Consultation on Civil Aviation Authority Notice of Requirement

16 December 2025

Performance Based Surveillance Communications (PBCS) Civil Aviation Notice - NTC 91.267

Contents

1. Purpose of this Consultation

The purpose of this consultation is to seek feedback on the proposed Civil Aviation Authority Notice for using Performance Based Communications Surveillance (PBCS) under rule 91.267(a).

A new rule 91.265 provides for the requirements for PBCS. A person is prohibited to operate an aircraft under IFR using PBCS unless all the requirements specified in a notice under 91.267 are met.

2. CAA Notices

The aim of CAA Notices is to better support risk-based regulation and improve the flexibility and responsiveness of the rules.

The authority for such notices is section 64(5) of the Civil Aviation Act 2023. This section permits the Minister of Transport to make rules on any terms and conditions specified in the rule to –

- require or provide a matter to be determined, undertaken or approved by the Authority, the Director of Civil Aviation (Director) or another person; or
- empower the Authority, Director or another person to impose requirements or conditions as to the performance of any aviation activity including (but not limited to) any procedures to be followed.

These requirements must be in writing and will be set out in CAA notices, which in this case can only be issued by the Director. Before notices may be issued there must be a corresponding enabling rule in the Civil Aviation Rules That also means that not complying with the notice results in a breach of the enabling rule.

CAA notices will generally apply in circumstances where the rules may not adequately or appropriately capture technical or procedural requirements.

Notices will be used where there are benefits to taking a performance-based approach, for example in circumstances where new technological changes or innovations require more flexibility than prescriptive approach and rules may become quickly out-dated, or where there is a need to respond to safety issues which the rules cannot adequately deal with.

The use of CAA notices reflects international trends that adopt risk-based regulation, and some comparable overseas aviation regulators use similar instruments. For example, the Australian regulator Civil Aviation Safety Authority (CASA), uses Civil Aviation Orders made by the Director of Aviation Safety for a wide variety of activities. These Orders contain detailed technical requirements and generally supplement Civil Aviation Regulations, the Australian equivalent of the New Zealand Civil Aviation Rules. CASA also issues Manuals of Standards, which include detailed technical requirements which support the implementation of the Civil Aviation Safety Regulations.

The draft CAA notice for PBCS proposed in this consultation provides the technical requirements that would need to be met by operators. These requirements are legally enforceable as they are part of the rules. The benefits of this approach in terms of PBCS is that making a notice allows for flexibility in aircraft airworthiness and performance requirements that can change quickly over time.

Other existing rules, regulatory tools and guidance, such as Airworthiness Directives and Advisory Circulars (AC's) will provide guidance on acceptable means of compliance for PBCS. The draft notices and draft advisory circulars are included as part of this consultation for comment.

3. Background to the Proposal

3.1 Rules requiring CAA Notices

91.265 Requirements for PBCS

A person must not operate an aircraft under IFR using PBCS unless–

(1) the aircraft meets the airworthiness and performance requirements –

(i) determined by the Director as specified in a notice under rule 91.267(a)(2); or

(ii) which the Director accepts are equivalent to those in paragraph (i); and

(2) the person –

(i) is suitably trained and qualified to use PBCS on the planned route and airspace as specified in a notice under rules 91.267(a)(1) and (5); and

(ii) complies with the operational requirements and any limitations regarding the use of PBCS, planned route and airspace, as specified in a notice under rules 91.267(a)(1) and (3); and

(3) the Director has approved the operation if specified to do so in a notice.

CAR 91.267 Director may determine requirements for PBCS and related matters in a notice

(a) After complying with the procedures in rule 91.267B, the Director may determine and specify in a notice –

(1) the routes, airspaces and the application of horizontal separations based on PBCS;

(2) the airworthiness and performance requirements for an aircraft operating under IFR and using PBCS;

(3) the operational requirements and limitations associated with PBCS;

(4) requirements for demonstrating compliance and procedures for addressing non-compliance with PBCS;

(5) suitable training requirements for a person who operates an aircraft under IFR and using PBCS;

(6) definitions and abbreviations to give full meaning to the terms used in a notice.

The intent of the rule is to provide PBCS requirements for aircraft if a situation arises where operational approval by the Director is considered necessary. It is envisaged that in most cases it is not necessary to require the Director's approval for an operator to use PBCS.

3.2 Scope of the CAA Notice

Policy Background

In recent years aviation traffic has increased, and airspaces are experiencing higher demands. This has meant changes are needed to allow for more traffic in airspaces experiencing an increase in demand.

Performance-based communications and surveillance (PBCS) allows for more effective and efficient management of airspace. PBCS provides air traffic control service (ATC) with access to comprehensive information on the data communication capability and performance of aircraft.

The increased level of information available to ATC regarding an aircraft's data communication ability can inform routing decisions. For example, where ATC is aware that it can communicate rapidly with aircraft, separation distances may be reduced; or where ATC is aware that an aircraft has a slower communication system, wider separation distances may be applied. The ability to offer closer separation distances allows for a more direct route, which reduces travel times and fuel usage.

The International Civil Aviation Organization (ICAO) enables States to use PBCS, but States need to adopt Required Communication Performance (RCP) and Required Surveillance Performance (RSP). RCPs and RSPs will be used by operators in their flight plans to support the implementation of PBCS. ICAO Annex 11 *Air Traffic Services* prescribes requirements for States for the implementation of RCPs and RSPs.

Also, Annex 6 *Operation of Aircraft* requires aircraft operators and ATC to have formal approval to use PBCS by the State and need to meet RCP and RSP specifications.

The consequence of CAA not having a formalised PBCS approval process and minimum standards meant that we:

- had limited oversight of PBCS use; and
- was at risk if PBCS is used incorrectly due to the lack of standards.[1]

Airways Corporation of New Zealand Limited (Airways) implemented a PBCS system and started applying RCPs and RSPs. In order for CAA to have proper oversight and increase safety of Airways' PBCS system (and future systems) PBCS provisions were added to Part 91 in April 2025. The rule requires that CAA makes a notice containing the technical requirements for PBCS that operators would need to meet.

The notice was developed according to the procedure in 91.267B and 91.258A. The CAA conducted a full review to assess the aviation safety of minimum airworthiness and performance requirements for PBCS. The CAA also took into account how the notice aligns with our ICAO obligations under the Convention and Annexes in our assessment. See discussion below.

Policy Objective

To fully benefit from PBCS technology, New Zealand needs an appropriate regulatory framework to provide appropriate regulatory oversight for the use of PBCS that aligns with ICAO SARPs.

The objective of the notice is to set out the minimum standards of airworthiness and performance (including RCPs and RSPs), the process for approval and when approval is required.

CAR 91.265 requires operators operating an aircraft under IFR using PBCS to meet airworthiness and performance requirements set by the Director in a notice and seek approval from the Director where necessary. The rule requiring the notice is CAR 91.267.

The notice applies to anyone operating an aircraft under Part 91 under IFR using PBCS. The notice will requires PBCS users to comply with the routes, airspaces and application of horizontal separations as provided in AIPNZ ENR 1.8. The notice also sets out airworthiness and performance requirements for aircraft under IFR using PBCS and operational requirements and limitations.

In addition to minimum aircraft requirements, the notice also requires operators, engineers and maintenance personnel to have suitable training and appropriate knowledge of PBCS.

3.3 Consistency with International Obligations

Creating CAR 91.267 was intended to better align with Standards and Recommended Practices (SARPs) set by ICAO and provide an appropriate regulatory framework for aircraft operators and air traffic control providers that use PBCS. Also, the requirements going into the Notice are largely based on the following ICAO publications:

- Doc 9869, 2nd Edition (2017);
- Operational Authorization Guidance for Performance-based Communication and Surveillance (PBCS)[2], January 2018 (Version 1.0).

[1] Civil Aviation Authority (4 July 2024) *Notice of Proposed Rule Making: Assorted issues* (https://www.aviation.govt.nz/assets/rules/nprms-and-summaries/Assorted-Issues-NPRM-Revision-1.pdf)

2 This ICAO document aims to provide regulatory authorities and operators with a summary of guidance material contained in the Performance-based Communication and Surveillance (PBCS) Manual (Doc 9869) and other State regulatory documents with respect to PBCS operational authorization. The latest version of this guide can be found at www.icao.int/airnavigation/pbcs.

4. Submissions on the Consultation

4.1 Submissions are invited

Interested persons are invited to participate in the making of the proposed Notice by submitting written data, views, or comments. All submissions will be considered before final action on the proposed Notice is taken. If there is a need to make any significant change to the Notice requirements in this proposal as a result of the submissions received, then interested persons may be invited to make further submissions.

4.2 Examination of submissions

All submissions will be available for examination by interested persons both before and after the closing date for submissions. A consultation summary will be published on the CAA web site and provided to each person who submits a written submission on this consultation.

Submissions may be examined by appointment with the Docket Clerk at the Civil Aviation Authority Level 15, Asteron Centre, 55 Featherston Street, Wellington 6011 between 8:30 am and 4:30 pm on weekdays, except statutory holidays. Appointments to examine submissions are to be arranged by phone or email docket@caa.govt.nz.

4.3 Official Information Act

Submitters should note that subject to the Official Information Act 1982 any information attached to submissions will become part of the docket file and will be available to the public for examination.

Submitters should state clearly if there is any information in their submission that is commercially sensitive or for some other reason the submitter does not want the information to be released to other interested parties. The CAA will consider this in making a decision in respect of any Official Information Act requests. It should be noted that the CAA cannot guarantee confidentiality in respect of any specific submissions.

4.4 How to make a submission

Online response form

An online response form is available on the CAA website at Proposed Notices open for consultation | aviation.govt.nz. When submitted, this form will be sent directly to the Docket Inbox.

Submission response sheet

A submission response sheet may also be downloaded from our website and sent by the following methods:

e-mail: docket@caa.govt.nz

by mail:
Docket Clerk
Civil Aviation Authority
PO Box 3555
Wellington 6140 New Zealand

delivered:
Docket Clerk
Civil Aviation Authority Asteron House
Level 15
55 Featherston Street
Wellington 6011

4.5 Final date for submissions

Comments must be received before **5pm on Monday 2nd February 2026**

4.6 Further information

For further information, contact: docket@caa.govt.nz

Appendix 1: Draft Civil Aviation Authority Notice

CIVIL AVIATION AUTHORITY
OF NEW ZEALAND
Te Mana Rererangi Tūmatanui o Aotearoa

Notice of Requirement

NTC 91.267

Performance-Based Communications and Surveillance (PBCS)

Revision 1
05 Apr 2026

Preliminary

The Director of Civil Aviation issues the following provisions relating to the use of Performance-Based Communications and Surveillance (PBCS) under section 64(5) of the Civil Aviation Act 2023 and civil aviation rule 91.267(a).

Purpose

The purpose of this notice is to specify –

(1) the routes, airspaces and the application of horizontal separations based on PBCS;

(2) the airworthiness and performance requirements for an aircraft operating under IFR and PBCS;

(3) the operational requirements and limitations associated with PBCS;

(4) the requirements for demonstrating compliance, and procedures for addressing non-compliance with PBCS;

(5) suitable training requirements for persons who operate an aircraft and using PBCS; and

(6) definitions and abbreviations to give full meaning to the terms used in the notice.

General

Civil Aviation Authority (CAA) Notices contain approvals and requirements including the detail about the approvals, standards, conditions, procedures and technical specifications that have been approved or determined by the Director under the Civil Aviation Rules. These details must be complied with by parties to whom it applies. They apply in particular circumstances to particular aviation document holders as specified in the notice.

CAA notices are issued under Civil Aviation Rules in accordance with section 64(5) of the Civil Aviation Act. This section permits the Minister of Transport to make ordinary rules, and to specify any terms and conditions within the rules:

- to require a matter to be determined, or undertaken or approved by the Authority, the Director or another person; or
- to empower the Authority, Director, or another person to impose requirements or conditions as to the performance of any activity, including (but not limited to) any procedures to be followed.

Notices support a performance-based approach to regulation, and improve the flexibility and responsiveness of the Civil Aviation Rules. They may be used where performance-based regulation is the appropriate way to achieve the desired regulatory outcome, for example, in circumstances where new technological changes or challenges require more flexibility than prescribing requirements in the rules (and rulemaking may get quickly out-dated), or where there is a need to respond to safety issues which the rules do not adequately deal with.

Related Rules

Civil Aviation Rules 91.265, 91.267, 91.267B, 91.267C

Performance Based Communications and Surveillance (PBCS)

Subpart A - General

1.1 Title

This notice is the Performance Based Surveillance Communications (PBCS) Civil Aviation Notice and may be referred to as NTC 91.267.

1.3 Effective date

This notice comes into effect on 5 April 2026.

1.5 Application

This notice applies to every aircraft operator or a pilot operating an aircraft under Part 91 under IFR and using PBCS.

1.7 Definitions

For the purposes of rule 91.267(a)(6) –

(1) terms used in this notice have the same meaning set out in Civil Aviation Rule Part 1;

in addition to paragraph (1) and for the purposes of this notice –

ADS-C means Automatic Dependent Surveillance – Contract:

CNS means Communications, Navigation and Surveillance:

FANS means Future Air Navigation Systems:

FANS 1/A means Future Air Navigation Systems – Initial (RTCA DO 258/EUROCAE ED 100A, or previous standards [of RTCA] that defined the FANS 1/A capability:

RCP means Required Communication Performance:

RSP means Required Surveillance Performance:

aircraft operator refers to a holder or an air operator certificate issued under Part 119 and conducts air operations under Parts 121, 125 or 135.

Subpart B – Operating Requirements

2.1 Routes, airspaces and application of horizontal separations for PBCS

For the purposes of rule 91.267(a)(1), a person operating an aircraft under IFR and using PBCS must comply with the following routes, airspaces and application of horizontal separations provided in the AIPNZ ENR 1.8 if applicable –

(1) if using FANS1/A CPDLC and ADS-C in the Auckland Oceanic FIR, RCP240D or RSP180D at a minimum 95% performance level; or

(2) if using FANS1/A CPDLC and ADS-C in the Auckland Oceanic FIR with an aircraft performance level below 95% at RCP240D or RSP 180D, some other acceptable RCP or RSP specifications as authorised by the ANSP.

2.3 Airworthiness and performance requirements for aircraft operating under IFR and using PBCS

For the purposes of rule 91.267(a)(2), an aircraft operator must ensure that –

(1) information or documentation from an aircraft manufacturer or equipment supplier demonstrates that the aircraft system meets the RCP or RSP specifications allocated to the aircraft system as acceptable to the Director;

(2) the demonstration of compliance with the RCP and RSP specifications is specific to each individual airframe or the combination of the aircraft type and configuration; and

(3) the demonstration of compliance is documented in one of the following documents –

(i) the type certificate;

(ii) the supplemental type certificate;

(iii) the aeroplane flight manual (AFM), AFM supplement; or any other document acceptable to the Director; or

(iv) a compliance statement from the manufacturer which has been approved by the State of Design and accepted by the State of Registry or the State of the operator, if different.

2.5 Operational requirements and limitations when using PBCS

(a) For the purposes of rule 91.267(a)(3), an aircraft operator must ensure that the following relevant documentation acceptable to the Director are available –

(1) aircraft eligibility and airworthiness compliance (any limitations, assumptions or specific procedures considered in the framework of the airworthiness approval must be addressed);

(2) documentation and maintenance of operating procedures for the specific data link systems including use of message sets;

(3) means of ensuring compliance of contracted services, such as those with communication services providers with respect to aircraft operations under IFR and using PBCS;

(4) documentation and maintenance of procedures for participation in PBCS monitoring programmes including problem reporting;

(5) documentation and maintenance of policies and procedures for controlling configuration of aircraft system including software and communication subnetwork for managing media and routing;

(6) documentation and maintenance of policies and procedures for controlling configuration of aircraft system including software and communication subnetwork for managing media and routing;

(7) training requirements for relevant personnel (for example flight dispatchers and aircraft maintenance engineers).

(b) For flight crew members and relevant personnel, an aircraft operator must ensure that standard operating procedures including normal and emergency procedures are established for the data link systems used in an aircraft operation under IFR and using PBCS.

(c) The procedures referred to in paragraph (a) must address –

(1) pre-flight planning requirements including MELs and applicable flight filing;

(2) actions to be taken in the data link operation which include specific RCP or RSP if applicable;

(3) actions to be taken for the loss of data link capability while in and before entering the airspace requiring RCP or RSP specifications;

(4) problem reporting procedures to the local or regional monitoring agency (for example the central reporting agency);

(5) specific regional requirements if applicable.

(d) A pilot operating an aircraft in any part of an airspace where PBCS is prescribed must declare the RNP, RCP and RSP capabilities in the pilot's flight plans.

(e) An aircraft operator must ensure that personnel specified in clauses 2.7 and 2.9 are suitably trained and have appropriate knowledge of the matters specified in those clauses.

2.7 Training requirements for dispatcher or flight operations officer

For the purposes of rule 91.267(a)(3), an aircraft operator must ensure that a dispatcher or flight operations officer involved in an aircraft operation using IFR and PBCS is suitably trained and have appropriate knowledge of the following areas –

(1) proper use of data link and PBCS flight plan designators;

(2) air traffic service provider's separation criteria and procedures relevant to RCP or RSP specifications;

(3) MEL remarks or exceptions based on data link communications;

(4) procedures for transitioning to voice communication and other emergency procedures related to the operation if there is abnormal behaviour (for example satellite issues such as spoofing or jamming) of the data link communication;

(5) coordination with the ATS unit related to or following a special data link communication exceptional event (for example a log on or connection failure);

(6) emergency procedures to transition to a different separation standard when data link communication fails.

2.9 Training requirements for aircraft maintenance engineer

For the purposes of rule 91.273(a)(3), an aircraft operator must ensure that an aircraft maintenance engineer who performs any maintenance work on an aircraft that is used in an operation under IFR and using PBCS is suitably trained and have appropriate knowledge of the following areas –

(1) data link communication equipment including its installation, maintenance and modification;

(2) MEL relief and procedures for return to service authorisations; and

(3) correction of reported non-performance of data link system.

3.1 Requirements for demonstrating compliance and procedures for addressing non-compliance with PBCS

(a) For the purposes of rule 91.267(a)(4), a holder of an air traffic service certificate issued under Part 172 must–

(1) establish means to extract FANS1A analysis data for CPDLC and ADS-C using guidance provided in ICAO Doc 9869 PBCS Manual Appendix D or amendments;

(2) filter extracted data FANS1A analysis data for CPDLC and ADS-C using guidance in PBCS Manual Appendix D or amendments;

(3) establish means to perform monthly analysis of CPDLC RCP and ADS-C RSP;

(4) investigate any performance degradation identified during monthly analysis;

(5) report non-compliance with RCP or RSP specifications to CRA;

(6) support CRA non-compliance investigations;

(7) report any aircraft that are filing as PBCS qualified but showing non-compliance with RCP and RSP 95% normal operating criteria to CAA and RMA/EMA;

(8) withdraw the use of performance-based separation minima requiring PBCS where aircraft data link performance is not compliant with RCP and RSP 95% operating criteria;

(9) implement an annual analysis of service availability to determine the impact of reported unplanned outages in your airspace;

(10) implement local procedures and training to ensure operational staff log FANS1/A problems identified during operations to enable subsequent investigation;

(11) implement local investigation process for reported FANS1/A problems;

(12) implement CRA website reporting of confirmed FANS1/A problems;

(13) sign up to Global PBCS Charter on CRA website;

(14) submit PBCS non-compliance report to designated EMA/RMA by 20th of every month (if falls on a weekend then the next available working day);

(15) submit report of nil occurrences of non-compliance to designated EMA/RMA by 20th of every month (if falls on a weekend then the next available working day);

(16) compile PBCS RCP and RSP performance report for the year from January to December; and

(17) and submit the report to the ICAO Secretariat by not later than 28 February each year.

(b) For the report referred to in paragraph (a)(16), the certificate holder must provide all the relevant information as specified by the Asia/Pacific Regional Office in its reporting guidelines.

3.3 Suitable training requirements for a person who operates an aircraft under IFR and using PBCS

(a) For the purposes of rule 91.267(a)(5), an aircraft operator must ensure that a pilot who operates an aircraft under IFR and using PBCS must comply with paragraphs (b) and (c).

(b) Every pilot must be suitably trained and have appropriate knowledge of the following topics –

(1) data link communications system theory that is relevant to operational use;

(2) AFM and AFM Supplement limitations;

(3) normal pilot response to data link communication messages;

(4) message elements in the message set used in each environment;

(5) RCP and RSP specifications and their performance requirements;

(6) implementation of performance-based reduced separation with associated RCP/RSP specifications or other possible performance requirements associated with their routes;

(7) other ATM operations involving data link communication services;

(8) both normal and emergency procedures;

(9) data link communication failure/problem and reporting.

(c) A pilot who has successfully completed training on data link communications system theory referred to in paragraph (b)(1) is required to undergo training on PBCS only, addressing a basic concept and requirements that have direct impact on overall data link performance required for provisions of air traffic services (for example reduced separation).

(d) Training for pilots may be provided through training material and other means that simulate the functionality.

(e) A pilot who operates an aircraft under IFR and using PBCS under Part 91 must be suitably trained and have appropriate knowledge of the topics specified in paragraph (b).

3.5 Director's approval is required for Part 119 certificate holder before carrying out aircraft operations under IFR and using PBCS

A holder of an air operator certificate issued under Part 119 must not operate an aircraft under IFR and using PBCS unless –

(1) the certificate holder complies with all the applicable requirements of this notice; and

(2) the Director has approved the operation.

3.7 Approval for aircraft operations under IFR and using PBCS under Part 91

A person must not operate an aircraft under IFR and using PBCS unless the person meets all the applicable requirements of this notice.