



PURSUANT to Section 28 of the Civil Aviation Act 1990

I, HARRY JAMES DUYNHOVEN, Minister for Transport Safety,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *16th* day of *May* 2006
by **HARRY JAMES DUYNHOVEN**


Minister for Transport Safety

Civil Aviation Rules

Part 92, Amendment 2

Carriage of Dangerous Goods

Docket 3/CAR/4

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Rule objective

The objective of Amendment 2 to Part 92 is to make editorial and minor technical changes as part of a general rule fix up project.

Extent of consultation

A Notice of Proposed Rulemaking, NPRM 05-07, containing the proposed changes to Part 92 was issued for public consultation under Docket 3/CAR/4 on 23 June 2005.

The publication of this NPRM was notified in the *Gazette* on 23 June 2005 and advertised in the daily newspapers in the five main provincial centres on 25 June 2005. 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 37 days was allowed for comment on the proposed rule.

New Zealand Transport Strategy

The development of the NPRM and the proposed rule changes takes into account the objectives of the New Zealand Transport Strategy (NZTS) and the provisions of the Civil Aviation Amendment Act (No 2) 2004.

Summary of submissions

Nine written submissions were received on the NPRM. Three submissions were received on the proposed amendments to Part 92. International Transchem management proposed several changes to the proposed amendments many of which the CAA agreed with but are outside the scope of the Omnibus project. The CAA has noted these submissions and advised the submitter to resubmit these as a petition for rule making to be included in a future rule project.

Air New Zealand submitted a change in regard to dangerous goods training programmes. The CAA agreed with the suggested amendment and rule 91.203 has been amended accordingly.

These changes were notified in the Summary of Public Submissions which was published on the CAA web site on 25 October 2005.

The rule as amended 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 the substitution of the new rule, and the revocation of an existing rule.

Effective date of rule

Amendment 2 to Part 92 comes into force on 22 June 2006.

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 92 Carriage of Dangerous Goods

Subpart A – General

Rule 92.1 is revoked and the following new rule is substituted:

92.1 Purpose

- (a) This Part prescribes rules governing the carriage of dangerous goods by air.
- (b) This Part does not apply to articles or substances that are—
- (1) specifically excluded under Part One in the Technical Instructions; or
 - (2) required to be aboard an aircraft in accordance with the airworthiness or operational requirements of the Civil Aviation Rules; or
 - (3) approved by the Director to meet special operational requirements.
- (c) Articles and substances intended as replacements for those covered by paragraphs (b)(2) and (3) must be carried in accordance with this Part except when consigned by operators in accordance with Part 1, Chapter 2, Paragraph 2.2 of the Technical Instructions.

Rule 92.3 is revoked and the following new rule is substituted:

92.3 Definitions

In this Part—

Approved handler has the same meaning as in the Hazardous Substances and New Organisms (Personnel Qualifications) Regulations 2001:

Cargo aircraft means an aircraft, other than an aircraft that carries passengers, which is carrying goods or property:

Classification of dangerous goods (Classes 1 to 9) have the same meaning as defined in Part 2 of the Technical Instructions:

Consignment means 1 or more packages of dangerous goods accepted by an operator from 1 consignor at one time and at 1 address, receipted for in 1 lot and moving to 1 consignee at 1 destination address:

Handling agent means an agency which performs on behalf of the operator some or all of the operator's functions including receiving, loading, unloading, transferring, or other processing of passengers or cargo:

Operator means a person engaged in or offering to engage in an aircraft operation:

Overpack means an enclosure used to contain 1 or more packages and to form 1 handling unit for convenience of handling and stowage:

Package means the complete product for the packing operation consisting of the packaging and its contents prepared for transport:

Packaging means the receptacle and any other components necessary for the receptacle to perform its containment function and to ensure compliance with the packing requirements of Annex 18 to the Convention:

Packing means the art and operation by which articles or substances are enveloped in wrappings, enclosed in packagings or otherwise secured:

Postal article has the same meaning as in the Postal Services Act 1998:

Proper shipping name means the name used to describe a particular article or substance in every shipping document and notification and, where appropriate, on packaging:

Receptacle means a containment vessel for receiving and holding a substance or article, including any means of closing:

Regular shipper means any person who—

- (1) manufactures or supplies dangerous goods and offers those dangerous goods for carriage by air; or

- (2) provides a service to the public to arrange the offer of dangerous goods for carriage by air:

Telarc means the Testing Laboratory Registration Council established by section 3 of the Testing Laboratory Registration Act 1972:

UN number means the 4 digit number assigned by the United Nations Committee of Experts on the Transport of Dangerous Goods to identify a substance or a particular group of substances:

Unit load device means any type of freight container, aircraft container, aircraft pallet with a net, or aircraft pallet with a net over an igloo, except for—

- (1) an overpack; or
- (2) a freight container for radioactive materials.

Rule 92.5 – Classification - is revoked and the rule number is reserved:

92.5 Reserved

Rule 92.7 is revoked and the following new rule is substituted:

92.7 General carriage requirements

(a) A person must not offer or accept dangerous goods for carriage by air unless those goods are classified, documented, certificated, described, packaged, marked, and labelled in accordance with the Technical Instructions, and are in the condition for shipment prescribed by the Technical Instructions.

(b) A person must not carry dangerous goods by air unless those goods are accepted, handled, and carried in accordance with the Technical Instructions or under the provisions of this Part.

Rule 92.9 is revoked and the following new rule is substituted:

92.9 Forbidden dangerous goods

(a) Except as provided in paragraph (b), a person must not offer or accept dangerous goods for carriage by air if the dangerous goods are forbidden for carriage by air under the Technical Instructions.

(b) A person may offer or accept for carriage by air an article or substance identified as being forbidden in columns 9 and 10, or 11 and 12, of the Dangerous Goods List in the Technical Instructions, including that article or substance described as *not otherwise specified*, if the Director approves the carriage of the article or substance.

Rule 92.11 is revoked and the following new rule is substituted:

92.11 Exceptions

(a) A member of the Police may carry dangerous goods in an aircraft in the course of that person's duties without complying with this Part if the aircraft is performing an operation solely for Police purposes.

(b) A person may offer or accept Class 1 dangerous goods for carriage by air without complying with this Part if—

- (1) carriage is approved by an approved handler; and
- (2) the dangerous goods are carried—
 - (i) under the supervision of an approved handler; or
 - (ii) in accordance with instructions given by an approved handler and that approved handler is readily contactable to provide assistance at all times whilst the dangerous goods are being carried; and
- (3) safety and emergency procedures are established for the carriage of the goods; and
- (4) the goods are—
 - (i) in a proper condition for carriage by air; and

- (ii) stowed and secured for safe carriage; and
 - (5) the aircraft does not carry any passenger other than a passenger who is essential for the purpose of the flight; and
 - (6) the flight is conducted clear of any congested area of a city, town, or settlement.
- (c) A person may offer or accept dangerous goods for carriage by air that are for the recreational use of a passenger without complying with this Part if—
- (1) the dangerous goods are carried in an unpressurised aircraft that—
 - (i) has a MCTOW of 5700 kg or less; and
 - (ii) is on a domestic VFR flight; and
 - (2) the dangerous goods are not listed in the Dangerous Goods List in the Technical Instructions as being forbidden for carriage by air in an aircraft that carries passengers; and
 - (3) safety and emergency procedures for the carriage of the dangerous goods are established; and
 - (4) each item of dangerous goods is identified; and
 - (5) the pilot-in-command is informed of the hazardous nature of the goods; and
 - (6) the dangerous goods are—
 - (i) in a proper condition for carriage by air; and
 - (ii) segregated if they are likely to react dangerously together; and
 - (iii) stowed, secured, and, if necessary, packed, to prevent leakage or damage in flight; and

- (7) the only passengers carried aboard the aircraft are passengers who are associated with the dangerous goods.

Subpart B — Packaging, Packing, marking, and Labelling

Rule 92.53 is revoked and the following new rule is substituted:

92.53 Packaging approval

- (a) An application for an approval under rule 92.51(a)(3)(ii), or renewal of an approval, must be made by submitting to the Director a packaging performance test report in accordance with the Technical Instructions.
- (b) An approval referred to in paragraph (a) may be granted if—
- (1) the packaging performance test report indicates a successful result; and
 - (2) the applicant pays any applicable fees or charges prescribed by regulations made under the Act.
- (c) An approval granted under paragraph (b) may—
- (1) be granted or renewed for a period of up to 5 years; and
 - (2) remain in force until it expires or is revoked; and
 - (3) specify markings to be placed on the packaging in accordance with the Technical Instructions.

Rule 92.59 is revoked and the following new rule is substituted:

92.59 Labelling requirements

A person who labels a package or overpack containing dangerous goods for carriage by air must—

- (1) label each package and overpack in accordance with the Technical Instructions; and

- (2) ensure that each hazard label indicates the true nature of the hazard in accordance with the Technical Instructions.

Rule 92.179 is revoked and the following new rule is substituted:

92.179 Information to passenger

- (a) An operator of an aircraft must inform a passenger of the type of goods that he or she is prohibited from carrying aboard an aircraft.
- (b) The information required by paragraph (a) must be provided—
 - (1) by notices sufficient in number and prominently displayed—
 - (i) at each location where tickets are issued and baggage checked; and
 - (ii) in each aircraft boarding area; and
 - (2) with the passenger ticket, or if no physical ticket is issued, as part of the booking confirmation.

Rule 92.203 is revoked and the following new rule is substituted:

92.203 Dangerous goods training programmes

- (a) A holder of an air operator certificate issued in accordance with Part 119, or the certificate holder's handling agent must ensure that personnel who are assigned duties involving dangerous goods that are intended for carriage by air have satisfactorily completed a dangerous goods training programme, including recurrent training under rule 92.205, in accordance with Appendix A conducted by—
 - (1) the holder of an air operator certificate issued in accordance with Part 119 if the certificate authorises dangerous goods training; or
 - (2) the holder of an aviation training organisation certificate issued in accordance with Part 141 if the certificate authorises dangerous goods training.
- (b) A person, other than the holder of an air operator certificate or the certificate holder's handling agent, must ensure that personnel assigned

duties involving dangerous goods that are intended for carriage by air have satisfactorily completed a dangerous goods training programme, including recurrent training under rule 92.205 if applicable, in accordance with Appendix A conducted by the holder of—

- (1) an aviation training organisation certificate issued in accordance with Part 141 if the certificate authorises dangerous goods training; or
 - (2) a current International Air Transport Association dangerous goods training programme Certificate of Accreditation.
- (c) An operator of a New Zealand registered aircraft in a foreign State is not required to comply with paragraph (a) if the loading and unloading of aircraft is performed by personnel of that State who—
- (1) are supervised by a person who has completed the training requirements under rule 92.203; or
 - (2) have satisfactorily completed a dangerous goods training programme required by that State; or
 - (3) have satisfactorily completed a dangerous goods training programme conducted by—
 - (i) another operator that is a member airline of the International Air Transport Association; or
 - (ii) the holder of a current International Air Transport Association dangerous goods training programme Certificate of Accreditation.
- (d) An operator or handling agent of a foreign registered aircraft in New Zealand is not required to comply with paragraph (a) if the personnel who are assigned dangerous goods duties have satisfactorily completed a dangerous goods training programme required by the State of the aircraft's registry.

Consultation Details

(This statement does not form part of the rules contained in Part 92. It provides details of the consultation undertaken in making the rules.)

Comments arising from the NPRM

The rule amendment was developed under docket 3/CAR/4 and published as NPRM 05-07. The consultation details relating to docket 3/CAR/4 are detailed in each affected rule.

Nine written submissions were received on the NPRM and three commented on the proposed amendments to Part 92.

A CAA Flight Operations inspector commented on the following:

Part 92. Definitions. The submitter believes that the definition of an approved handler as detailed in the HSNO Act should be defined in Part 92. It is proposed that this would save operators from having to refer to the HSNO Act.

CAA comment: The CAA disagrees because referring to the definition in the Hazardous Substances and New Organisms Act (HSNO) ensures consistency between the Civil Aviation Rules and the HSNO Regulations. If the CAA defines the term “Approved handler” and the HSNO definition is amended then the CAA would need to amend Part 92 which may not occur at the same time as the HSNO change.

International Transchem Management submitted the following changes to the proposed rules:

92.11(c). The submitter proposes this rule should be amended to:

*A person may offer or accept dangerous goods for carriage by air **and in quantities in excess of what is shown in the alphabetical list of dangerous goods in the Technical Instructions, for carriage on a passenger aircraft** that are for the recreational use of passengers without complying with this Part if—*

CAA comment: The CAA disagree and believe this additional wording amendment could significantly change the intent of this rule. The CAA has amended this rule as per Petition 3/PET/3 formerly 1/PET/5

proposed by International Transchem Management and the submitter was satisfied with the wording proposed. The new wording proposed is more suited to the Advisory Circular and has been passed on to the CAA Dangerous Goods Technical Specialist.

92.53(c). The submitter proposes that a fourth paragraph be added to this rule stating:

And the Supplier undertakes to supply their purchasers with a copy of test report.

CAA comment: *The CAA disagree as rule 92.53 deals specifically with the packaging approval issued by the Director. The shipper must ensure the packaging meets the approval in accordance with rule 92.55(2).*

92.59. The submitter proposes that this rule should also include “marking”:

92.59 Labelling and Marking requirements

*A person who labels **and marks** a package or overpack containing dangerous goods for carriage by air must—*

- (1) label **and mark** each package and overpack in accordance with the Technical Instructions; and*
- (2) **applies the correct handling labels** in accordance with the Technical Instructions.*

CAA comment: *The CAA disagrees as this is covered by rule 92.57 Marking requirements.*

92.179(b)(2). The submitter proposed that “including those produced electronically” be added to the rule to cover electronic passenger tickets.

CAA comment: *The CAA agrees that the introduction of electronic tickets has brought with it some challenges in interpretation and globally this issue is being assessed. However with electronic tickets the terms and conditions of travel are detailed on an electronic confirmation that is a passenger ticket even if a physical paper ticket is*

not required at check-in. Therefore a passenger ticket includes an electronic ticket. To clarify this requirement the wording is amended to:

“with the passenger ticket, or if no physical ticket is issued, as part of the booking confirmation”

92.203(a)(1). The submitter proposes the following be added to this rule:

- (1) the certificate holder where the holder **has had their dangerous Goods training programme specifically approved by the Director and** is authorised to provide dangerous goods training for those personnel; or.*

CAA comment: *The CAA disagrees as the rule states the certificate holder must be authorised to provide dangerous goods training. This authorisation is performed by the CAA and detailed on the certificate holder’s certificate. Therefore it is approved by the Director when it is added to the operator’s certificate.*

92.203(c)(2). The submitter proposes that “required by that state” be replaced with “approved by that state”.

CAA comment: *The CAA disagrees as not all states may approve the dangerous good training programme but may just require one to be undertaken.*

92.203(c)(3)(i). The submitter proposes that this rule be deleted as they state that just because an operator is a member of IATA does not mean the training programme is of any particular standard.

CAA comment: *The CAA notes this submission and agrees this issue may need to be addressed but it is out of scope for this project and requires greater assessment along with consultation. The submitter has been contacted to put this issue forward as a Petition for rule making to be considered for future rule development.*

92.203(d). The submitter proposes that “handling agent” be deleted. They comment that there is no reason why an operator’s handling agent cannot attend a course prescribed under 92.203(a) or (b).

CAA comment: *The CAA notes this submission and agrees this issue may need to be addressed but it is out of scope for this project and requires greater assessment along with consultation. The submitter has been contacted to put this issue forward as a Petition for rule making to be considered for future rule development.*

Air New Zealand submitted **Rule 92.203** does not provide for circumstances where the handling agent may be another airline who is the holder of a Part 119 certificate and is approved to provide training to their own personnel. Air NZ state that the present rule does not recognise a handling agent training programme completed under the handling agent's Part 119 certificate. Air NZ recommends rule 92.203(a) be amended by adding a new paragraph allowing a Part 119 certificate holder to recognise the training programme provided to a handling agent's personnel under the handling agent's Part 119 certificate. Air NZ proposes this change would also align this rule with Civil Aviation Safety Authority of Australia CASR 92 and the United Kingdom Air Navigation regulations for Dangerous Goods.

CAA comment: *The CAA agree and have changed rule 92.203(a)(1) to:*

92.203 Dangerous goods training programmes

(a) A holder of an air operator certificate issued in accordance with Part 119, or the certificate holder's handling agent must ensure that personnel who are assigned duties involving dangerous goods that are intended for carriage by air have satisfactorily completed a dangerous goods training programme, including recurrent training under rule 92.205, in accordance with Appendix A conducted by—

- (1) the holder of an air operator certificate issued in accordance with Part 119 if the certificate authorises dangerous goods training; or*
- (2) the holder of an aviation training organisation certificate issued in accordance with Part 141 if the certificate authorises dangerous goods training.*

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 3/CAR/4.