



PURSUANT to Sections 28 and 30 of the Civil Aviation Act 1990

I, CRAIG FOSS, Associate Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This

7th

day of

Dec

2015

by **HON CRAIG FOSS**

A handwritten signature in black ink, appearing to read 'Craig Foss', is written over the printed name.

Associate Minister of Transport

Civil Aviation Rules

Part 174, Amendment 4

**Aviation Meteorological Service Organisations –
Certification**

Docket 8/CAR/1

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Rule objective

The objective of amendment 4 to Part 174 is to introduce new rules to improve New Zealand's aviation safety performance in a way that embeds an effective safety culture in aviation organisations; and to ensure New Zealand meets its international obligations as a signatory to the Convention on International Civil Aviation.

Extent of consultation

This project was originally conceived to have a three stage implementation plan where the safety management provisions would be included in every affected rule. A project working group was formed in 2009 to address stage 1 which included international air operators, their maintainers, international aerodromes, and air traffic control.

Subsequent development shifted the direction to a single stage rule implementation, with 2 different transition times; and the safety management requirements would mostly be contained in a new rule part – Part 100.

As a result, a new policy project developed options for a safety management rule proposal in a risk based regulation environment. This policy was consulted in 2013 and was well received by the industry; and rule development continued as recommended in the policy document.

A Notice of Proposed Rulemaking, NPRM 15-02, containing the proposed new Part 100 and consequential amendments to Parts 19, 115, 119, 121, 125, 135, 137, 139, 141, 145, 146, 148, 149, 171, 172, 173, 174 and 175 was issued for public consultation under Docket 8/CAR/1 on 7 May 2015.

The publication of this NPRM was notified in the Gazette on 7 May 2015. The NPRM was published on the CAA web site and mailed to identified stakeholders including representative organisations who were considered likely to have an interest in the proposal.

A period of 42 days was allowed for comment on the proposed rule.

Summary of submissions

20 written submissions and 60 oral comments were received on the NPRM. These submissions and comments have been considered and as

a result a number of proposed amendments were removed for reasons of standardisation and the submissions influenced the shape of the transitional provisions. No submissions related specifically to Part 174. See also *Consultation Details* on page 15.

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 replacing the affected existing rules with the amended rules.

Effective date of rule

Amendment 4 to Part 174 comes into force on 1 February 2016.

Availability of rules

Civil Aviation Rules are available from–

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

Freephone: 0800 GET RULES (0800 438 785)

Subpart B — Certification Requirements

Rule 174.51 is revoked and replaced by the following rule:

174.51 Personnel requirements

(a) An applicant for the grant of a meteorological service certificate must employ, contract, or otherwise engage—

- (1) a senior person identified as the chief executive who has the authority within the applicant's organisation to ensure that every meteorological service listed in its exposition can be financed and carried out to meet the operational requirements, and the requirements and standards prescribed by this Part; and
- (2) a senior person or persons ultimately responsible to the chief executive who are responsible for—
 - (i) ensuring that the organisation complies with its exposition; and
 - (ii) the system for safety management required under rule 174.77; and
- (3) sufficient personnel to plan, operate, supervise, inspect, and certify the meteorological offices and facilities and provide the meteorological services listed in the applicant's exposition.

(aa) The senior person required by paragraph (a)(2)(ii) must be able to demonstrate competency and experience relevant to the management of safety systems and the activities of the certificate holder.

(b) The applicant must—

- (1) establish a procedure to assess the competence of those personnel who are authorised by the applicant to—
 - (i) place facilities listed in the applicant's exposition into operational service; and

- (ii) supervise the production and release of meteorological information; and
- (2) establish a procedure to maintain the competence of those authorised personnel; and
- (3) provide those authorised personnel with written evidence of the scope of their authorisation.

Rule 174.75 is revoked and replaced by the following rule:

174.75 Records

- (a) An applicant for the grant of a meteorological service certificate must establish procedures to identify, collect, index, store, maintain and dispose of the records that are necessary for the supply of the meteorological services listed in the exposition.
- (b) The procedures must ensure that—
 - (1) there is a record of the input meteorological information obtained under the procedures required by rule 174.57; and
 - (2) there is a record of all output meteorological information identified under rule 174.59; and
 - (3) the records specified in paragraph (b)(1) and (2) are retained for a period of at least 60 days or for such longer period as may be required by the Director; and
 - (4) there is a record for each meteorological office and facility listed in the applicant's exposition, in order to document the performance of each meteorological office and facility and to provide a traceable history of its maintenance, service and product quality, its periodic inspections, and the persons responsible for each of these activities; and
 - (5) there is a record of the equipment and systems used for verification, inspection, testing and calibration under the procedures required by rule 174.65. The record must provide a traceable history of the location, maintenance, and calibration checks for the equipment and systems; and

- (6) there is a record of each occurrence of erroneous meteorological information reported and of each malfunction detected under the procedures required by rule 174.73. The record must detail the nature of the erroneous meteorological information or malfunction and the findings of the investigation and the follow-up corrective actions; and
- (7) [*revoked*]
- (8) there is a record for each person who is authorised by the applicant to supervise the production and release of meteorological information and for each person who is authorised by the applicant to place facilities into operational service. The record must include details of their experience, qualifications, training and current authorisations; and
- (9) all records are legible, and of a permanent nature; and
- (10) all records other than those required by paragraph (b)(1) and (2) are retained for at least one year, or for such longer period as may be required by the Director, in order to establish a history of the performance of the meteorological services.

Rule 174.77 is revoked and replaced by the following rule:

174.77 Safety management

An applicant for the grant of a meteorological service certificate must establish, implement, and maintain a system for safety management in accordance with rule 100.3.

Rule 174.79 is revoked and replaced by the following rule:

174.79 Meteorological service organisation exposition

(a) An applicant for the grant of a meteorological service certificate must provide the Director with an exposition that contains—

- (1) a statement signed by the chief executive on behalf of the applicant's organisation confirming that the exposition and any included manuals—

- (i) define the organisation and demonstrate its means and methods for ensuring ongoing compliance with this Part; and
 - (ii) are to be complied with at all times; and
- (1A) in relation to the system for safety management required by rule 174.77,—
- (i) all of the documentation required by rule 100.3(b); and
 - (ii) for an applicant that is not applying for a renewal of a meteorological service certificate, an implementation plan that describes how the system for safety management will be implemented; and
- (2) the titles and names of the senior person or persons required by rules 174.51(a)(1) and (2); and
- (3) the duties and responsibilities of the senior person or persons required by rules 174.51(a)(1) and (2) including—
- (i) matters for which they have a responsibility to deal directly with the Director or the Authority on behalf of the organisation; and
 - (ii) responsibilities for safety management; and
- (4) an organisation chart showing lines of responsibility of the senior person or persons required by rules 174.51(a)(1) and (2); and
- (5) a summary of the applicant's staffing structure at each meteorological office listed under paragraph (a)(7)(i); and
- (5A) information identifying the lines of safety responsibility within the organisation; and
- (6) a list of the meteorological services to be covered by the certificate; and

- (7) a list providing—
 - (i) the location of each meteorological office operated by the applicant; and
 - (ii) the location of each facility operated by the applicant that provides meteorological information directly to the users; and
 - (iii) the meteorological services provided by each of those meteorological offices and facilities; and
 - (iv) the locations and airspace covered by such meteorological services; and
- (8) details of the applicant's output meteorological information identified under rule 174.59(a)(1) and the standards and formats for that information determined under rule 174.59(a)(2); and
- (9) details of the applicant's procedures and systems required by—
 - (i) rule 174.51(b) regarding competence of personnel; and
 - (ii) rule 174.53 regarding site requirements; and
 - (iii) rule 174.55 regarding communication requirements; and
 - (iv) rule 174.57 regarding meteorological service input requirements; and
 - (v) rule 174.59 regarding meteorological service output requirements; and
 - (vi) rule 174.61 regarding facility requirements; and
 - (vii) rule 174.63 (b) regarding control of documentation; and

- (viii) rule 174.65 regarding verifications, inspections, tests and calibrations; and
 - (ix) rule 174.67 regarding release of meteorological information and the placing of facilities into operational service; and
 - (x) rule 174.69 regarding notification of meteorological office and facility status; and
 - (xi) rule 174.71 regarding meteorological information checks after notification of an accident or incident; and
 - (xii) rule 174.73 regarding malfunctions and erroneous information; and
 - (xiii) rule 174.75 regarding identification, collection, indexing, storage, maintenance and disposal of records; and
 - (xiv) *[revoked]*
- (10) procedures to control, amend and distribute the exposition.
- (b) The applicant's exposition must be acceptable to the Director.

Subpart C — Operating Requirements

Rule 174.109 is revoked and replaced by the following rule:

174.109 Changes to certificate holder's organisation

- (a) A holder of a meteorological service certificate must ensure that the exposition is amended so as to remain a current description of the holder's organisation and meteorological services provided.
- (b) The certificate holder must ensure that any amendment made to its exposition meets the applicable requirements of this Part and complies with the amendment procedures contained in its exposition.

- (c) The certificate holder must forward to the Director for retention a copy of each amendment to its exposition as soon as practicable after the amendment is incorporated into its exposition.
- (d) Before a certificate holder changes any of the following, prior acceptance by the Director is required:
- (1) the chief executive:
 - (2) the listed senior persons:
 - (3) the meteorological services the holder provides:
 - (4) the locations and airspace covered by each of the meteorological services the holder provides.
 - (5) the system for safety management, if the change is a material change:
- (e) The Director may impose conditions under which a certificate holder must operate during or following any of the changes specified in paragraph (d).
- (f) The certificate holder must comply with any condition imposed by the Director under paragraph (e).
- (g) If any change referred to in this rule requires an amendment to the certificate, the certificate holder must forward the certificate to the Director for endorsement of the change as soon as practicable.
- (h) The certificate holder must make such amendments to its exposition as the Director may consider necessary in the interests of aviation safety.

174.111 Revoked**Subpart D — Transition Provisions**

Insert rule 174.151 after rule 174.111:

174.151 Transition for meteorological service certificate holders and applicants

- (a) This rule applies to each—
- (1) meteorological service certificate holder:
 - (2) meteorological service certificate applicant.
- (b) Before 1 February 2018, an organisation to which this rule applies—
- (1) is not required to comply with—
 - (i) rule 174.51(a)(2)(ii), if instead of a senior person responsible for the system for safety management, the organisation has a senior person responsible for internal quality assurance:
 - (ii) rule 174.77, if instead of establishing, implementing, and maintaining the system for safety management, the organisation has established an internal quality assurance system that complies with rule 174.153:
 - (iii) rule 174.79(a)(1A):
 - (iv) rule 174.79(a)(3)(ii):
 - (v) rule 174.79(a)(5A); but
 - (2) by 30 July 2016 must submit to the Director with the accompanying completed CAA form an implementation plan that—
 - (i) includes a proposed date for implementation of the system for safety management; and

- (ii) outlines how the organisation plans to implement the system for safety management required under rule 174.77.
- (c) The Director will, if acceptable—
 - (1) approve the organisation’s implementation plan; and
 - (2) set the date for implementation of the system for safety management.
- (d) To avoid doubt, the date for implementation is the date the Director approves the system for safety management.
- (e) In setting the date under rule 174.151(c)(2), the Director must have regard to the following:
 - (1) the capability of the organisation:
 - (2) the complexity of the organisation:
 - (3) the risks inherent in the activities of the organisation:
 - (4) the date of any certificate renewal:
 - (5) any resource or scheduling impacts on the organisation or the Authority or both:
 - (6) the date for implementation must not be later than 1 February 2018.
- (f) If the organisation is an applicant for a meteorological service certificate it must submit its application for such a certificate together with the plan for implementation of the system for safety management.
- (g) This rule expires on 1 February 2018.

Insert rule 174.153 after rule 174.111 and following rule 174.151:

174.153 Transitional internal quality assurance for meteorological service certificate holders and applicants

(a) The internal quality assurance system required by rule 174.151(b)(1)(ii) must be established to ensure the organisation's compliance with, and the adequacy of, the procedures required by this Part.

(b) The senior person who has the responsibility for internal quality assurance must have direct access to the chief executive on matters affecting the adequacy, accuracy and timeliness of meteorological information.

(c) This rule expires on 1 February 2018.

Consultation Details

(This statement does not form part of the rules contained in Part 174. It provides details of the consultation undertaken in making the rules.)

A Notice of Proposed Rulemaking, NPRM 15-02, Safety Management, containing the proposed rules was issued for public consultation under Docket 8/CAR/1 on 7 May 2015.

20 responses to the NPRM were received. None related specifically to Part 174. Two submissions related to the proposed transition provisions as follows:

Transition rules

In regard to the time allowed for transition, most believed that the implementation time allowed was adequate. However, 2 submitters felt that it was too short – both were working in areas that were mainly Part 135 operations, but had a small element of Part 125 operations that would require the shorter transition period. This, they felt was unachievable; and in one case the submitter suggested that Part 125 operations should be allowed the longer transition to match Part 135.

One submitter suggested dropping the transitional rule that requires a transitional plan by a fixed date, as it appears nearly impossible to enforce in a meaningful way. The submitter questioned the CAA's intention if the CAA does not agree with an implementation plan? The submitter was of the view that as long as a plan is submitted, regardless of its content, the rule has been met. The intent of this rule may well be better achieved by other means, such as the anticipated timelines the CAA expects it will take to process an application for an exposition change that includes a SMS.

CAA Response: The CAA has reviewed the proposed transitional provisions and came to the following conclusions:

- *The timing of the proposed implementation stages has been examined and found that 1 year for the first group and 3 years for the second group would be unreasonably short considering the following:*
 - *the number of affected certificates;*

- *non-validated data on the level of proactive implementation already undertaken by organisations; and*
- *an untested SMS certification process.*

Therefore, while still under consideration pending further review of information from other States who have already been through this process, the times are expected to be extended.

- *The decision by CAA that organisations submit an implementation plan was informed by current best practice and that other States have done likewise. To ensure that the organisation's SMS is properly developed within the required timeframe, some measure of additional oversight is necessary. Therefore, the final rules will be drafted to require that an implementation date is agreed between the organisation and the CAA; and that the implementation plan must be approved.*

One of the acknowledged sources of hazards is change in an organisation's operation, and it is one of the reasons that effective change management practices be applied at the outset. Therefore, any changes to the implementation plan and SMS will be documented and submitted to the CAA for approval. If a change is required, the CAA may provide additional guidance to the organisation to ensure that the SMS remains in compliance with the SMS rules and is implemented within the specified period following the effective date of the final rule.

The final draft will also be explicit in requiring that, at the end of the implementation period (i.e. the implementation date), the SMS is acceptable to the Director.