopted in accordance with the procedure set **out** in these regulations.

Context

3. (1) When developing a standard, the board or any other person must —

- (a) take into account the practicability of its application and its affordability;
- (b) ensure that an investigation is conducted as to the suitability of existing international or other standards that may be adopted for the required purpose; and
- (c) in order to harmonize operations at interfaces, take into account the needs of different operators.

(2) Any standard developed by the board or any other person should be based on consolidated results of science, technology and experience with the view to promoting optimum safety.

(3) The standards contained in an operator's safety management system should be aligned with the standards contained in any other operator's safety management system to the extent necessary for safe railway operations at each interface.

(4) The board may determine the format in which standards should be documented, with the exception of SANS which have to be documented in the format determined by STANSA.

Classification of standards

4. (1) Standards developed in accordance with these regulations shall be classified as either regulator standards, industry standards, or local standards.

(2) Regulator standards shall be standards which have been—

- (a) developed in accordance with the provisions of these regulations by STANSA, adopted by the board and published by STANSA with Regulator and SANS reference numbers; or
- (b) adopted by the board, in accordance with the provisions of these regulations—
 - (i) following a shortened procedure for their development in association with STANSA and published as regulator standards; or
 - (ii) having been developed by a recognised industry association and published **as** regulator standards.

(3) Industry standards shall be standards which have, in accordance with the provisions of these regulations, been developed and approved by the railway industry as industry standards and which shall apply generally throughout the industry.

(4) Where local conditions or requirements necessitate deviations ~~from~~ regulator or industry standards, local standards shall be developed to ensure that safety is appropriately addressed.

Local Standards shall ~~be~~ standards which have, in accordance with the provisions of these regulations, been developed by a specific operator, individually or in collaboration with other affected operators, or in association with a recognised industry association, **as** local standards.

(5) Local standards are subordinate to industry standards and industry standards are subordinate to regulator standards.

Procedure to be followed in development of standards for safe railway operations

5. (1) The need for the development of a standard may be identified by—

- (a) the Regulator;
- (b) **an** industry association;
- (c) **an** operator; or
- (d) any interested and affected parties.

(2) The standard contemplated in sub-regulation (1) shall be developed in accordance with the procedures set out in sub-regulations (5) to (7).

(3) Except as provided for in sub-regulation (4), the Regulator shall be consulted by the body or person desirous of a new standard to determine if the standard contemplated in sub-regulation (1) is to be categorized as a regulator or an industry or local standard.

(4) Where an operator is required to urgently develop a local standard for safety and operational reasons, the Regulator shall be advised within 48 hours of the standard coming into effect, providing full details of the standard and reasons for not following the process contemplated in sub-regulation (3).

(5) Regulator standards shall be developed —

(a) by following the process used by SANS in the development of standards described in SANS 1-1, which includes the—

(i) formation of—

(aa) technical committees;

(ab) subcommittees where deemed necessary by the technical committee; or

(cc) working groups comprising experts in the field to be covered by the standard;

(ii) development of a draft standard by the committees or working groups (committee draft);

(iii) technical review and editing of the committee draft by the relevant technical committee;

(iv) approval of the committee draft by the relevant technical committee and publication thereof by STANSA for comment by interested parties;

(v) collation and consideration of comments received pursuant to the publication of the committee draft, incorporation of accepted comments and the preparation of draft Regulator standard for approval;

(vi) approval of the draft Regulator standard by the standards approval committee of STANSA; and

(vii) adoption of the draft Regulator standard by the board.

(b) by the overprinting of an existing standard, including international standards, having followed the relevant processes referred to in sub-regulation (5)(a);

(c) in the following manner, using a group of experts in the field of the standard that is to be developed:

- (i) The board shall appoint experts to develop the standard;
- (ii) the experts contemplated in subparagraph (i) shall draft the standard in accordance with the following procedure:
 - (aa) formation of a working group or groups to develop specific aspects of the standard, ~~as~~ well as a technical committee to oversee the process;
 - (bb) the development of a draft standard by the working group (committee draft);
 - (cc) technical review and editing of the committee draft by the technical committee;
 - (dd) the approval of the committee draft by the technical committee and publishing by the regulator in the media for comment by interested parties;
 - (ee) the collation and consideration of comments received pursuant to the publication ~~of~~ the committee draft, incorporation of the accepted comments, and the preparation of the draft standard for approval;
 - (ff) the approval of the draft standard by the group of experts appointed by the regulator.
 - (gg) the board shall review the draft standard, and after having been satisfied as to the content thereof, adopt same and publish the standard in the media for purposes of implementation.

(6) Industry standards shall be developed in accordance with the following procedure:

- (a) the recognised industry association shall appoint an industry standards committee;
- (b) the industry standards committee shall form a working group comprising experts in the field to be covered by the standard;
- (c) the working group contemplated in paragraph (b) shall develop a draft standard (committee draft) which shall be reviewed by the standards committee;

- (d) the committee draft, after having been provisionally accepted by the industry standards committee, shall be published in the media with the view to inviting comments from interested parties;
 - (e) the comments received pursuant to the publication of the committee draft shall be considered by the standards committee for inclusion in the draft standard;
 - (f) the industry standards committee shall approve the draft industry standard as an industry standard;
 - (g) the industry association referred to in paragraph (a) shall adopt the standard as an industry standard;
 - (h) the industry standard shall be published in the media for purposes of implementation by the industry, where after the industry association shall inform the Regulator accordingly, also demonstrating to the Regulator that due process has been followed in this regard.
- (7) Where an operator—
- (a) involves the industry association contemplated in sub-regulation (6)(a) in the development of local standards, the procedure set out in sub-regulation (6) with regard to the development of an industry standard shall *mutatis mutandis* apply; **or**
 - (b) develops a local standard in isolation or in collaboration with another operator, the following requirements are to be complied with:
 - (i) consensus must be obtained from all parties affected by the proposed local standard;
 - (ii) must be able to demonstrate that the proposed local standard is based on appropriate (fit for purpose) practice;
 - (iii) must be able to demonstrate to the Regulator, that—
 - (aa) the requirements contemplated in subparagraphs (i) and (ii) have been complied with;
 - (bb) procedures are in place to monitor the effectiveness of the local standard; and
 - (cc) procedures are in place to amend the local standard as and when the need dictates.

Responsibility for standards

6. (1) The board shall be responsible for the content and maintenance of regulator standards that it has developed, approved and adopted.

(2) **An** industry association referred to in regulation 5(6)(a) shall be responsible for the content and maintenance of the industry standards that it has developed, approved and adopted.

(3) **An** operator shall be responsible for the content and maintenance of the local standard which it has developed, but **if** an industry association referred to in regulation 5(6)(a) subsequently validates and adopts the standard, such association shall take over the responsibility for the content and maintenance of the said standard, as an industry standard.

(4) Operators are responsible for implementing and complying with standards in accordance with each operator's safety management system.

Review and amendment

7. (1) The party responsible for a standard must review that standard for relevance and consistency whenever there is a change **in** process, technology, structure, legislation **or** other externalities.

(2) When a standard has been found to be irrelevant, inapplicable or inconsistent with the current needs it must be amended or retracted in the following manner:

(a) **in** the case of Regulator standards, by following the procedure set out in regulation 5(5);

(b) **in** the case of industry standards by following the procedure set out in regulation 5(6) if the change pertains to industry standards;

(c) **in** the case of local standards by following the procedure set out in regulation 5(7) if the change pertains to local standards.

Publication of standards

8. (1) All standards shall be published in English.

(2) Upon adoption by the board of a regulator standard or an amendment to an existing regulator standard, the title thereof is to be published in the *Government Gazette* and the standard shall become binding on all operators as from the date specified in the *Gazette*.

(3) The publication contemplated in sub-regulation (2) may include a résumé of the regulator standard **or** amendment thereto to the extent decided by the board.

Availability and distribution of standards

9. (1) The most recently updated versions of regulator standards shall be made available by the board to holders of Safety Permits, at a fee which shall be determined by the board or, where applicable in conjunction with STANSA.

— (2) The ~~industry association shall make available~~ the most recently updated versions of industry standards to the Regulator and holders of Safety Permits, at a fee to be determined.

(3) The most recently updated versions of local standards are to be made available to ~~the~~ board.

(4) All operators shall, in compliance with the provisions of the Regulations published under Government Notice No. R688 dated 20 July 2004, be in possession of the most recently updated versions of all standards applicable to them.

Short Title

10. These Regulations shall be called the Railway Safety Standards Development Regulations, 2005