



WELLINGTON NEW ZEALAND

PURSUANT to Section 28 of the Civil Aviation Act 1990

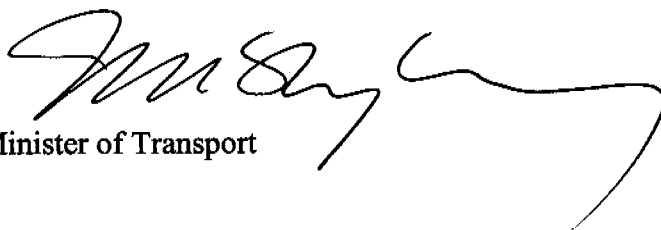
I, JENNIFER MARY SHIPLEY, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *18* day of *Nov* 1997

by **JENNIFER MARY SHIPLEY**


Minister of Transport

Civil Aviation Rules

Part 21, Amendment 5

Docket Nr. 1259 & 1253

Civil Aviation Rules
Part 21, Amendment 5

RULE OBJECTIVE, EXTENT OF CONSULTATION AND COMMENCEMENT

The objective of Part 21, Amendment 5 is to correct the format and content of existing airworthiness rules as a result of industry consultation, Civil Aviation Authority analysis, and a petition for rulemaking submitted in accordance with Part 11 in relation to Part 21.

In May 1990 the Air Transport Division of the Ministry of Transport published a notice of intention to carry out a complete review of the aviation regulatory system. As of 1 April 1997 the reviewed rules, the Civil Aviation Rules, came into force. Due to the application of some transitional provisions not all of these new rules were immediately applicable.

Prior to 1 April 1997 the Rules and Standards Group of the Civil Aviation Authority identified a requirement to continue to monitor the effectiveness and adequacy of the regulatory boundary and to amend the rules defining this boundary where necessary.

The general airworthiness amendments were developed by the Rules and Standards Group from comments received since the associated rules came into force, consultation with industry representatives, and a petition for rulemaking submitted in accordance with Part 11. The information received by the Rules and Standards Group culminating in the issue of two Notices of Proposed Rulemaking; NPRM 97-2 under Docket 1259 on 5 March 1997 that addressed the general amendments and NPRM 97-5 under Docket 1253 on 9 July 1997 that addressed the petition for rulemaking.

The publication of these notices was advertised in the daily newspapers in the five main provincial centres on 5 March 1997 and 9 July 1997 respectively. The notice was mailed to interested parties, including overseas Aviation Authorities and organisations, who were considered likely to have an interest in the proposal.

A period of 37 days was allowed for comment on the proposed amendments. Thirty written responses were received in response to this notice. There were 16 specific issues raised but no significant disagreements with the rule. The majority of the changes requested by the commenters were included.

A period of 51 days was allowed for comment on the petition for rulemaking Part 21 proposal. Eight written responses were received in response to this notice. There were no significant disagreements with the rule.

The submissions and verbal comments were considered and the specific issues discussed with the commenters during a series of meetings around New Zealand, where appropriate amending the proposed rules to take account of the comments made.

The rules as amended were then referred to and signed by the Minister of Transport.

Part 21, Amendment 5 comes into force 28 days after its notification in the *Gazette*.

List of Rules

Part 21 Amendments	3
21.175 Application for certificate	3
21.177 Issue of certificate	4
21.191 Standard and restricted category requirements	5
21.809 Removal and reinstallation of data plate	6



Part 21 Amendments

21.33 is amended by deleting the word “design” after the word “airworthiness” in subparagraph (1)(i).

21.39 is amended by deleting the word “design” after the word “airworthiness” in paragraph (a)(1).

21.41 is amended by deleting the word “design” after the word “airworthiness” both in the title and in subparagraph (3).

21.43 is amended by deleting the word “design” after the first occurrence of the word “airworthiness” in paragraph (a)(2).

21.43 is amended by inserting the word “design” after the word “airworthiness” in paragraph (a)(3).

21.175 is revoked and the following new rule inserted:

“21.175 Application for certificate

(a) Each applicant for the grant of a standard or restricted airworthiness certificate shall complete form CAA 24021/05, which shall require—

- (1) the name and address for service in New Zealand of the applicant; and
- (2) such further particulars relating to the aircraft and applicant as may be required by the Director as indicated on the form—

and submit it to the Director with a payment of the appropriate application fee prescribed by regulations made under the Act.

(b) Each applicant for the grant of an experimental certificate shall complete form CAA 24021/06, which shall require—

- (1) the name and address for service in New Zealand of the applicant; and
- (2) such further particulars relating to the aircraft and applicant as may be required by the Director as indicated on the form—

and submit it to the Director with a payment of the appropriate application fee prescribed by regulations made under the Act.

(c) Except as provided in paragraph (d), each applicant for the grant of a special flight permit shall complete form CAA 24021/07, which shall require—

- (1) the name and address for service in New Zealand of the applicant; and
- (2) such further particulars relating to the aircraft and applicant as may be required by the Director as indicated on the form—

and submit it to the Director with a payment of the appropriate application fee prescribed by regulations made under the Act.

(d) An applicant for the grant of a special flight permit may use means acceptable to the Director other than the form CAA 24021/07 to provide the information required by paragraph (c)."

21.177 is revoked and the following new rule inserted:

"21.177 Issue of certificate

An applicant is entitled to an airworthiness certificate for an aircraft if—

- (1) the applicant meets the applicable requirements of this Subpart in a manner acceptable to the Director; and
- (2) the granting of the certificate is not contrary to the interests of aviation safety; and
- (3) for a special category airworthiness certificate, the level of safety is adequate for the purposes for which the aircraft is to be used."

21.179 is amended by revoking paragraph (a) and inserting the following new paragraph (a):

"(a) An airworthiness certificate remains in force until it expires or it is suspended or revoked, provided that—

- (1) except for a new production aircraft undergoing flight testing by an aircraft manufacturing organisation certificated under Part 148 and holding a special flight permit for that aircraft, the aircraft remains a New Zealand registered aircraft; and
- (2) maintenance on the aircraft is performed in accordance with Part 91 and Part 43.”

21.191 is revoked and the following new rule inserted:

“21.191 Standard and restricted category requirements

“Each applicant for the grant of a standard or restricted category airworthiness certificate for an aircraft shall provide the Director with evidence that—

- (1) a standard or restricted category type certificate or type acceptance certificate has been issued for the aircraft under Subpart B; and
- (2) the aircraft conforms to an applicable type certificate, or type acceptance certificate, issued under Subpart B; and
- (3) each modification and repair to the aircraft conforms to design changes approved for the type; and
- (4) the aircraft complies with any applicable airworthiness directives issued under Part 39; and
- (5) the aircraft is issued with the appropriate flight manual, and any logbooks, repair and alteration forms, and documents, that the Director may require; and
- (6) the aircraft is a New Zealand registered aircraft and displays nationality and registration marks in accordance with Part 47; and
- (7) the aircraft, its engines, propellers, and propeller hubs and blades are identified by the means specified in Subpart Q; and
- (8) the aircraft conforms with any applicable additional airworthiness requirements prescribed in Part 26; and

(9) the aircraft has, within 60 days prior to application, undergone an annual or 100-hour inspection in accordance with Part 43 or an equivalent inspection acceptable to the Director; and

(10) the aircraft is in a condition for safe operation.”

21.803 is amended by inserting the word “data” after the first occurrence of the word “fireproof” in paragraph (a).

21.803 is amended by deleting the word “approved” in paragraph (a)(1).

21.803 is amended by inserting the word “data” after the first occurrence of the word “fireproof” in paragraph (c).

21.803 is amended by deleting the word “approved” in paragraph (c).

21.809 is revoked and the following new rule inserted:

“21.809 Removal and reinstallation of data plate

(a) Except as provided by paragraph (b), a person shall not remove or reinstall the data plate containing the identification information prescribed in 21.805 without the approval of the Director.

(b) A person performing maintenance in accordance with Part 43 may remove or reinstall the data plate containing the identification information prescribed in 21.805 if—

- (1) the removal of the data plate is necessary during the maintenance; and
- (2) the data plate is removed and reinstalled in accordance with methods, techniques, and practices acceptable to the Director; and
- (3) the removed data plate is reinstalled on the product or part from which it was removed.”

CONSULTATION DETAILS

(This statement does not form part of the rules contained in Part 00.
It provides details of the consultation undertaken in making the rules.)

Background to the Rules

New Zealand's aviation legislation is published as Civil Aviation Rules (CAR) which is divided into Parts. Each Part contains a series of individual rules which relate to a particular aviation activity. Accompanying most Parts will be at least one associated Advisory Circular (AC) which will expand, in an informative way, specific requirements of the Part and acceptable means of compliance. For instance an AC may contain examples of acceptable practices or procedures which would meet the requirements of a particular rule.

The objective of the new rules system is to strike a balance of responsibility between the State authority and those who provide services and exercise privileges in the civil aviation system. This balance must enable the State authority to set standards for, and monitor performance of, aviation participants whilst providing the maximum flexibility for the participants to develop their own means of compliance.

Section 12 of the Civil Aviation Act 1990 requires participants in the aviation system to carry out their activities safely and in accordance with the relevant prescribed safety standards and practices. Section 28 of the Act allows the Minister to make ordinary rules.

Notice of Proposed Rule Making

To provide public notice of, and opportunity for comment on the proposed new rules, the Authority issued—

(a) Notice of Proposed Rule Making 97-2 under Docket Number 97/CAR/1259 on 5 March 1997; and

(b) Notice of Proposed Rule Making 97-5 under Docket Number 97/CAR/1253 on 9 July 1997.

These notices proposed the amendment of Civil Aviation Rules Parts 1, 21, 43, 47, 91, 104, 135, 145, and 148 to correct the format and content of existing airworthiness rules as a result of industry consultation, Civil

- Aviation Authority analysis, and a petition for rulemaking submitted in accordance with Part 11 in relation to rule 21.191(a)(2)(ii).

Supplementary Information

All comments made on the Notices of Proposed Rule Making are available in the rules dockets for examination by interested persons. A report summarising each substantive contact with the Civil Aviation Authority contact person concerning this rule making has been filed in the dockets.

Availability of the Document

Any person may view a copy of these rules at Aviation House, 1 Market Grove, Lower Hutt. Copies may be obtained from Publishing Solutions Ltd, PO Box 983, Wellington 6015, Telephone 0800 800 359.

Summary of Comments on Docket Number 97/CAR/1259 NPRM

The CAA included many unchanged rules for clarity but not comment. The comments relating to unchanged rules have only been included in this summary if the topic was considered significant. The CAA will make the specific topics of NPRMs clearer in the future.

1. General comments on the NPRM

From the 30 submissions received, four general points were raised.

1.1 Eleven comments were received on the on-condition maintenance of propellers. These suggestions are summarised below and will be taken into account when amending the advisory circular.

- Inspect at the calendar time limit, then four yearly until the TBO in terms of hours, and then overhaul the propeller in a Part 145 organisation
- Inspect four yearly and then overhaul the propeller at the TBO in terms of hours
- Inspect four yearly and then overhaul the propeller at the TBO in terms of hours, but provide for a one time extension of 100 hours

- Inspect at the calendar time limit and then four yearly, plus 100 hourly inspections at the discretion of the licensed aircraft maintenance engineer
- Keep the existing system but limit any extensions to 120% of the TBO
- Keep the existing system but require the overhaul to be completed by a Part 145 organisation
- Fit and dynamic balance the propeller, then at 1000 hours rectify nicks and damage and dynamic balance again, then at 2000 hours inspect as per the current advisory circular and reset calendar time to zero, then at 2500 hours carry out an external inspection and dynamic balance again, then at 3000 hours overhaul the propeller
- Maintain the propeller in accordance with the manufacturer's recommendations

CAA response: The CAA thanks the commenters on their submissions and will analyse these further in amending the Part 43 advisory circular.

1.2 Five commenters suggested that the maintenance programme for aircraft be required to be the programme of the aircraft manufacturer rather than Part 43 Appendix C. The commenters suggested that the inspection in Appendix C should only be used if a manufacturer's maintenance programme was not available.

CAA response: The CAA notes that the intention of the NPRM was to initiate discussion and not necessarily formulate a rule change. The CAA thanks the commenters for their views and considers the suggestions to be significant enough to be the subject of a separate consultation programme.

1.3 Three commenters noted that there appeared to be a two tier system for small aircraft in that general aviation aircraft required an Annual Review of Airworthiness by the holder of an inspection authorisation, whereas the air transport operators could undertake the maintenance review by any authorised person.

CAA response: The CAA accepts the apparent difference but notes that the aim of both reviews is to ensure the continued airworthiness of an aircraft. The content of the maintenance review, and hence the

qualifications of the person conducting the review, is different to that of the annual review of airworthiness. The maintenance review is based on an integrated management of an aircraft's maintenance under the exposition of the air transport operator. The CAA considers this integrated maintenance management sufficient to equate to the extra conformity tasks undertaken by the holder of an inspection authorisation.

1.4 Several commenters noted general corrections and wording improvements in the NPRM.

CAA response: The CAA agrees and has incorporated the changes suggested.

2. Specific comments on the NPRM

Specific comments received from the 30 submissions are discussed as follows:

2.1 Part 21, Subpart Q

Two commenters supported the change of terminology and the inclusion of the term data plate.

CAA response: The change in terminology has been included in the final rule.

2.2 21.809 Removal and reinstallation of data plate

Three commenters suggested that the rule wording did not make sense and that the items data plates were attached to could be changed as components.

CAA response: The CAA considers the rule wording to be appropriate for the activities involved but will provide more guidance in the advisory circular.

2.3 Part 43

One commenter suggested that equivalent content should be acceptable to the inspections required in the appendices to Part 43.

CAA response: The CAA considers this to be possible now. If an inspection covers the requirements of the relevant appendix then the inspection can be signed off.

2.4 43.51 Persons to perform maintenance [Final rule 43.51]

One commenter noted that the NPRM failed to check the cross references in Part 104.

CAA response: The CAA agrees and has amended Part 104 as a consequence.

Two commenters noted the lack of a requirement for Australian engineering licence holders to sit New Zealand Air Law exams.

CAA response: The CAA notes that the Trans Tasman Mutual Recognition Agreement requires that there be no examination associated with recognition of Australian licences in New Zealand. If an Australian licence holder were to request a New Zealand licence then the Air Law exam would be applicable. An amendment to Part 66 will be required to reflect this in due course.

One commenter suggested changing the term 'appropriate type rating' to 'applicable type rating' as appropriate could be construed as meaning a similar aircraft rather than the exact aircraft type.

CAA response: The CAA has examined the wording and considers it acceptable.

One commenter suggested adding the licensed aircraft maintenance engineer to the list of people permitted to perform maintenance on gliders in 43.51(c).

CAA response: The CAA does not consider this addition necessary. Gliders are aircraft and as such are covered earlier in the rule.

One commenter noted that there was no provision for the supervision of maintenance by the holder of a Part 145 authorisation.

CAA response: The CAA agrees and has amended the rule.

2.5 43.53 Performance of maintenance [Final rule 43.53]

One commenter suggested that the term 'adequate housing' was not prescriptive enough and that the rule should specify the exact requirements.

CAA response: The CAA disagrees as the rule provides a flexibility for the maintenance provider to assess individual conditions. More information on adequate housing will be provided in the advisory circular.

One commenter suggested that the requirement to be familiar with the maintenance actions required for the continued airworthiness of the aircraft was too stringent. This requirement would mean that everyone working on the aircraft would then have to be totally familiar with all the maintenance actions for the aircraft's continued airworthiness.

CAA response: The CAA disagrees. The intent of the rule is not to ensure that every person is fully aware of every area of the aircraft. The familiarity requirement should be applied to each particular task individually. As such, a briefing by a supervisor may fulfil the requirements by making a person familiar with the requirements.

One commenter suggested adding the methods, techniques, and practices detailed in a Part 145 exposition to those acceptable for the performance of maintenance in 43.53(a)(3).

CAA response: The CAA considers this to be covered by the requirements in 43.53(a)(3) as the exposition of a Part 145 organisation is required to be acceptable to the Director.

2.6 43.61 Altimeter system tests and inspections [Final rule 43.61]

Five commenters questioned the need to mark the altimeter testing on the altimeter case.

CAA response: The CAA agrees and has amended the rule.

2.7 43.67 Inspection requirements [Final rule 43.53]

One commenter suggested that timelines should be included in the conduct of maintenance under this rule.

CAA response: The CAA considers the timeliness to already be covered by Part 91.

2.8 43.69 Maintenance programme inspections [Final rule 43.53]

One commenter suggested that 43.69(2) inferred a progressive inspection programme and a third option should be included for a manufacturer's maintenance schedule.

CAA response: The CAA does not consider this to infer a progressive inspection programme and the manufacturer's programme is therefore already included.

Three commenters noted that the provisions did not address the introduction of a new aircraft onto a programme.

CAA response: The CAA considers the inspection of the aircraft to be necessary to induct it on any new programme. For new aircraft entering the New Zealand system some guidance on the type of inspection considered acceptable will be included in the advisory circular.

2.9 43.75 Maintenance records [Final rule 43.69]

One commenter noted that 43.75(a) does not state where the required statements should be made.

CAA response: The CAA agrees but notes that paragraph (b) provides the requirements.

Two commenters stated that the terms in 43.75(a)(2) did not relate to many progressive inspection programmes.

CAA response: The CAA agrees and has amended the rule.

One commenter suggested recording the part number as well as the serial number.

CAA response: The CAA agrees and has amended the rule.

One commenter suggested including other conditional inspection in the requirements of 43.53(a)(9).

CAA response: The CAA agrees and has amended the rule.

2.10 43.101 Persons to certify release [Final rule 43.101]

One commenter suggested amending the title of the rule to 'Persons to certify release to service' to specify what is actually happening and to reflect the other requirements in Part 43.

CAA response: The CAA agrees and has amended the rule.

2.11 43.105 Certifying after maintenance [Final rule 43.105]

Three commenters supported the single release to service statement and suggested changes to the statement to clarify or reduce its size.

One commenter suggested that the release to service statement should allow for variations under a Part 145 organisation.

Two commenters suggested removing the requirements to identify the maintenance programme in the release to service statement.

CAA response: The CAA agrees and has amended the rule by removing the statement altogether allowing persons to fulfil the intent of the rule. The rule is less prescriptive and guidance will be provided in the advisory circular as to what should constitute a release to service statement.

One commenter stated that the term 'fit for release to service' was inappropriate. The statement should state that the work has been done correctly and within the limits required by the associated instructions.

CAA response: The CAA disagrees and considers the rule to reflect the correct intent.

One commenter stated that the signatory of a release to service could not be held accountable for the structural strength, aerodynamic function, or correct modification state as was required by 43.53. The commenter stated that this was a CAA function.

CAA response: The CAA disagrees and considers it appropriate for the person completing the work to ensure that the correct information is available to meet the requirements of 43.53.

Seven commenters supported the Form Two concept and suggested improvements to the proposed layout.

- Four of the commenters suggested that the Form Two should be available between organisations in New Zealand.
- One commenter questioned the need for the Form Two but accepted its introduction if other forms could be used.

One commenter requested that other forms be available for use.

CAA response: The CAA accepts the comments for the improvements to the form and its use and will add these to the advisory circular. The advisory circular will provide for a standard format, similar to the Form One, but not provide the forms themselves. An operator may produce the forms as they see fit.

2.12 43.107 Inoperative equipment [Final rule 43.107]

One commenter noted that the statement that a list has been provided to owner was unnecessarily verbose.

CAA response: The CAA agrees and has amended the rule.

One commenter suggested that the list be required to be entered in the logbook before the statement required by 43.105.

CAA response: The CAA disagrees and considers the requirement to provide the owner a list of the discrepancies sufficient.

One commenter suggested adding an ability to comply with a Minimum Equipment List and associated aircraft manufacturer's Dispatch Deviation Guide.

CAA response: The CAA does not consider this necessary as the operators documented system can already provide for this.

2.13 43.113 Duplicate inspection of controls [Final rule 43.113]

One commenter suggested that the duplicate statement should state that the inspection found the system serviceable.

CAA response: The CAA agrees and has amended the rule.

One commenter suggested that the requirements for the application of 43.113 were not clear. The requirements should be expanded and clarified similar to the previous New Zealand Civil Airworthiness Requirements F16.

CAA response: The CAA considers this to be covered adequately by the advisory circular.

2.14 Part 43, Appendix A

One commenter questioned the wisdom of allowing the maintenance of air transport aircraft by pilots. The commenter also suggested that pilots needed to be trained and authorised.

CAA response: The CAA considers the maintenance tasks to be appropriate for air transport aircraft but has amended the rule to include the provisions for training and authorisation.

Four commenters suggested a single standard for air transport and non air transport pilots.

CAA response: The CAA agrees and has amended the rule.

One commenter stated that the instruction for maintenance could be provided some place other than the flight manual.

CAA response: The CAA agrees and has amended the rule.

One commenter suggested including fluid replenishments and spark plug changes.

Two commenters suggested including battery changes.

One commenter suggested including the ability to remove instruments, replenish oleos, and replace spark plugs, belts, brake pads, and filters.

CAA response: The CAA agrees with some of the suggestions and has included them in the rule. Those items the CAA did not consider acceptable, such as the changing of spark plugs, were not included.

One commenter made some general statements on the content of Appendix A and suggested that many pilots wanted the freedom to do significantly

- more maintenance. The commenter likened pilot maintenance to the maintenance of an automobile and suggested that similar actions that would be performed on an automobile should be permitted on an aircraft. The
- commenter stated that the consequential long term maintenance costs and possible litigation would drive people to correctly maintain an aircraft.

CAA response: The CAA disagrees and considers the rule to be appropriate in content and scope.

One commenter suggested that the responsibility for training should lie with a licensed aircraft maintenance engineer.

CAA response: The CAA agrees with the requirement to train but has left the rule general enough to allow persons other than a licensed engineer to conduct the training. The CAA notes that in most instances the licensed engineer will be the only suitable person to conduct the training.

One commenter suggested that the pilot be required to sign the technical log on completion of the maintenance.

CAA response: The CAA agrees and considers this covered by the other rules in Part 43.

One commenter suggested adding the performance of airworthiness directive inspections to the abilities of the pilot.

CAA response: The CAA agrees and has amended the rule.

One commenter suggested clarifying the special tooling requirements for pilot maintenance.

CAA response: The CAA agrees and will include guidance in the advisory circular.

One commenter suggested clarifying that photo, ambulance, and similar equipment was role equipment.

CAA response: The CAA considers this covered by the rule and will provide some more guidance in the advisory circular.

One commenter questioned the requirements of A.1 paragraph 12(i). The commenter questioned how an aircraft could be flown before a release to service was issued.

CAA response: Part 91 provides for the operation of an aircraft on a test flight to confirm the serviceability of a system that cannot be confirmed on the ground. This flight would necessarily be completed before a release to service was issued for the work.

2.15 Part 43, Appendix B

One commenter suggested that the requirements of paragraphs (b) and (c) were post installation requirements and not routine inspections.

CAA response: The CAA disagrees and considers the actions necessary for confirming the continued serviceability of the equipment.

One commenter suggested including a statement similar to Part 91 that the inspection only need be completed if the equipment is required to be fitted.

CAA response: The CAA disagrees. The requirement that all systems fitted should be serviced.

One commenter suggested that the radio station tests for VFR aircraft should be a circuit from base at ten miles with one transmission at each of the cardinal points.

CAA response: The CAA disagrees and considers the existing test to be appropriate.

One commenter suggested replacing the reception testing requirements of the appendix with a requirement for the pilot to report inadequate functioning. The commenter suggested that this removed the variability of headsets and other equipment.

CAA response: The CAA disagrees but notes the commenters suggestion. The CAA considers that the radio test confirms the serviceability of the system and therefore any pilot reported deficiencies can be isolated to the more variable equipment, such as the headset.

One commenter suggested removing the intercom tests as the systems work or they don't.

CAA response: The CAA disagrees and considers the test appropriate.

One commenter questioned how the VSWR of the transmission of the ILS and VOR systems was measured.

CAA response: The CAA agrees and has amended the rule.

2.16 Part 43, Appendix C

One commenter questioned how the carbon monoxide test were supposed to be done. The commenter suggested that a visual inspection was sufficient.

CAA response: The CAA agrees and has amended the rule.

One commenter suggested that the requirements for the provision of adequate lighting be removed.

CAA response: The CAA agrees and has amended the rule.

One commenter made several suggestions as to the content of the appendix including removing the negative terms and badly worded requirements.

CAA response: The CAA agrees and has amended the rule.

2.17 Part 43, Appendix D

One commenter stated that the requirements of D.1 paragraph (d) could not be proven without a flight test programme.

CAA response: The CAA notes that this is not the intent of the rule. The assessment as to whether any modification or change may affect the characteristics of the system can be made subjectively by the person performing the maintenance.

One commenter accepted the static test but suggested it should be able to be provided in the Part 43 environment.

CAA response: The CAA agrees and has amended the rule.

One commenter stated that the static leak test was too stringent for older type systems.

CAA response: The CAA disagrees and considers the inspection appropriate.

One commenter suggested that the inspection should include the ASI as well as the altimeter.

CAA response: The CAA notes the comment but considers it outside the scope of the proposals in this NPRM.

One commenter suggested dropping the static tests for VFR unpressurised aircraft.

CAA response: The CAA agrees to some of the points raised in support of the submission and has amended the rule accordingly.

2.19 Part 43, Appendix F

Two commenters suggested changes to the inspection to include tests of the radiated power, VSWR, and field strength as the test itself is not sufficient to confirm serviceability.

CAA response: The CAA notes the comment but considers it outside the scope of the proposals in this NPRM.

2.20 Part 91

CAA comment: The CAA has included consequential amendments to Part 91 as a result of the final rule amendments and industry comments.

2.21 Part 104

CAA comment: The CAA has included consequential amendments to Part 104 as a result of the final rule amendments and industry comments.

2.22 Part 145

Three commenters supported the inclusion of the A4 rating for Part 145 organisations.

One commenter supported the A4 rating but suggested that yet another tier could be added in the form of certificated Part 43 workshops. The

commenter suggested that the requirements of Part 145 certification were too costly for normal maintenance organisations.

One commenter suggested that the A4 rating could be included in the A3 rating.

CAA response: The CAA agrees and has amended the rule. The certification of Part 43 workshops is outside the scope of these proposals and has not been addressed further.

One commenter requested that a provision be included that required the Director to provide information to a certificate holder before suspending a certificate.

CAA response: The CAA agrees and notes that this is the normal CAA procedure. Certificates are not suspended by the Director without substantial consultation with the certificate holder.

One commenter questioned what was minor scheduled maintenance referred to in 145.59(b)(3)(iii). The commenter suggested that the rule should state that maintenance identified in the organisation's exposition exposition.

CAA response: The CAA agrees and has amended the rule.

One commenter requested that the internal authorisation procedures permit the authorisation of a person with three years on-the-job experience only.

CAA response: The CAA considers that the provisions of 145.60 are relatively new and should be provided a period to assess their applicability before suggesting any change to the requirements.

Two commenters suggested that records should be retained for ten years.

CAA response: The CAA disagrees and considers the current requirement to be appropriate. Organisations may retain records for longer periods if they wish.

One commenter suggested that the requirements on the Chief Executive regarding the compliance with the exposition were inconsistent with other organisational rules.

CAA response: The CAA agrees and has amended the rule.

One commenter suggested that the Director be required to inform organisations of the audit programme.

CAA response: The CAA agrees and undertakes to do this as part of its normal business activities.

Summary of Comments on Docket Number 97/CAR/1253 NPRM

3. General comments on the NPRM

All of the eight submissions received supported the new proposal. The submissions suggested changes to the demarcations used in the advisory circular and these changes will be considered when finalising the advisory circular.

4. Specific comments on the NPRM

Specific comments received from the eight submissions related to the accompanying draft advisory circular and are discussed as follows:

4.1 One commenter stated that the requirement to have an annual inspection within 60 days of application was not reasonable. The commenter suggested that 12 months was sufficient.

CAA response: The CAA disagrees. The requirement to carry out an annual inspection within the previous 60 days ensures that the aircraft is in a suitable condition for entry into the New Zealand aviation system.

4.2 Three commenters suggested that the current requirement for an airworthiness certificate issued within 60 days of export should be amended to consider, as acceptable evidence of conformity, an airworthiness certificate issued within 12 months.

CAA response: The CAA disagrees. The act of issuing the airworthiness certificate assures the conformity of the aircraft. Beyond a certain time period that evidence is no longer acceptable. This provision does not prevent aircraft with older airworthiness certificates coming into New Zealand, but a local conformity inspection would be required. The CAA considers that, for an aircraft that is currently serviceable and documented,

this inspection would probably be a straightforward one by the holder of an Inspection Authorisation.

4.3 Two commenters stated that to require the involvement of the manufacturer in the process would not work. One commenter stated that the manufacturers were seldom willing to examine rebuilt aircraft and that other means must be provided for supplying evidence of conformity. The other commenter suggested that the involvement of the manufacturer in the 'can it be rebuilt' phase was unnecessary as the manufacturer already provided the information in maintenance and repair manuals.

CAA response: The CAA agrees that the manufacturers are seldom willing to support rebuilt aircraft. The CAA however considers that in the most severe cases the manufacturer is the only qualified agency to issue a statement of conformity. The CAA will consider the requirement for a manufacturer carefully before requiring this level of evidence.

The CAA also agrees that the manufacturer does not have to be involved in the initial phase. The advisory circular will be reviewed to ensure this point is clear.

4.4 Two commenters suggested that the emphasis of the certification process should shift to the qualifications of the rebuilder, not the condition of the aircraft.

CAA response: The CAA considers this too subjective for the entry control of aircraft. The New Zealand formal qualification system is not specific enough to allow the identification of a particular qualification acceptable for this activity. The proposed system correctly identifies the aircraft as the subject of the investigation and eventual issue of an airworthiness certificate, recognising that the appropriate people can complete the tasks involved and meet the requirements of Part 43.

4.5 One commenter suggested that the activity should only be completed in Part 145 organisations.

CAA response: The CAA considers this too restrictive. The Part 145 demarcations relating to airframes are sufficient to control any rebuild process. The qualification required by persons to carry out maintenance in accordance with Part 43, essentially the aircraft maintenance engineer licence, is appropriate for any rebuild process.

4.6 Two commenters suggested that the decision to rebuild the aircraft is a commercial decision that the CAA is not qualified to assess. The commenters stated that any aircraft could be rebuilt but the operator would decide on the feasibility of the project on a purely financial basis.

CAA response: The CAA agrees. The commercial aspect of a rebuild process is not a consideration for the CAA. The CAA is primarily concerned with the ability to show type conformity in a manner acceptable to the Director. With enough resources any aircraft can be rebuilt but not every aircraft will be acceptable for certification. A person considering the rebuild of an aircraft should take into account the cost associated with showing conformity. This cost may be high and like any cost associated with a rebuild will affect the prospective rebuilders decision to continue.

4.7 One commenter suggested that the initial eligibility inspection be conducted by the holder of an inspection authorisation or a Part 145 organisation.

CAA response: The CAA disagrees. To use these persons or organisations does not provide the CAA with the entry point it wishes to achieve through the new procedures. The initial inspection should not be seen as a separate process to the airworthiness certificate issue, but instead the inspection is a starting point for the eventual issue of an aviation document. As such, the CAA has a responsibility to conduct an initial inspection, even though that inspection may be a desk top inspection.

Conclusion

The Authority concludes from this consultation that the majority of aviation industry participants favour the direction of the amended rules. Specific issues that were identified in the comments received from the consultative group have been addressed. The rules also meet New Zealand's international obligations under the applicable ICAO Annex. The comments and all the background material used in developing the rules are held on the docket file and are available for public scrutiny. Persons wishing to view the docket file should call at Aviation House, 1 Market Grove, Lower Hutt and ask for docket files 1253 and 1259.

2 Implementation

* In line with the provisions of section 34(4) of the Act, Parts 1, Amendment 9; 21, Amendment 5; 43, Amendment 3; 47, Amendment 1; 91, Amendment 2; 104, Amendment 1; 135, Amendment 3; 145, Amendment 6; 148, Amendment 1, will come into effect 28 days after notification in the *Gazette*.

Each maintenance organisation that is certificated under Part 145, and each manufacturing organisation that is certificated under Part 148, prior to the new rules coming into effect, has a period of 12 months from the time that the new rules come into effect in which to amend their expositions in accordance with those new rules. During this transition period those organisations may continue to comply with their existing expositions.