

Commission Regulation (EU) No 1078/2012 of 16 November 2012 on a common safety method for monitoring to be applied by railway undertakings, infrastructure managers after receiving a safety certificate or safety authorisation and by entities in charge of maintenance (Text with EEA relevance)

*Article 1*

**Subject matter and scope**

- 1 This Regulation establishes a common safety method (CSM) for monitoring, enabling the effective management of safety in the railway system during its operation and maintenance activities and, where appropriate, improving the management system.
- 2 This Regulation shall be used for the following:
  - a to check the correct application and the effectiveness of all the processes and procedures in the management system, including the technical, operational and organisational risk control measures. In case of railway undertakings and infrastructure managers, checking will include the technical, operational and organisational elements that are necessary for the issue of the certification/authorisation specified in Article 10(2)(a) and 11(1)(a) and the provisions adopted to obtain the certification/authorisation specified in Article 10(2)(b) and 11(1)(b) of Directive 2004/49/EC;
  - b to check the correct application of the management system as a whole, and if the management system achieves the expected outcomes; and
  - c to identify and implement appropriate preventive, corrective or both types of measures if any relevant instance of non-compliance to points (a) and (b) is detected.
- 3 This Regulation shall apply to railway undertakings, infrastructure managers after receiving a safety certificate or safety authorisation and entities in charge of maintenance.

*Article 2*

**Definitions**

For the purposes of this Regulation the definitions of Article 3 of Directive 2004/49/EC shall apply.

In addition, the following definitions shall apply:

- (a) ‘management system’ means either the safety management systems of railway undertakings and infrastructure managers, as defined in Article 3(i) of Directive 2004/49/EC and complying with requirements laid down in Article 9 and Annex III of that Directive, or the system of maintenance of entities in charge of maintenance complying with requirements laid down in Article 14a(3) of that Directive;
- (b) ‘monitoring’ means the arrangements put in place by railway undertakings, infrastructure managers or entities in charge of maintenance to check their management system is correctly applied and effective;
- (c) ‘interfaces’ means interfaces as defined in Article 3(7) of Commission Regulation (EC) No 352/2009<sup>(1)</sup>.

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**Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EU) No 1078/2012. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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### Article 3

#### Monitoring process

- 1 Each railway undertaking, infrastructure manager and entity in charge of maintenance:
  - a shall be responsible for conducting the monitoring process set out in the Annex;
  - b shall ensure that risk control measures implemented by their contractors are also monitored in compliance with this Regulation. To this end, they shall apply the monitoring process set out in the Annex or require their contractors to apply this process through contractual arrangements.
- 2 The monitoring process shall contain the following activities:
  - a the definition of a strategy, priorities and plan(s) for monitoring;
  - b the collection and analysis of information;
  - c the drawing up of an action plan for instances of unacceptable non-compliance with requirements laid down in the management system;
  - d the implementation of the action plan, if such a plan is drawn up;
  - e the evaluation of the effectiveness of action plan measures, if such a plan is drawn up.

### Article 4

#### Exchange of information between the involved actors

- 1 Railway undertakings, infrastructure managers and entities in charge of maintenance, including their contractors, shall ensure through contractual arrangements that any relevant safety-related information resulting from applying the monitoring process set out in the Annex is exchanged between them, to enable the other party to take any necessary corrective actions to ensure continuous achievement of the safety performance of the railway system.
- 2 If, through the application of the monitoring process, railway undertakings, infrastructure managers and entities in charge of maintenance identify any relevant safety risk as regards defects and construction non-conformities or malfunctions of technical equipment, including those of structural sub-systems, they shall report those risks to the other parties involved to enable them to take any necessary corrective actions to ensure continuous achievement of the safety performance of the railway system.

### Article 5

#### Reporting

- 1 The infrastructure managers and railway undertakings shall report to the national safety authority on the application of this Regulation through their annual safety reports in accordance with Article 9(4) of Directive 2004/49/EC.
- 2 The national safety authority shall report on the application of this Regulation by the railway undertakings, infrastructure managers, and as far as it is aware of it, by the entities in charge of maintenance in accordance with Article 18 of Directive 2004/49/EC.
- 3 The annual maintenance report of entities in charge of maintenance of freight wagons set out in point I.7.4(k) of Annex III to Regulation (EU) No 445/2011, shall include information

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about the experience of entities in charge of maintenance in applying this Regulation. The Agency shall gather this information in coordination with the respective certification bodies.

4 The other entities in charge of maintenance that do not fall under the scope of Regulation (EU) No 445/2011 shall also share their experience with the Agency on the application of this Regulation. The Agency shall coordinate the sharing of experience with these entities in charge of maintenance.

5 The Agency shall collect all information on the experience of the application of this Regulation and, when necessary, shall make recommendations to the Commission with a view to improving this Regulation.

6 The national safety authorities shall support the Agency in collecting such information from railway undertakings and infrastructure managers.

7 The Agency shall submit to the Commission not later than three years after the entry into force of this Regulation a report analysing the effectiveness of the method and of the experience of railway undertakings, infrastructure managers and entities in charge of maintenance in applying this Regulation.

#### *Article 6*

#### **Entry into force and application**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall apply from 7 June 2013.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 November 2012.

*For the Commission*

*The President*

José Manuel BARROSO

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- (1) [OJ L 108, 29.4.2009, p. 4.](#)

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**Changes and effects yet to be applied to :**

- Art. 2 substituted by [S.I. 2019/837 reg. 15\(3\)](#)
- Art. 2 substituted by [S.I. 2019/837 reg. 20\(3\)](#)
- Art. 5(1) words omitted by [S.I. 2019/837 reg. 15\(4\)\(a\)](#)
- Art. 5(1) words omitted by [S.I. 2019/837 reg. 20\(4\)\(a\)](#)
- Art. 5(2) omitted by [S.I. 2019/837 reg. 15\(4\)\(b\)](#)
- Art. 5(2)-(7) omitted by [S.I. 2019/837 reg. 20\(4\)\(b\)](#)
- Art. 5(3) words omitted by [S.I. 2019/837 reg. 15\(4\)\(c\)\(ii\)](#)
- Art. 5(3) words substituted by [S.I. 2019/837 reg. 15\(4\)\(c\)\(i\)](#)
- Art. 5(4)-(7) omitted by [S.I. 2019/837 reg. 15\(4\)\(d\)](#)

**Changes and effects yet to be applied to the whole legislation item and associated provisions**

- Signature words omitted by [S.I. 2019/837 reg. 15\(5\)](#)
- Signature words omitted by [S.I. 2019/837 reg. 20\(5\)](#)
- Art. 1(2)(a) words substituted by [S.I. 2019/837 reg. 15\(2\)](#)
- Art. 1(2)(a) words substituted by [S.I. 2019/837 reg. 20\(2\)](#)