

NOTICE 21 OF 2013

DEPARTMENT OF TRANSPORT

NATIONAL RAILWAY SAFETY REGULATOR ACT, 2002

RAILWAY SAFETY STANDARDS DEVELOPMENT AMENDMENT REGULATIONS

I, Ben Martins, Minister of Transport, in terms of section 50(3)(a) of the National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002), hereby publish for public comment the draft amendments to the Regulations regarding Procedure to be followed in Development of Standards for Safe Railway Operations to be made under section 50(1), read with section 29(1), of that Act, in the Schedule.

Interested persons are invited to submit written comments on these draft amendment Regulations to the Director -General, Department of Transport, within 60 days after the date of publication of this notice, for the attention of:

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SCHEDULE

Definitions

1. In these regulations “the Regulations” means the Railway Safety Standards Development Regulations, 2006, published under Government Notice No. R. 718 of 17 August 2007.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended—

- (a) by the insertion before the definition of “industry standard” of the following definition:

‘existing standard’ means a standard developed subsequent to the publication of these Regulations, but does not include an international standard;”;

- (b) by the substitution for the definition of “industry standard” of the following definition:

“‘industry standard’ means a standard developed or accepted by a railway industry association in accordance with regulation 5 to meet specific industry requirements;”;

- (c) by the insertion after the definition of “interface” of the following definition:

“‘international standard’ means a standard developed by a competent body outside the Republic of South Africa;”;

- (d) by the substitution for the definition of “local standard” of the following definition:

“‘local standard’ means a standard developed or accepted by the relevant operator in accordance with regulation 6 to meet specific local geographical, route or operational requirements;”;

- (e) by the substitution for the definition of “regulator standard” of the following definition:

“‘regulator standard’ means a standard developed, accepted or adopted by the board or developed and accepted by any other person in accordance with the procedure prescribed in regulation 4 and which is a standard not only to meet specific—

- (a) industry requirements; or

- (b) local geographical, route or operational requirements”;

- (f) by the substitution for the definition of “standard” of the following definition:

“‘standard’ means a standard developed in terms of regulation 4, 5 or 6 after the date of promulgation of the Regulations;”;

- (g) by the addition of the following definition:

“‘the Act’ means the National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002).”.

Substitution of regulation 2 of the Regulations

3. The following regulation is hereby substituted for regulation 2 of the Regulations:

“Factors to be considered in development, adoption or acceptance of standards 2.(1)

The board, when developing, adopting or accepting a standard, or any other person when developing or accepting a standard must—

- (a) take into account the practicality of its application and its affordability;
 - (b) ensure that an investigation is conducted as to the suitability of existing or international or other standards that may be adopted or accepted for the required purpose; and
 - (c) take into account the needs of different operators.
- (2) Any standard developed, adopted or accepted by the board or developed and accepted by any other person, must be based on consolidated results of science, technology, engineering and experience with the view to promoting optimum safety.”.

Substitution of regulation 4 of the Regulations

4. The following regulation is hereby substituted for regulation 4 of the Regulations:

“Procedure for development of standards and acceptance or adoption of existing or international standards as regulator standards

4.(1) The procedure to be followed by the board for the development of regulator standards, the acceptance of international standards as regulator standards and the amendment of existing regulator standards is the following:

- (a) The board must establish a technical committee;
- (b) the technical committee is responsible for the development of a draft standard (committee draft);
- (c) the committee draft standard referred to in paragraph (b) must be published in the media for comment by interested parties; and
- (d) after the collation and consideration of comments received pursuant to the publication of the draft standard referred to in paragraph (b), accepted comments must be incorporated and the preparation for approval by the board of the draft regulator standard must be finalised by the technical committee.

(2) The procedure to be followed by any person other than the board for the development of regulator standards, the acceptance of international standards as regulator standards and the amendment of existing regulator standards is the following:

- (a) A technical committee must be established by the person concerned;
 - (b) the technical committee may, where deemed necessary, appoint subcommittees or working groups comprising experts in the field to be covered by the standard;
 - (c) the subcommittees or working groups are responsible for the development of a draft standard (committee draft);
 - (d) the technical committee must conduct the technical review and editing of the committee draft standard referred to in paragraph (c) and approve the draft standard;
 - (e) the approved committee draft standard referred to in paragraph (d) must be published in the media for comment by interested parties; and
 - (f) after the collation and consideration of comments received pursuant to the publication of the committee draft standard referred to in paragraph (d), accepted comments must be incorporated and the preparation for approval by the person concerned of the draft regulator standard must be finalised by the technical committee.
- (3) A draft regulator standard developed, accepted or amended in accordance with subregulation (1) or (2) may be adopted as a standard by the board.
- (4) Notification of the publication of the regulator standards must be published in the *Government Gazette*."

Substitution of regulation 5 of the Regulations

5. The following regulation is hereby substituted for regulation 5 of the Regulations:

"Procedure for development and acceptance of industry standards

5.(1) A railway industry association may develop and accept standards for safe railway operations.

(2) The procedure to be followed by a railway industry association for the development of standards or the acceptance of international standards as standards or the amendment of existing industry standards is the following:

- (a) An industry body must be appointed by the railway industry association for the development or amendment of a standard;
- (b) a working group comprising experts in the field to be covered by the standard must be formed;
- (c) the working group is responsible for the development of a draft standard;
- (d) the industry body must undertake a technical review and editing of the draft standard referred to in paragraph (c), before approving the draft standard;

- (e) after approval in terms of paragraph (d), the draft standard must be published in the media and on the Regulator's website for comment by interested parties; and
 - (f) after the collation and consideration of comments received pursuant to the publication of the draft standard in terms of paragraph (e), accepted comments must be incorporated and the standard approved by the industry body.
- (3) The approved standard may be adopted by the board for implementation by all persons authorised under the Act to conduct railway operations.”.

Amendment of regulation 6 of the Regulations

6. Regulation 6 of the Regulations is hereby amended—

(a) by the substitution for subregulation (2) of the following subregulation:

“(2) The following procedure applies to the development of local standards and the amendment of existing local standards:

- (a) The formation of a local standards committee for the development of local standards;
- (b) the local standards committee referred to in paragraph (a) must make use of local expertise to develop local standards;
- (c) drafts of local standards must be reviewed, edited and approved by the local standards committee; and
- (d) after approval of the draft standard by the local standards committee, the standard must be communicated to all affected parties for implementation.”; and

Insertion of regulation 6A in the Regulations

7. The following regulation is hereby inserted in the Regulations after regulation 6:

“Procedure for acceptance of existing standards

6A. In the event that an appropriate regulator standard does not exist, the board may employ the following procedure for the acceptance of an existing or international standard:

- (a) The board must review the procedure followed in the development of the existing or international standard;
- (b) the board must satisfy itself that the author of the standard was or is a credible and recognised organisation; and
- (c) the board must satisfy itself that the application of the standard will be appropriate.”.

Short title

8. These regulations are called the Railway Safety Standards Development Amendment Regulations, 2012.