

No. 1216

1 December 2006

NATIONAL RAILWAY SAFETY REGULATOR ACT 2002, (ACT NO. 16 OF 2002)**REGULATIONS REGARDING THE PROCEDURE TO BE FOLLOWED IN DEVELOPMENT OF STANDARDS FOR SAFE RAILWAY OPERATIONS**

I, Jeff Radebe, Minister of Transport, intend in terms of section 29 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 within **60** days from the date of publication to the Director General, Department of Transport, for the attention of

Adv Adam Masombuka and **Mr.** Marius Luyt
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PRETORIA
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J.Radebe
Minister of Transport

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 indicates—

- (a) **“industry standard”** means a standard developed and approved by the railway industry association in accordance with these regulations to meet specific industry requirements;
- (b) **“interface”** means an area, point, or location where **two** or more operators’ activities meet and where the activities have the potential to affect one another;
- (c) **“local standard”** means a standard developed and approved by the relevant operator in consultation with other affected operators in accordance with these regulations to meet specific local geographical, route or operational requirements;
- (d) **“regulator standard”** means a standard developed and approved by the board in accordance with these regulations to meet national requirements;
- (e) **“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.

Factors to be considered

2. (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) take into account the needs of affected operators in order to harmonize operations at interfaces,.
- (2) Any standard so developed should be based on consolidated results of science, technology and experience with the view to promoting optimum safety.

Identification of need for a standard

3. (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 other person
- (2) Except for the provisions contemplated in sub-regulation 6.(5), the Regulator shall be consulted by the body desirous of a new standard to determine if the standard is to be categorized as a regulator standard or an industry or a local standard.

Procedure for developing regulator standards

4. (1) The board or any other person may develop standards for safe railway operations. The following procedure will apply to the development of new standards and the amendment of existing standards:
- (a) The formation of a technical committee;
 - (b) The aforementioned technical committee may appoint subcommittees where deemed necessary or working groups comprising experts in the field to be covered by the standard;

- (c) The committees or working groups will be responsible for the development of a draft standard (committee draft);
- (d) The technical review and editing of the committee draft will be done by the relevant technical committee;
- (e) After approval of the committee draft by the relevant technical committee, the draft standard will be published in the media for comment by interested parties;
- (f) After the collation and consideration of comments received pursuant to the publication of the committee draft, accepted comments will be incorporated and the preparation for approval of the draft Regulator standard will be finalised by the technical committee;
- (g) The draft Regulator standard will be approved and adopted as a Regulator standard by the board.
- (h) Notification of the publication of these standards will be published in the government gazette.

Procedures for developing industry standards

5. (1) The railway industry association may develop standards for safe railway operations. The following procedure will apply to the development of new standards and the amendment of existing standards:
- (a) The formation of an industry standards committee;
 - (b) The aforementioned committee shall appoint working groups comprising experts in the field to be covered by the standard;
 - (c) The working groups will be responsible for the development of a draft standard (committee draft);
 - (d) The technical review and editing of the committee draft will be done by the industry standards committee;
 - (e) After approval of the committee draft by the industry standards committee, the draft standard will be published in the media for comment by interested parties;

- (f) After the collation and consideration of comments received pursuant to the publication of the committee draft, accepted comments will be incorporated and the preparation for approval of draft industry standard will be finalized by the industry standards committee;
 - (g) The draft industry standard will be approved and adopted as an industry standard by the industry association.
- (2) The industry standard shall be published for implementation on the recognised industry association's web-site.
 - (3) The industry association shall inform the Regulator accordingly, demonstrating that due process has been followed in this regard.

Procedure for developing local standards

- 6. (1) **An** operator is required to develop local standards where local conditions or requirements necessitate deviation from or additions to regulator or industry standards in order to ensure safe railway operations.
- (2) The following procedure will apply to the development of new standards and the amendment of existing standards:
 - (a) The formation of a standards committee for local standards;
 - (b) The committee contemplated in sub-regulation(a) shall make use of local expertise to develop local standards;
 - (c) Drafts of local standards shall be reviewed and edited by the local standards committee;
 - (d) After approval of the draft standard by the local standards committee, the standard shall be communicated to all interested and affected parties for implementation;
- (3) **An** operator who has developed a standard in accordance with the procedure contemplated in sub-regulation (1) must be able to demonstrate to the regulator that —
 - (a) the proposed local standard is based on appropriate practice;
 - (b) due process has been followed in the development of the

standard;

- (4) **An** operator may approach a railway industry association to assist with the development of a local standard in accordance with the procedure contemplated in sub-regulation 6.(1);
- (5)
 - (a) In circumstances which pose a threat to safe railway operations an operator may implement a local standard prior to the approval of the local standards committee.
 - (b) The standard contemplated in sub-regulations 5(a) shall be approved by the local standards committee within 5 working days after the coming into effect.

Responsibility, review and amendment of standards.

- 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 any 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.

Short Title

- 8. These regulations shall be called the Railway Safety Standards Development Regulations,2006
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