



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

I, **CRAIG FOSS**, Minister of Transport,

**HEREBY MAKE** the following ordinary rules.

**SIGNED AT** Wellington

This

7<sup>th</sup>

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 175, Amendment 7**

**Aeronautical Information Service Organisations –  
Certification**

*Docket 8/CAR/1*

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## **Rule objective**

The objective of amendment 7 to Part 175 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 175. See also *Consultation Details* on page 14.

### **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 7 to Part 175 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 175.51 is revoked and replaced with the following rule:*

### **175.51 Personnel Requirements**

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

(1) a senior person identified as the chief executive who has the authority within the organisation to ensure that every aeronautical information service listed in the applicant's exposition—

(i) can be financed and is provided to meet operational requirements; and

(ii) is provided in accordance with the requirements 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 175.67; and

(3) sufficient personnel to collect, collate, check, coordinate, edit, and publish aeronautical information for the aeronautical information 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 for initially assessing the competence of personnel authorised by the applicant to check, edit, and

publish aeronautical information for the aeronautical information services listed in the exposition; 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 175.65 is revoked and replaced by the following rule:***

### **175.65 Records**

(a) An applicant for the grant of an aeronautical information service certificate must establish procedures to identify, collect, index, store, maintain and dispose of the records that are necessary for the aeronautical information services listed in their exposition.

(b) The procedures must ensure that—

- (1) there are records enabling all incoming and outgoing aeronautical information to be readily identified by serial number and date, and that supplementary information can be similarly verified and, where necessary, authenticated; and
- (2) there is a record of each person who is authorised by the applicant to check, edit, and publish aeronautical information; and
- (3) there is a record of each occurrence of error correction under the procedures required by rule 175.63; and
- (4) [*revoked*]
- (5) all records are legible and of a permanent nature; and
- (6) all records are retained for at least 5 years except NOTAM, AIP Supplements and Aeronautical Information Circulars, which need only be retained for 30 days after cancellation.

***Rule 175.67 is revoked and replaced by the following rule:***

**175.67 Safety management**

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

***Rule 175.69 is revoked and replaced by the following rule:***

**175.69 Aeronautical information service organisation exposition**

(a) An applicant for the grant of an aeronautical information 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 the 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 175.67,—
  - (i) all of the documentation required by rule 100.3(b); and
  - (ii) for an applicant that is not applying for a renewal of an information aeronautical 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 175.51(a)(1) and (2); and
- (3) the duties and responsibilities of the senior person or persons required by rules 175.51(a)(1) and (2) including—

- (i) matters for which they have 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 referred to in rules 175.51(a)(1) and (2); and
- (5) a summary of the staffing structure for each aeronautical information service listed under paragraph (a)(6); and
- (5A) information identifying the lines of safety responsibility within the organisation; and
- (6) a list of the aeronautical information services to be covered by the certificate; and
- (7) for a pre-flight information service, details of the area, aerodromes and air routes required by rule 175.55; and
- (8) the location and address details of the applicable offices required by rules 175.103(b)(1) and 175.105(1); and
- (9) details of the applicant's format and standards required by rule 175.57(a)(1) for their published aeronautical information; and
- (10) details of the applicant's procedures regarding—
- (i) the competence of personnel; and
  - (ii) the control of documentation; and
  - (iii) the collection of information; and
  - (iv) the publication of aeronautical information; and
  - (v) the correction of errors in published information; and

- (vi) the identification, collection, indexing, storage, maintenance, and disposal of records; and
  - (vii) [*revoked*]
- (11) procedures to control, amend and distribute the exposition.
- (b) The applicant’s exposition must be acceptable to the Director.

## Subpart C — Operating Requirements

*Rule 175.109 is revoked and replaced by the following rule:*

### **175.109 Changes to certificate holder’s organisation**

- (a) A holder of an aeronautical information service certificate must ensure that the holder’s exposition is amended so as to remain a current description of the holder’s organisation and services.
- (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; and
- (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 aeronautical information services provided by the holder:
  - (4) the format and standards for the aeronautical information published under the authority of their certificate.
  - (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) A 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 shall make such amendments to its exposition as the Director may consider necessary in the interests of aviation safety.

### **175.111 *Revoked***

## **Subpart G — Transition Provisions**

*Insert rule 175.301 after rule 175.253:*

### **175.301 Transition for aeronautical information service certificate holders and applicants**

(a) This rule applies to each—

- (1) aeronautical information service certificate holder:
- (2) aeronautical information service certificate applicant.

(b) Before 1 February 2018, an organisation to which this rule applies—

- (1) is not required to comply with—
  - (i) rule 175.51(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 175.67, 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 175.303:

- (iii) rule 175.69(a)(1A):
  - (iv) rule 175.69(a)(3)(ii):
  - (v) rule 175.69(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 175.67.
- (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 175.301(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 an aeronautical information 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 175.303 after rule 175.253 and following rule 175.301:*

**175.303 Transitional internal quality assurance for aeronautical information service certificate holders and applicants**

The internal quality assurance system required by rule 175.301(b)(1)(ii) must be established to ensure the organisation's compliance with, and the adequacy of, the procedures required by this Part.

- (a) The procedures must specify —
  - (1) the level of quality that the applicant intends to achieve; and
  - (2) the level and frequency of internal reviews; and
  - (3) the person or persons responsible for carrying out the internal reviews; and
  - (4) how the findings of the internal reviews are to be recorded and reported to the chief executive; and
  - (5) how quality indicators such as error reports, incidents, and complaints are incorporated into the internal quality assurance procedures; and
  - (6) the senior person's responsibilities for analysis and overview of the internal reviews; and

- (7) the means for rectifying any deficiencies found during an internal review; and
  - (8) the documentation requirements for all aspects of the review.
- (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, timeliness, format, and dissemination of the published aeronautical information.
- (c) This rule expires on 1 February 2018.

## Consultation Details

*(This statement does not form part of the rules contained in Part 175. 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 175. 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.*