

NEPALESE CIVIL AIRWORTHINESS REQUIREMENTS

SECTION A

GENERAL

CHAPTER A.2

ISSUE 5
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NCAR AMENDMENT PROCEDURE

1. INTRODUCTION

- 1.1 The Nepalese Civil Airworthiness Requirements are issued by Civil Aviation Authority of Nepal in pursuance of the Article 3 of the Act.
- 1.2 For the purpose of this Chapter 'Rulemaking' means the development and issuance of Nepalese Civil Airworthiness Requirements (NCAR) and amendments to NCAR issued for the purpose of implementation of the Nepal Civil Aviation Regulations 2058 (2002) and amendments thereto.
- 1.3 This chapter prescribes the procedures for the development and issuance of NCAR, associated Acceptable Means of Compliance, Guidance Material and amendments to NCAR.
- 1.4 Amendment to NCAR related to changes in Civil Aviation Regulations, ICAO Annexes & SARPS revisions, revisions to other member state regulations that has been accepted/adopted by CAA Nepal may also be addressed through this Amendment Procedure.
- 1.5 No amendment to NCAR may be processed nor published other than in accordance with these procedures.
- 1.6 The Chief of Flight Safety Standard Department shall be the Rulemaking Process Coordinator (RP Coordinator) to coordinate the Rulemaking Process.
- 1.7 The RP Coordinator shall appoint a Committee as and when required to draft proposed amendments or new requirements.

2. TERMINOLOGY AND DEFINITIONS

- 2.1 'Rules' comprises the following:
 - opinions concerning the scope and content of the NCAR, consisting of a draft requirement and an explanatory memorandum;
 - Acceptable Means of Compliance (AMC) which are non-binding standards adopted by the CAA Nepal to illustrate means to establish compliance with the Requirement and its implementing rules;
 - Certification Specifications (CS) are technical standards adopted by the CAA Nepal indicating means to show compliance with the Requirement and its implementing rules and which can be used by organisations for the purpose of certification; and

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- Guidance Material (GM) means non-binding material developed by the CAA Nepal that helps to illustrate the meaning of a requirement or specification and is used to support the interpretation of the Requirement, its implementing rules and AMC.
- 2.2 Regulatory Impact Assessment (RIA) means an assessment of the safety or environmental benefit expected from the proposed rule as well as its implementation cost for national administrations and those subject to its provisions, measured in relation to the option to not issue a rule. The aim of the RIA shall be to improve the quality of regulation by helping to ensure that decisions are well substantiated, by clarifying the positive and negative safety, economic, environmental, social or other non-safety impacts of a proposed rule.

3. THE PROCESS

3.1 Initiation process

- 3.1.1 Any person or organisation may propose the development of a new requirements or an amendment thereto. The RP Coordinator shall consider such requests in the context of the drafting and revision of the amendments. Proposals, including the identification of the proposer, the proposed text and the justification for the proposal shall be sent to the RP Coordinator at FSSD, and shall be individually acknowledged. The RP Coordinator shall provide the proposer with justification for his or her decision on whether to act on the received proposal. The proposed changes will be reviewed, commented and agreed during the relevant drafting committee meeting before following the Rulemaking Process.
- 3.1.2 The RP Coordinator may also initiate an amendment proposal when it is considered that an amendment or a new requirement is necessary.
- 3.1.3 The RP Coordinator shall appoint a drafting committee and draw up Terms of Reference for each rulemaking task. The Terms of Reference shall include the following:
- i. a clear definition of the task;
 - ii. the process to be followed for the development of the task, including the estimated length of the public consultation period taking into account the assessment of the complexity and controversy of the task;
 - iii. the necessity to conduct a Regulatory Impact Assessment;
 - iv. a timetable for completion of the task;
 - v. the format of the deliverable; and
 - vi. a concept paper, if developed in the case of a complex or controversial task.
- 3.1.4 When a drafting committee is convened, the RP Coordinator shall determine its exact composition, which shall draw upon technical expertise available among interested parties, as well as within the CAA Nepal itself.

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- 3.1.5 CAA Nepal shall provide drafting committee with the administrative and logistical support necessary for the fulfillment of its tasks, including the provision of standard operating procedures to be adapted as necessary by the committee according to their specific circumstances. The RP Coordinator shall appoint the drafting committee Chairperson and it shall adopt the standard FSSD working methods, which shall include in particular the following:
- i. obtaining consensus and resolution of conflicts; and
 - ii. preparation of minutes.
- 3.1.6 When the drafting committee is convened, the RP Coordinator shall forward the proposal to all the members of the committee to ensure that all regulation interfaces are addressed. The Drafting Committee shall formally draft the required document within an acceptable time frame not exceeding 6 months. In case a requirement amendment is deemed necessary to resolve an immediate safety concern this time frame may be reduced.
- 3.1.7 In case different drafting committee members identify possible impact of an amendment on the regulation they monitor they shall notify accordingly the Chairperson. Then the Chairperson will ensure that the relevant committee member is kept involved in the rulemaking.
- 3.1.8 The Chairperson is responsible during the rulemaking process for coordinating the actions of each committee member. He shall ensure as well that the draft regulation is discussed during the relevant committee meeting and shall monitor compliance with the agreed time frame.
- 3.2 Drafting the Amendment**
- 3.2.1 Drafting the amendment shall take into account the following:
- a) The use of SARI/EASA Parts as a reference to develop the NCAR;
 - b) ICAO Standards and Recommended Practices;
 - c) Relevant findings and recommendations of air accident investigations;
 - d) Implementation status of the existing NCAR and its Parts;
 - e) Compatibility with other existing regulation if any;
 - f) State of the art and best practices in aviation safety and environmental requirements;
 - g) Scientific and technological developments; and
 - h) The regulatory impact assessment of the rules being drafted.
- 3.2.2 When the drafting of the proposed amendment is completed the RP Coordinator shall:
- a) Verify that the regulation amendment satisfies the initial objective of the proposal;

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- b) Distribute the draft amendment to the Director General and other relevant officials and legal experts within the CAA Nepal for their comments and observations.
 - c) Once the comments are received the drafting committee shall finalize the draft and forward it to the Coordinator.
- 3.2.3 Upon completion of the drafting of the proposed amendment, the RP Coordinator shall verify that the amendment satisfies the Terms of Reference established for the rulemaking task and shall publish a Notice of Proposed Amendment (NPA) on the FSSD's website, including the following information:
- (a) an Explanatory Note describing:
 - the development process and the next steps, including the length of the public consultation period, which may differ from the one indicated in the Terms of Reference, as well as a proposed date for the publication of the Comment Response Document;
 - a summary of the proposed changes and full details of significant, contentious or interface issues identified during the drafting process; and
 - details of the situation with respect to ICAO Standards and Recommended Practices and relative to harmonisation with other authorities or international organisations;
 - (b) the proposed rule;
 - (c) a Regulatory Impact Assessment, if applicable, as specified in the Terms of Reference.
- 3.2.4 As regards tasks with only negligible impacts expected, or systematic tasks addressing miscellaneous issues of non-controversial nature, it is sufficient for the Notice of Proposed Amendment to contain a justification for the task and the proposed new or amended rule.
- 3.2.5 Each NPA shall be assigned a unique reference code as follows:
- a) A CAAN NPA may address several regulation paragraph changes in one or several NCAR Chapters when these changes are considered "minor" (typographical errors, wording improvement, editorial corrections, numbering changes, etc....). In such case the CAAN NPA is numbered **CAAN NPA-XXX-G** (XXX starting from 001, **G** for General).
 - b) When the change is not considered "minor" it is considered "specific" and related to one subject, matter or paragraph. (As an example the introduction on Safety Management System in NCAR Part-145 is considered specific and may require the introduction of a specific paragraph as well as amendment to several existing paragraphs affected by the introduction of the new paragraph). Such CAAN NPA is numbered **CAAN-NPA-ABC-XXX-S** (ABC identifying the relevant requirement (for example 145); XXX starting from 001; S for specific).

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3.3 Consultation process

- 3.3.1 When the Drafting Process is completed and a revision to the NCAR has been agreed this draft of the amendment shall be made publically available as a Notice of Proposed Amendment through the FSSD website.
- 3.3.2 Any person or organization with an interest in the NCAR amendment under development shall be entitled to comment on the basis of the published NPA through the Comment Response Document. Therefore the RP Coordinator shall distribute the NPA to Industry Representative and any person or organization with an interest in the relevant NCAR amendment through the FSSD website.
- 3.3.3 Comment Response Document provides medium for feedback during the Consultation phase of the amendment procedure. They provide explanatory notes on the Consultation phase, and provide the RP Coordinator's response to this feedback. They are published in the FSSD website for a given **Comments and Review period** which ends on the **Closing Date of Publication**. After this phase, the amendment Procedure enters the Adoption and Publication phase.
- 3.3.4 The public and Industry Representatives shall address the comments they consider relevant and they support, to the RP Coordinator. The comments shall contain the following elements:
- (a) identification of the commentator;
 - (b) NPA reference code; and
 - (c) position of the commentator, relative to the proposal (including justification for the position taken).

No comment will be taken into consideration unless forwarded through the Coordinator.

- 3.3.5 During the consultation period, the RP Coordinator may, in exceptional and strictly justified circumstances, extend the consultation period specified in the NPA at the request of interested parties. Such changes to the length of the consultation period shall be published in the FSSD website.

3.4 Review of comments

- 3.4.1 With the objective of improving the quality of the CAA Nepal measures and ensuring fair and appropriate treatment of all comments received, the RP Coordinator shall ensure that comments are reviewed by appropriately qualified experts not directly involved in the drafting of the proposed amendment.
- In the case of tasks with only negligible impacts expected or systematic tasks addressing miscellaneous issues of non-controversial nature, the comment review may be carried out without the need to involve additional expertise.

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- 3.4.2 Further consultation with consultees may be undertaken as necessary for the sole purpose of ensuring a better understanding of the comments submitted.
- 3.4.3 The RP Coordinator shall review the comments received from the consultees and will publish the outcome on the FSSD website. The Comment Response Document shall include the following:
- (a) a list of all parties commenting on the rule in question; and
 - (b) a summary of the comments received and the CAA Nepal responses thereto.
- 3.4.4 If, based on the number or complexity of the comments received, the Coordinator is unable to publish the Comment Response Document by the deadline specified in the NPA, amendments to this deadline shall be published on the FSSD website.
- 3.4.5 If the comments received during the public consultation period indicate major disagreements with the proposed amendment, or if the result of the review of the comments is that the revised text differs significantly from that circulated at the beginning of the consultation process, the Coordinator shall consider further consultation with the stakeholders.
- 3.4.6 In case of comment considered as a major objection to the NCAR amendment expressed by one or more of the Industry Representatives and that cannot be resolved by the consultees, the objection will be forwarded to the Director General for further decision.
- 3.4.7 If the result of the review of comments is that the revised text differs significantly from that circulated at the start of the consultation process, the RP Coordinator shall consider a further consultation round.
- 3.4.8 The Director General shall issue his/her decision in respect of the rule in question together with the Comment Response Document.
- 3.4.9 Acceptance or rejection of a comment will be duly notified or substantiated. The comment response shall be included in the revision of the NPA.
- 3.4.10 All comments must be addressed to the RP Coordinator at the following address: coordinator@flightsafetycaan.org.com.

3.5 Adoption and publication

- 3.5.1 The NPA in its final form shall be approved by the Director General. The RP Coordinator shall release the **final NPA** to the stake holders, including the comment response.
- 3.5.2 Following approval by the Director General the NPA shall be adopted and its contents integrated in the NCAR by the RP Coordinator.

3.6 Rulemaking Timeframe

- (a) Month 1- 6 month - Initial draft preparation.

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- (b) Month 7 - Completion of process 3.2.2.
- (c) Month 8 and 9 - Completion of process 3.2.3 and publication of NPA.
- (d) Month 10 and 11 – Consultation period – Comment Response period. Refer 3.3
- (e) Month 12, 13 and 14 – Review of Comment Response, publication of revised NPA. Refer 3.4
- (f) Month 15 and 16 – adoption and publication. Refer 3.5

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Appendix-1

NPA Template

CAAN NPA-XXX-G or CAAN NPA-ABC-XXX-S

A. General:

B. Consultation:

To achieve optimal consultation FSSD is publishing the draft NPA on its website:

<http://flightsafety.caanepal.org.np/>. In parallel, all organizations interested in the amendment is requested to circulate the draft NPA within their organisation and to collect comments or request for changes.

Comments should be provided within 8 weeks after the draft NPA has been published on the FSSD website.

All comments must be addressed to the RP Coordinator at the address: coordinator@flightsafetycaan.org.com.

Should the evaluation leads to amend the draft NPA, the revised draft NPA will follow the same distribution and examination process as the initial draft, etc.

C. Draft proposal:

The text of the amendment is arranged to show deleted text and new text as shown below:

- Deleted text is shown with a strike through:
- New text is highlighted in light shade of grey

C1. Amend NCAR 145.A.XX.50 (h) as follows:

~~(h)~~—The certification authorisation must be in a style that makes its scope clear to the certifying staff and any official of the Competent Authority who has the responsibility for oversight of maintained aircraft or component, who may require to examine the authorisation. ~~authorised person who may require to examine the authorisation. Where codes are used to define scope, the organisation shall make a code translation readily available. "Authorised person" means the official of the Competent Authority who has responsibility for oversight of maintained aircraft or component.~~

C2. Amend NCAR-145.A.1 as follows:

(e) 'large aeroplane' means an aeroplane of more than 5 700 kg (12 500 pounds) maximum certificated take-off weight. The category 'Large Aeroplane' does not include the commuter aeroplane category.

(f) "Commuter category aeroplane" means a propeller-driven twin-engine aeroplane that has a seating configuration, excluding the pilot seat(s) of nineteen or fewer and a maximum certified take off weight of 8618 kg (19000 lb).

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C3. Amend NCAR-145.A.42 (a)(1) as follows:

1. Components which are in a satisfactory condition, released on a CAAN Form 1 or equivalent and marked in accordance with a standard acceptable to the CAA Nepal.

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Appendix-2
Template for Comment Response Document

Description: CRD 2017-XX
Language: English
CRD number: CRD 2017-XX
Related NPA(s): NPA 2017-XX

NPA of
Proposed amendment:
<i>Commentator:</i>
<i>Comment:</i>
<i>CAAN response:</i>
<i>Commentator:</i>
<i>Comment:</i>
<i>CAAN response:</i>