



**Notice of Proposed Rule Making
NPRM 2414/109-26
28 August 2024**

**Part 109
Regulated Air Cargo Agent -
Certification**

**Consequential Amendments
Part 108
Part 140**

**Docket24/14/CAR109/26
2024 Rules Review**

Proposed Applicable 04th November 2024



Background to the Civil Aviation Rules

The Papua New Guinea (PNG) Civil Aviation Rules (CARs) establish the *minimum* regulatory safety standards and boundary for participants to gain entry into, operate within, and exit the PNG civil aviation system. The PNG Rules are divided into Parts and each Part contains a series of individual rules which relate to a particular aviation activity.

Advisory Circulars accompany many rule Parts and contain information about standards, practices and procedures that the Director has been established to be an '*Acceptable Means of Compliance*' (AMC) for the associated rule. An Advisory Circular may also contain Guidance Material (GMs) and Explanatory Material (EMs) to facilitate compliance with the rule requirements.

The objective of the Civil Aviation Rules system is to obtain a balance of responsibility between, on the one hand, the State and regulatory authority, the Civil Aviation Safety Authority of PNG (CASA PNG) and, on the other hand, those who provide services and exercise privileges in the civil aviation system. This balance must enable the State and regulatory authority to set standards for, and monitor performance of aviation participants whilst providing the maximum flexibility for the participants to develop compliance within the safety boundary.

Section 45 of the *Civil Aviation Act 2000* prescribes general requirements for participants in the civil aviation system and requires, amongst other things, participants to carry out their activities safely and in accordance with the relevant prescribed safety standards and practices. Section 69 of the Act allows the Minister to make ordinary rules for any of the following purposes:

- (a) The implementation of Papua New Guinea's obligations under the Convention
- (b) To provide for a safe, sustainable, effective and efficient aviation services
- (c) The provision of aviation meteorological services, search and rescue services and civil aviation security programmes and services
- (d) Assisting aviation safety and security, including but not limited to personal security
- (e) Assisting economic development
- (f) Improving access and mobility
- (g) Protecting and promoting public health
- (h) Ensuring environmental sustainability
- (i) Any matter related or reasonably incidental to any of the following:
 - (1) The Minister's functions and role under section 8 of the Act;
 - (2) The Authority's general objects and functions under section 11 of the Act;
 - (3) The Authority's functions in relation to safety under section 12 of the Act; and
 - (4) The Director's functions and powers under section 17 the Act
 - (5) The Director's powers under section 52A, 53 and 54 of the Act
- (j) Any other matter contemplated by any provision of the Act.



Latest Amendment Date: 19/04/2024	Applicable Date: 05/04/2024	Page 3 of 13
-----------------------------------	-----------------------------	--------------

Table of Contents

Background to the Civil Aviation Rules.....	2
Table of Contents	3
1. Purpose of this NPRM	4
2. Background to the Proposal	4
2.1 General Summary.....	4
2.2 NPRM Development	4
2.3 Key Stakeholders	4
3. Issues Addressed during Development.....	4
3.1 Consequential Amendments	5
3.2 Exemptions	5
3.3 ICAO SARPS and Level of Risk to Papua New Guinea Aviation Safety	5
3.4 Compliance Costs	5
4. Summary of changes.....	5
5. Legislative Analysis.....	6
5.1 Power to make rules	6
5.2 Matters to be taken into account	6
6. Submissions on the NPRM	7
6.1 Submissions are invited.....	7
6.2 Examination of submissions.....	7
6.3 Disclosure.....	7
7. How to make submission	8
7.1 Final date for submissions.....	8
7.2 Availability of the NPRM	8
7.3 Further information.....	8
Proposed Rule Amendments.....	10

Note: Page numbers may not coincide with the Table of Contents and are subject to change.



1. Purpose of this NPRM

The purpose of this Notice of Proposed Rulemaking (NPRM) is to put forward for consideration proposed amendments as per Annex 17 requirements to Civil Aviation Rule (CAR) Part 109.

2. Background to the Proposal

2.1 General Summary

The proposed amendment is an extension from Amendment 4 to Part 109 which was addressing the ICAO USAP Findings Protocol Questions issues in the June 2019 USAP CMA audit and the Amendment 18 to ICAO Annex 17 – Aviation Security.

This NPRM Part 109 Amendment 05 includes;

- (a) Minor editorial amendments and renumbering for flow of information. These are captured in sections 109.51, 109.57, 109.59, 109.63 and 109.65.
- (b) New Inclusion in rule 109.65 to include the requirement for training programs that will be delivered by Training Organisations outside of Papua New Guinea.
- (c) New Inclusion of an Appendix D which will captures the Qualifications and Experience of Senior Persons to provide criteria to be used to support compliance to rule 109.51(a)(2).
- (d) The inclusion of Appendix E a flow diagram of High Risk Cargo Decision Making Process to provide some clarity and understanding of the process and procedures that are required under rule109.63

2.2 NPRM Development

As a signatory to the convention on international civil aviation, Papua New Guinea is committed to aligning its regulations to ICAO SARPS, where practicable. NPRM development are therefore triggered by the amendments of various Annexes to the Convention on international aviation and in PNG's effort to ensure compliance rules are developed and proposed to ensure that international operations are consistent with the international requirements of ICAO Annexes. The development of this NPRM is a result of amendment 18 to Annex 17.

2.3 Key Stakeholders

The Civil Aviation Safety Authority of Papua New Guinea identifies the following as key stakeholders for the proposed rule amendments contained in this NPRM:

- (a) The Civil Aviation Safety Authority of Papua New Guinea;
- (b) The Ministry for Transport and Civil Aviation;
- (c) Aircraft operators;
- (d) Regulated Air Cargo Agents (RACA); and
- (e) Aviation Security Service Organisation (i.e. Part 140 Certificate Holder).

3. Issues Addressed during Development

There were no significant issues identified during the development of this NPRM.



3.1 Consequential Amendments

There are consequential amendments in the following Parts:

- (a) Part 108
- (b) Part 140

3.2 Exemptions

There are no current Exemptions against this Rule Part.

3.3 ICAO SARPs and Level of Risk to Papua New Guinea Aviation Safety

The proposed rule amendments are intended to align, where practicable, with the SARPs contained in ICAO Annexes and are written in consultation with the following Annex and guidance material:

- (a) Annex 17 – Security
- (b) ICAO GM Doc 8973.

3.4 Compliance Costs

The proposed amendments do not require additional compliance costs.

4. Summary of changes

The following amendments are considered for inclusion in the current Part 109;

(a) New Inclusions:

1. 109.63 – editorial amendments to provide clarity and to also make reference to the New Inclusion of Appendix E in the Appendix Section of the Rule
2. 109.65 – new inclusions to capture the requirement for training programs that will be delivered by Training Organisations outside of Papua New Guinea
3. Appendix D – new inclusion to capture the Qualifications and Experience of Senior Persons to provide criteria to be used to support compliance to rule 109.51(b)(2)
4. Appendix E – new inclusion of the flow diagram to provide some clarity and understanding of the process and procedures that are required under rule 109.63 relating to High Risk Cargo.

(b) Editorials:

1. 109.51 – minor editorial amendments for rule references.
2. 109.57 – minor editorial amendment for realignment of information
3. 109.59 – minor editorial amendments and renumbering for the realignment and flow of information
4. 109.63 – minor editorial amendments for rule referencing, information realignment
5. 109.65 – minor editorial amendments and renumbering for the realignment and flow of information



5. Legislative Analysis

5.1 Power to make rules

The Minister may make ordinary rules under sections 69, 70, 71 and 72 of the *Civil Aviation Act 2000*, for various purposes including implementing Papua New Guinea's obligations under the Convention, assisting aviation safety and security, and any matter contemplated under the Act.

These proposed rules are made pursuant to:

- (a) Section 69(1)(a) which provides for the Minister to make rules for the implementation of Papua New Guinea's obligations under the Convention;
- (b) Section 72(a) which provides for the Minister to make rule for the designation, classification and certification of-
 - (1) Air services;
 - (2) Aerodrome operators;
 - (3) Aviation security providers;
 - (4) Aviation training organizations;
 - (5) Aircraft design, manufacture, maintenance and supply organizations;
 - (6) Air traffic services;
 - (7) Aviation meteorological services;
 - (8) Aeronautical communication services; and
 - (9) Aeronautical procedures.

The proposed amendment of Part 109 complies with the requirements of the *Civil Aviation Act 2000* and does not contravene the Constitution, the Aerodrome (Business Concession) Act 2000, Civil Aviation (Air Craft Operator Liability) Act 1975, Aircraft Charges Act, Airport Departure Tax Act, Explosive Act 1952, Firearms Act 1978, Customs Act 1951, Plant, Disease and Control Act 1953, and the Environmental Act 2000.

The proposed Rule has been checked for language and compliance with the legal conventions of Papua New Guinea.

5.2 Matters to be taken into account

The development of this NPRM and the proposed rule changes take into account the matters under section 75 of the Act that the Minister must take into account when making ordinary rules including the following:

5.2.1 ICAO Standards and Recommended Practices

The proposed rule amendments comply with applicable sections of the International Civil Aviation Organization (ICAO) Annexes listed in 3.3 above.

5.2.2 Assisting Economic Development

The proposed rule amendments will have no detrimental impact on economic development, and in some cases will reduce costs incurred by the aviation industry.



5.2.3 Assisting Safety and Personal Security

The proposed rule amendments will maintain safety levels in respect to clarifying and maintaining common standards of definitions, abbreviations and units of measurements used throughout the industry.

5.2.4 Improving Access and Mobility

The proposed rule amendments will have no impact on access and mobility.

5.2.5 Protecting and Promoting Public Health

The proposed rule amendments will have no impact on protecting and promoting public health.

5.2.6 Ensuring Environmental Sustainability

The proposed rule amendments will have no impact on environmental sustainability.

6. Submissions on the NPRM

6.1 Submissions are invited

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

6.2 Examination of submissions

All submissions will be available in the rules docket for examination by interested persons both before and after the closing date for submissions. A consultation summary will be published with final rule.

Submissions may be examined by application to the Docket Clerk at the Civil Aviation Safety Authority of Papua New Guinea between 8:30 am and 3:30 pm, on weekdays, except statutory holidays.

6.3 Disclosure

Submitters should note that any information attached to submissions will become part of the docket file and will be available to the public for examination at the Civil Aviation Safety Authority of Papua New Guinea Headquarter.

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.



7. How to make submission

Submissions may be sent by the following methods:

By Mail: Docket Clerk (NPRM 2414/109-26)
Civil Aviation Safety Authority of Papua
New Guinea
PO Box 1941
Boroko
National Capital District

Delivered: Docket Clerk (NPRM 2414/109-26)
Civil Aviation Safety Authority of Papua
New Guinea
Morea-Tobo Road
Six Mile, Jacksons Airport
Port Moresby NCD

By Fax: Docket Clerk (NPRM 2414/109-26)
3251789 / 325 1919

By Email: Docket Clerk (NPRM 2414/109-26)
rules@casapng.gov.pg

7.1 Final date for submissions

Comments must be received before **COB, 01st October 2024.**

7.2 Availability of the NPRM

Any person may obtain a copy of this NPRM from-
CASA PNG web site: www.casapng.gov.pg

or at a cost from

Docket Clerk
Civil Aviation Safety Authority of Papua New Guinea Headquarter
Building 1, Level 1
Morea-Tobo Road
Six Mile, Jacksons Airport
Port Moresby NCD

7.3 Further information

For further information, contact:

Taras Garap (Ms.)
Manager Legal Services
CASA PNG
tgarap@casapng.gov.pg

Ph.: 325 7320 Mob: 70319368



Proposed Rule Amendments

Part 109

Regulated Air Cargo Agent

109.51 Personnel requirements

- (b) the senior persons required by paragraph (a) must –
- (2) hold minimum qualifications and experience listed in Appendix D applicable to the function for which they are responsible.
- ~~(3)~~(c) Notwithstanding paragraph (b)(1)(ii) and if applicable to the structure of the applicant's organisation the senior person responsibilities for competency assessments may be assumed by the senior person responsible for cargo and mail security control operations under paragraph (b)(1)(i).
- ~~(4)~~(d) Any function referred to in paragraph (b)(1) may be delegated to other personnel provided the senior person responsible for the function retains responsibility for the function, and the delegation is acceptable by the Director.
- ~~(5)~~(e) An applicant for the grant of a regulated air cargo agent certificate must establish procedures for the transfer of responsibilities in the absence of senior persons.
- ~~(6)~~(f) An applicant for the grant of a regulated air cargo agent certificate must establish procedures to initially assess and subsequently maintain the competence of those personnel who are authorised to implement and maintain security control for cargo or mail as specified in the applicant's exposition.
- ~~(4)~~(g) An applicant for the grant of a regulated air cargo agent certificate must establish procedures for the proper recruitment and selection criteria of its management and operational personnel.

109.59 Authorisation procedures

- (c) the procedures required by paragraphs (a) and (b) must include the following:
- ~~(2)~~(d) for an authorisation issued under paragraph (a), the person has been;
- ~~(1)~~(1) appropriately trained in accordance with the regulated air cargo agent's training programme that is required under rule 109.65; and
- ~~(2)~~(2) assessed as competent, in accordance with the regulated air cargo agent's training programme required under rule 109.65, to carry out the security control functions for which the authorisation is intended; and
- ~~(3)~~(e) for an authorisation issued under paragraph (b), the person has knowledge of security requirements for air cargo; and
- ~~(4)~~(f) for every authorisation issued under (a) must be in writing and include—
- ~~(1)~~(1) the name of the person to whom the authorisation is issued; and
- ~~(2)~~(2) the security control function or other function that the person is authorised to perform in accordance with rule 109.55 and rule 109.57; and



- ~~(iii)~~(3) the expiry date of the authorisation; and
- ~~(5)~~(4) an authorisation must not be issued for a period of more than 2 years; and
- ~~(6)~~(g) an authorisation must not be reissued to a person unless the requirements of paragraphs ~~(1 c)~~, ~~(2 d)~~, ~~(3 e)~~, ~~(4)~~ and ~~(5 f)~~ are complied with.

109.63 Procedures for High Risk cargo or mail

- (a) An applicant for the grant of a regulated air cargo agent certificate who intends to accept high-risk cargo or mail for carriage by air from an unknown customer must establish a process and procedures for determining whether a cargo or mail consignment is considered to be high risk.
- (b) The procedure must ~~contain~~ be established in accordance with Appendix E to ensure:
- (1) specific intelligence information that cargo or mail poses a threat to civil aviation are captured; and
 - (2) the identification of cargo or mail that shows anomalies or signs of tampering which give rise to suspicion; and
 - (3) additional security control procedures including screening methods and measures are identified and applied accordingly.
- ~~(b)~~(c) The additional screening methods and measures required under paragraph ~~(a b)~~ (3) must be appropriate and acceptable to the Director.

109.65 Training of personnel

- (a) An applicant for the grant of a regulated air cargo agent certificate must establish and maintain a training programme for ensuring that—
- ~~(4)~~~~109.65(a)~~(4) the persons carrying out screening operations for cargo and mail are certified according to the requirements of the national civil aviation security programme to ensure that performance standards are consistently and reliably achieved.
 - ~~(5)~~~~109.65(a)~~(5) all personnel involved with or responsible for the implementation of various aspects of the national civil aviation security programme and those authorised to have unescorted access to ~~airside areas or~~ security restricted areas must receive initial and recurrent security awareness training.
- (c) The training programme required by paragraph (a) must be;
- (1) Conducted by the certificate holder; or
 - ~~(1)~~(2) Conducted by the holder of a part 141 certificate that authorizes the conduct of such a course contract with the holder of an aviation training organisation certificate issued under Part 141, to conduct the training programme where the Part 141 certificate authorises the holder to conduct that training; and or
 - (3) for a training conducted outside of Papua New Guinea, contract with an organisation that meets an equivalent standard specified by Part 141.
- ~~(2)~~(d) The Training programme must be delivered by instructors who are qualified in the applicable subject matter and certified through the certification system approved by the Director.



Latest Amendment Date: 19/04/2024	Applicable Date: 05/04/2024	Page 11 of 13
-----------------------------------	-----------------------------	---------------

(d)(e)The certificate holder shall maintain appropriate records of all training competency assessments of its personnel and ensure that records are maintained and current.

Appendix D — Qualifications and Experience of Senior Persons

D.1 Senior person responsible for cargo and mail security control operations:

Areas	Requirements
<u>Qualification</u>	<u>Cargo Security Awareness</u> <u>Dangerous Goods Acceptance</u>
<u>Technical Experience</u>	<u>3 years' experience in cargo and mail operations</u>
<u>Managerial Experience</u>	<u>At least 1 year experience in a supervisory role / position which may have been obtained within the 3 year technical experience required above.</u>
<u>Knowledge</u>	<u>Have a clear knowledge and understanding of the cargo and mail security control operations parts of the organisations exposition and the applicable cargo and mail security control provisions of Part 109;</u> <ul style="list-style-type: none"> <u>Sufficient knowledge on cargo and mail security control measures</u> <u>Sufficient knowledge on the screening requirements for cargo and mail</u> <u>Consignment Security Declaration requirements</u> <u>High risk cargo requirements</u> <u>Understanding of safety, security and quality management systems</u>
<u>Competency</u>	<u>Undertake any examination or test that the Director may require to determine the applicant's competency to perform the cargo and mail security control operation functions required.</u>

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

D.2 Senior person responsible for cargo and mail training and competency assessments:

Areas	Requirements
<u>Qualification</u>	<u>National Training Certificate IV in Training and Assessment</u>
<u>Technical Experience</u>	<u>3 years' experience in cargo and mail operations</u>
<u>Managerial Experience</u>	<u>At least 1 year experience in a supervisory role / position which may have been obtained within the 3 year technical experience required above.</u>
<u>Knowledge</u>	<u>Have a clear knowledge and understanding of the cargo and mail training and competency assessment parts of the organisations exposition and the applicable cargo and mail training and competency assessment provisions of Part 109;</u> <ul style="list-style-type: none"> <u>Training requirements for cargo and mail personnel (initial, recurrent, OJT)</u> <u>Understanding of training methodology and concept</u>

Formatted: Not Highlight

Formatted: Not Highlight



Latest Amendment Date: 19/04/2024	Applicable Date: 05/04/2024	Page 12 of 13
-----------------------------------	-----------------------------	---------------

<u>Competency</u>	<u>Undertake any examination or test that the Director may require, to determine the applicant's competency to perform the cargo and mail training and competency assessments functions required.</u>
-------------------	---

D.3 Senior person responsible for safety and quality management systems.

<u>Areas</u>	<u>Requirements</u>
<u>Qualification</u>	<u>Lead Auditor Qualification</u>
<u>Technical Experience</u>	<u>3 years' experience in cargo and mail operations</u> <u>3 years in quality control or compliance role and activities</u>
<u>Managerial Experience</u>	<u>At least 1 year experience in a supervisory role / position which may have been obtained within the 3 year technical experience required above.</u>
<u>Knowledge</u>	<u>Have a clear knowledge and understanding of the cargo and mail safety and quality management system parts of the organisations exposition and the applicable cargo and mail safety and quality management system provisions of Part 109 and 100;</u> <ul style="list-style-type: none"> • <u>Cargo and mail security control measures</u> • <u>Consignment Security Declaration requirements</u> • <u>Quality Control</u>
<u>Competency</u>	<u>Undertake any examination or test that the director may require to determine the applicant's competency to perform the cargo and mail safety and quality management systems functions required.</u>



Appendix E — High Risk Cargo Decision Making Process

