



**PURSUANT** to Sections 28 and 29 of the Civil Aviation Act 1990

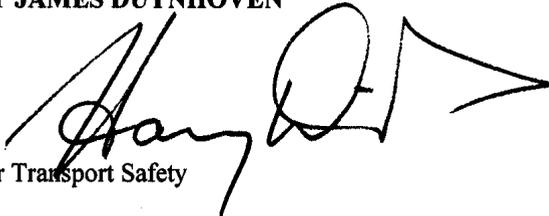
**I, HARRY JAMES DUYNHOVEN**, Minister for Transport Safety,

**HEREBY MAKE** the following ordinary rules.

**SIGNED AT** Wellington

This *24<sup>th</sup>* day of *September* 2007

by **HARRY JAMES DUYNHOVEN**

  
Minister for Transport Safety

**Civil Aviation Rules**

**Part 91, Amendment 17**

**General Operating and Flight Rules**

*Docket 5/CAR/3*

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**Rule objective**

The objective of amendment 17 to Part 91 is to make minor and technical changes as part of a general rule fix up project.

**Extent of consultation**

A Notice of Proposed Rulemaking, NPRM 06/02, containing the proposed changes to Part 91 was issued for public consultation under Docket 5/CAR/3 on 13 April 2006.

The publication of this NPRM was notified in the Gazette on 13 April 2006 and advertised in the daily newspapers in the five main provincial centres on 13 April 2006. The NPRM was published on the CAA web site and mailed to stakeholders including representative organisations who were considered likely to have an interest in the proposal.

A period of 41 days was allowed for comment on the proposed rule.

Following public notifications of this NPRM, a supplementary NPRM proposing amendments to Part 67 Medical Standards and Certification was Gazetted on 11 May 2006 with a submission closing date of 8 June 2006. This proposal was distributed to all DME's via email.

A period of 29 days was allowed for comment on this proposed rule.

In addition to the rule changes proposed in NPRM 06/02, this amendment 17 to Part 91 includes changes to Appendix B to address an administrative matter arising from amendment 15 to Part 91 that came into force on 1 March 2007 and to correct 2 typographical errors in amendment 15 to Part 91. The proposed amendment to Appendix B of Part 91 'Transition arrangements' was consulted on as part of the original NPRM for amendment 15. It is amended to correct the inadvertent omission of transition arrangements in the final rule.

**Summary of submissions**

Two submissions were received by the closing date of the original NPRM issued 13 April 2006, both of which were in regard to rule 121.91- Refuelling and defuelling operations. In addition to the comments received from industry, a comment was also received from within the CAA in regard to Part 133 - Helicopter External Load Operations.

One submission was received in relation to the supplementary NPRM issued on 11 May 2006 proposing changes to Part 67.

No submissions were received on the proposed amendments to Part 91. However, after further internal CAA review some minor editorial corrections have been made to rule wording published in the NPRM.

The rule with editorial corrections was then referred to Parliament's Regulations Review Committee before being signed by the Minister for Transport Safety.

### **Examination of submissions**

Submissions may be examined by application to the Docket Clerk at the Civil Aviation Authority between 8:30 am and 4:30 pm on weekdays, except statutory holidays.

### **Insertion of Amendments**

The amendments to the rules in this Part are reflected by the revocation of the existing rule and insertion of the amended rule.

### **Effective date of rule**

Amendment 17 to Part 91 comes into force on 25 October 2007.

### **Availability of rules**

Civil Aviation Rules are available from–

CAA web site: <http://www.caa.govt.nz/>

Freephone: 0800 GET RULES (0800 438 785)

## Part 91 Amendments

### Subpart A — General

*The following new rule 91.15 is inserted after rule 91.13:*

#### **91.15 Fuelling of aircraft**

A person refuelling or defueling an aircraft must ensure that—

- (1) fuelling or defueling of an aircraft is performed in compliance with the applicable requirements of the regulations made under the Hazardous Substances and New Organisms Act 1996; and
- (2) the aircraft is not refuelled or defueled with Class 3.1A flammable liquid when a person is embarking, on board, or disembarking the aircraft, or when one or more of the propulsion engines are running; or
- (3) the aircraft is not refuelled or defueled with a Class 3.1C or a Class 3.1D flammable liquid when a person is embarking, on board, or disembarking the aircraft.

### Subpart E — Instrument Flight Rules

*Rule 91.415 is revoked and the following new rule is substituted:*

#### **91.415 Category II and III precision approach procedures**

- (a) A person must not operate an aircraft performing a Category II or III precision approach procedure unless—
  - (1) each flight crew member has adequate knowledge of, and familiarity with, the aircraft and the procedures to be used; and
  - (2) the instrument panel in front of the pilot who is controlling the aircraft has appropriate instrumentation for the type of flight- control guidance system that is being used; and

(3) the RVR information for the runway in use is provided to the pilot-in-command.

(b) Except as otherwise authorised by the Director, a person must not operate an aircraft performing a Category II or III precision approach procedure unless the ground component required for the operation, and the related airborne equipment, is installed and operating.

(c) For the purpose of paragraph (d), when the precision approach procedure being used provides for and requires the use of a DH, the authorised DH must be the highest of the following—

- (1) the DH prescribed by the instrument approach procedure; or
- (2) the DH prescribed for the pilot-in-command; or
- (3) the DH for which the aircraft is equipped.

(d) Except as otherwise authorised by the Director, a pilot of an aircraft performing a Category II or III precision approach procedure that provides for and requires the use of a DH must not continue the approach below the authorised DH unless the following conditions are met—

- (1) the aircraft is in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal manoeuvres, and that descent rate allows touchdown to occur within the touchdown zone of the runway of intended landing; and
- (2) at least one of the following visual references for the intended runway is distinctly visible and identifiable:
  - (i) the runway threshold;
  - (ii) the runway threshold markings;
  - (iii) the runway threshold lights;
  - (iv) the runway touchdown zone or touchdown zone markings;

- (v) the runway touchdown zone lights.
- (e) Except as otherwise authorised by the Director, a pilot of an aircraft performing a Category II or III precision approach procedure must immediately execute a missed approach procedure whenever, prior to touchdown, the requirements of paragraph (d) are not met.
- (f) A pilot of an aircraft performing a Category III precision approach procedure without a DH must not land the aircraft except in accordance with the provisions of an authorisation issued by the Director.

## **Subpart H — Special Flight Operations**

*Rule 91.709 is revoked and the following new rule is substituted:*

### **91.709 Towing gliders**

- (a) A person must not tow a glider in flight unless that person holds a glider tow rating issued under Part 61.
- (b) A person must not tow a glider in flight unless—
  - (1) the aircraft used for towing is operated at airspeeds below the maximum airspeed specified for aero-tow in the glider flight manual; and
  - (2) the towing load does not exceed the maximum load specified in the aircraft flight manual; and
  - (3) the person has checked the operation of the tow hook of the aircraft to be used prior to flight; and
  - (4) the person uses the take-off, glider release, airspeed, and emergency signals established by a gliding organisation for the pilots of tow aircraft and gliders; and
  - (5) the take-off distance to clear a 50 foot obstacle with the glider in tow does not exceed 85% of the take-off run available; and

- (6) the aircraft is capable of maintaining a rate of climb of at least 200 feet per minute at 1000 feet above the aerodrome with the glider in tow.
- (c) A person must not operate an aircraft to tow a glider in flight unless—
- (1) the aircraft to be used is equipped with—
    - (i) a tow hook and attachment assembly; and
    - (ii) a pilot-activated quick release capable of releasing the tow line from the tow hook with the glider in tow and while the tow aircraft is in flight; and
  - (2) the tow line to be used meets the requirements of Appendix A.26; and
  - (3) if more than one glider is being towed, the tow lines to be used are—
    - (i) one for each glider; and
    - (ii) of a length that provides a distance of not less than 50 m between any glider and the towing aircraft; and
    - (iii) of a length that provides a trailing separation of not less than 30 m between each glider; and
    - (iv) attached by a single tow ring to the aircraft, and capable of separation on release from the aircraft.

## **Appendix B – Transitional arrangements**

*Appendix B – Transitional arrangements is revoked and replaced by the following new Appendix B:*

- (a) An operator of an aircraft—
- (1) that was required by rule 91.607 that was in force immediately before 1 March 2007 to have an annual or 100 hour inspection performed within the prescribed periods; and

- (2) that is to be maintained in accordance with rule 91.605(a)(3) or (a)(4) that came into force on 1 March 2007;

is not required to comply with—

- (i) the requirement under rule 91.605(a)(3) or (a)(4), as the case may be, regarding equivalent annual and 100 hour inspections contained in the aircraft manufacturer's maintenance schedule, or the maintenance programme acceptable to the Director, until 1 September 2007 if the aircraft continues to be subject to the annual and 100 hour inspection requirements in rules 91.607, 43.57, and Appendix C of Part 43 that were in force immediately before 1 March 2007; and
  - (ii) the requirement for a 100 hour inspection under rule 91.605(a)(3), (a)(4), or (c), as the case may be, until 12 months or 100 hours time in service, whichever occurs first, after the last corresponding inspection that was carried out under rule 91.607 that was in force immediately before 1 March 2007.
- (b) An operator of an aircraft is not required to comply with the requirements in rules 91.605(e)(5) and 91.605(e)(8) until 1 March 2008.
- (c) An operator of an aircraft that is not used for air operations may continue to operate a component of the aircraft, except an engine or a propeller, beyond the manufacturer's recommended calendar TBO for the component until 1 September 2007 without complying with the requirement in rule 91.603(c) regarding compliance with the manufacturer's recommended overhaul intervals.
- (d) Notwithstanding paragraph (c), an operator of an aircraft that is fitted with a piston engine and is used for hire or reward operations may continue to operate the engine beyond the manufacturer's recommended overhaul intervals until 1 March 2009 without complying with the requirement in rule 91.603(d) for the engine to be maintained in accordance with a TBO escalation procedure that is detailed in a maintenance programme that is approved under Part 119 or approved under rule 91.607 if—

- (1) immediately before 1 March 2007 the engine is being maintained in accordance with established procedures for operation beyond the manufacturer's recommended overhaul intervals; and
  - (2) the engine continues to be maintained in accordance with the established procedures referred to in paragraph (d)(1); and
  - (3) the aircraft is not used for air operations.
- (e) An operator of an aircraft is not required to comply with the requirements in rule 91.605(e)(10) until 1 March 2009.

**Consultation Details**

*(This statement does not form part of the rules contained in Part 91. It provides details of the consultation undertaken in making the rules.)*

A Notice of Proposed Rulemaking, NPRM 06-02 Omnibus Rule Fix Up, containing the proposed rules was issued for public consultation under Docket 5/CAR/3 on 13 April 2006.

A supplementary NPRM proposing amendments to Part 67 Medical Standards and Certification was published under the same docket number on 11 May 2006.

A total of 3 submissions were received by the closing date of the original NPRM and 1 submission was received in relation to the supplementary NPRM. No submissions were received on the proposed amendments to Part 91.

The changes to Appendix B are to address an administrative matter arising from amendment 15 to Part 91 that came into force on 1 March 2007 and to correct 2 typographical errors in amendment 15 to Part 91. The proposed amendment to Appendix B of Part 91 'Transition arrangements' was consulted on as part of the original NPRM for amendment 15. It is amended to correct the inadvertent omission of transition arrangements in the final rule.

The comments and all background material used in developing these rules are held on the docket. The docket is available for public inspection at Aviation House, 10 Hutt Road. Persons wishing to view the docket should contact the Docket Clerk on Phone 64-4-560-9603 and ask for docket 5/CAR/3.