



**CIVIL AVIATION DEPARTMENT
MALDIVES**

**NOTICE OF PROPOSED RULE MAKING
NPRM NO: 2011 - 01**

04th January 2011

ASC GEN 05 – Drug and Alcohol Management

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Appendix 1: NPRM Submission Form

Draft copy of ASC GEN 05 – Drug and Alcohol Management

1. Purpose of this NPRM

This NPRM is to consult the industry before issuing the first Amendment of ASC GEN 05 – Drug and Alcohol Management.

2. Background to the Proposal

The ASC GEN 05 has been amended to include some additional contents to the circular, such as;

- (a) Making the circular mandatory on all operators, where the operator has been defined under the definitions paragraph.
- (b) Inclusion of definitions essential to the ASC GEN 05
- (c) Paragraph 4, Safety Aviation Functions, has been amended to explain in more detail the contents of it.
- (d) Inclusion of new paragraphs,
 - i. Paragraph 5, Drug and Alcohol Management Programme
 - ii. Paragraph 6, Drug and Alcohol Testing Programme
 - iii. Paragraph 13, In-house Testing
 - iv. Paragraph 14, Medical Review
 - v. Paragraph 15, Reporting
 - vi. Paragraph 16, Offences

The rules contained in this ASC, shall apply to all Air Operator Certificate holders, Approved Organisations, Certified Aerodrome Operators and Air Navigation Service Providers.

ASC GEN 05 becomes effective on 16th January 2011.

3. Key Stakeholders

The following are identified by the CAD as key stakeholders in the proposed amendments to regulations contained in this NPRM:

- Island Aviation Services Ltd
- Maldivian Air Taxi Pvt Ltd
- Trans Maldivian Airways Pvt Ltd
- Maldives Airports Company Ltd
- Asian Academy of Aeronautics
- Mega Global Air Services (Maldives) Pvt Ltd
- MACL
- GMR
- GACL
- Regional Airports

4. Submissions on the NPRM

4.1 Submissions are invited

Interested persons are invited to participate in the making of the proposed rules by submitting written data, views, or comments. All submissions will be considered before final action on the proposed rule making is taken.

4.2 How to make a submission

Comments on this proposal may be forwarded (*preferably by e-mail*), using the NPRM Submission Form given in Appendix 1. The NPRM Submission Form is also available on the CAD website www.aviainfo.gov.mv.

Submissions may be sent by the following methods:

by mail: 11th Floor, Velaanaage
Ameerahmedmagu, Male', 20096,
Republic of Maldives

fax: + 960 3323039

e-mail: safety@aviainfo.gov.mv

4.3 Final date for submissions

Comments must be received before 13th Jan 2011

4.4 Availability of the NPRM

Any person may obtain a copy of this NPRM from:

CAD website: www.aviainfo.gov.mv/regulations/nprm.php

or from:

11th Floor, Velaanaage
Ameerahmedmagu, Male', 20096,
Republic of Maldives

4.5 Further Information

For further information contact the Regulation Project Coordinator:

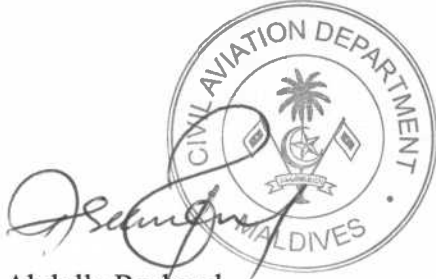
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5 Proposed Rule Amendments

As this was considered to be a major amendment to the ASC, this whole circular has been issued as an amendment without having any side bars at specific paragraphs.

5.1 Changes to Civil Aviation Regulations

Nil



Abdulla Rasheed
DEPUTY DIRECTOR

NPRM No:	Title:
Date of your Submission:	Comment Close-Off Date (as specified in NPRM):
Please return this response sheet to the Civil Aviation Department by comment close-off date, by e-mail to safety@aviainfo.gov.mv, by post addressed to this Department, 11th floor, Velaanaage, Ameerahmed Magu, Male', or by fax to + 960 3323039	

Please indicate your acceptance or otherwise of the proposal by ticking the appropriate box below. Any additional constructive comments, suggested amendments or alternative action will be welcome and may be provided on this response sheet or by separate correspondence.

The proposal is **acceptable without change.**

The proposal is **acceptable but would be improved if the following changes were made:**

The proposal is **not acceptable but would be acceptable if the following changes were made:** (Please provide explanatory comment and use additional pages if required)

The proposal is **not acceptable under any circumstance:** (Explanatory comment must be provided using additional pages if required)

Individual's Details (complete if your submission is on behalf of yourself)		Organisation's Details (if your submission is on behalf of the organization you represent)	
Your Name:		Organisation:	
Address:		Address:	
Phone:	Fax:	Phone:	Fax:
E-mail:		E-mail:	
Mobile:		Your Name and Position:	
Signature:		Signature:	



CIVIL AVIATION DEPARTMENT
Republic of Maldives

AIR SAFETY CIRCULAR
ASC GEN 05

Drug and Alcohol Management

Amendment 1, 16 January 2011

1. REGULATORY COMPLIANCE

Compliance with this Circular is mandatory for all Operators.

2. PURPOSE

This Circular establishes the development, implementation and enforcement of drug and alcohol management plans covering persons who perform safety-sensitive aviation functions.

3. DEFINITIONS

For the purpose of this Circular, the following definitions shall apply:

'Drug' means any intoxicant other than alcohol;

'Non-evidential devices' are devices that are not accepted in a court of law as providing proof that an individual had a certain level of alcohol or drugs.

'Operators' means Air Operator Certificate holders, Approved Organisations, Certified Aerodrome Operators and Air Navigation Service Providers.

'Prescribed Limit' of alcohol is –

- (a) in the case of breath, 35 microgrammes of alcohol in 100 milliliters,
- (b) in the case of blood, 20 milligrammes of alcohol in 100 milliliters, and
- (c) in the case of urine, 107 milligrammes of alcohol in 100 milliliters.

‘Standard’ means:

- (a) AS 3547, Breath alcohol testing devices for personal use; and
- (b) NMI R 126, Pattern Approval Specifications for Evidential Breath Analysers; and
- (c) AS 4760, Procedures for specimen collection and the detection and quantitation of drugs in oral fluid; and
- (d) AS/NZS 4308, Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine.

4. SAFETY-SENSITIVE AVIATION FUNCTIONS

- (a) For the purposes of this Circular the following are safety-sensitive aviation functions;
 - 1. acting as a member of the flight crew of an aircraft during flight,
 - 2. acting as a member of the cabin crew of an aircraft during flight,
 - 3. attending the flight deck of an aircraft during flight to give or supervise training, to administer a test, to observe a period of practice or to monitor or record the gaining of experience,
 - 4. calculation of the position of freight, baggage, passengers and fuel on an aircraft,
 - 5. acting as a licensed aircraft maintenance engineer,
 - 6. acting as an air traffic controller,
 - 7. activities undertaken by an airport security guard or screening officer in the course of the person’s duties as guard or officer,
 - 8. the fuelling and maintenance of vehicles that will be used to fuel aircraft,
 - 9. the loading and unloading of trolleys containing baggage for loading onto aircraft and the driving of such trolleys.
- (b) For the purposes of subparagraph (a) 5, a persons acts as licensed aircraft maintenance engineer if;
 - 1. he issues a document relating to the maintenance, condition or use of an aircraft or equipment in reliance of a license granted under or by virtue of MCAR-66,
 - 2. he carries out or supervises work on an aircraft or equipment with a view to, or a connection with, the issue by him of a document of the kind specified in subparagraph (b) 1.

5. DRUG AND ALCOHOL MANAGEMENT PROGRAMME

- (a) An Operator shall develop a Drug and Alcohol Management Programme that complies with subparagraph (b), if the Operator has an employee who performs or is available to perform safety-sensitive aviation function.
- (b) The Programme shall;
 - 1. apply to all persons performing safety-sensitive functions, and state each category of the organisation’s safety-sensitive persons covered by the programme,
 - 2. include the following
 - (i) a drug and alcohol education programme,
 - (ii) a drug and alcohol testing programme, that meets the requirements specified in paragraph 6,
 - (iii) a drug and alcohol response programme, and
 - 3. identify, and provide the contact details of the Programme manager.

6. DRUG AND ALCOHOL TESTING PROGRAMME

- (a) Biochemical tests carried under the drug and alcohol testing programme shall be conducted at laboratories approved by CAD, except as provided in paragraph 11.
- (b) The testing programme shall, as a minimum, include the following components;:
 - 1. Pre-employment testing
 - 2. Random testing
 - 3. Testing based on reasonable cause
 - 4. Post accident / incident testing
 - 5. Return to duty testing
 - 6. Follow-up testing

7. PRE-EMPLOYMENT TESTING

- (a) No operator may hire any person for safety-sensitive functions unless the operator first conducts a pre-employment test and receives a verified negative drug result for that individual.
- (b) No operator may allow an individual to transfer from a non-safety-sensitive to a safety-sensitive function unless the employer first conducts a pre-employment test and receives a verified negative drug test result for the individual.
- (c) Operators must conduct another pre-employment test and receive a verified negative drug test result before hiring or transferring an individual into a safety-sensitive function if more than 180 days elapse between conducting the pre-employment test required by this Circular and hiring or transferring the individual into a safety-sensitive function.
 - 1. The operator removed the individual from the operator's random testing program conducted under this Circular for reasons other than a verified positive test result or a refusal to submit to such testing; and
 - 2. The individual will be returning to the performance of a safety-sensitive function.
- (d) If the following criteria are met, an operator is permitted to conduct a pre-employment test, and if such a test is conducted, the operator must receive a negative test result before putting the individual into a safety-sensitive function:
- (e) Before hiring or transferring an individual to a safety-sensitive function, the operator must advise each individual that the individual will be required to undergo pre-employment testing in accordance with this Circular, to determine the presence of prohibited drugs in the Maldives. The operator shall provide this same notification to each individual required by the operator to undergo pre-employment testing.

8. RANDOM TESTING

- (a) Except as provided above, the minimum annual percentage rate for random drug testing shall be 25 percent of all employees performing safety-sensitive functions.
- (b) The selection of employees for random drug testing shall be made by a scientifically valid method, such as a random-number table or a computer-based random number generator, payroll identification numbers, or other comparable identifying numbers.

Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

- (c) All operators must select and test a percentage of employees at least equal to the minimum annual percentage rate each year.
 - 1. To determine whether operators have met the minimum annual percentage rate, all operators must divide the number of random testing results for safety-sensitive employees by the average number of safety-sensitive employees eligible for random testing.
 - 2. To calculate whether operators have met the annual minimum percentage rate, the operator must count all random positives, random negatives, and random refusals as your “random testing results.”
 - 3. To calculate the average number of safety-sensitive employees eligible for random testing throughout the year, add the total number of safety-sensitive employees eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Only safety-sensitive employees are to be in an operator’s random testing pool, and all safety-sensitive employees must be in the random pool. Operator’s conducting random testing more often than once per month such operators do not need to compute this total number of safety-sensitive employees more than on a once per month basis.
- (d) Operators may use a service agent to perform random selections, and the safety-sensitive employees may be part of a larger random testing pool of safety-sensitive employees. However, the operator must ensure that the service agent used is testing at the appropriate percentage established and that only safety-sensitive employees are in the random testing pool.
- (e) Each operator shall ensure that random drug tests conducted under this Circular are unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year.
- (f) Each operator shall ensure that each safety-sensitive employee who has shown a verified positive drug test result ceases to perform the safety-sensitive functions immediately.

9. TESTING BASED ON REASONABLE CAUSE

Each operator must test each employee who performs a safety-sensitive function and who is reasonably suspected of having used a prohibited drug. The decision to test must be based on a reasonable and articulable belief that the employee is using a prohibited drug on the basis of specific contemporaneous physical, behavioral, or performance indicators of probable drug use. At least two of the employee’s supervisors must substantiate and concur in the decision to test an employee who is reasonably suspected of drug use.

10. POST-ACCIDENT TESTING

Each Operator shall test each employee who performs a safety-sensitive function for the presence of prohibited drugs in the employee’s system if that employee’s performance either contributed to an accident or cannot be completely discounted as a contributing factor to the accident. The employee shall be tested as soon as possible but not later than 32 hours after the accident. The decision not to administer a test under this Circular must be based on a determination, using the best information available at the time of the determination that the

employee's performance could not have contributed to the accident. The employee shall submit to post-accident testing under this regulation.

11. RETURN TO DUTY TESTING

Each Operator shall ensure that before an individual is returned to duty to perform a safety-sensitive function after refusing to submit to a drug test required by this Circular or receiving a verified positive drug test result on a test conducted under this Circular the individual shall undergo a return to duty drug test. No employer shall allow an individual required to undergo return to duty testing to perform a safety-sensitive function unless the employer has received a verified negative drug test result for the individual. The test cannot occur until after the Operator has determined that the employee has successfully complied with the prescribed education and/or treatment.

12. FOLLOW-UP TESTING

- (a) Each employer shall implement a reasonable program of unannounced testing of each individual who has been hired to perform or who has been returned to the performance of a safety-sensitive function after refusing to submit to a drug test required by this Circular or receiving a verified positive drug test result on a test conducted under this Circular.
- (b) The number and frequency of such testing shall be determined by the Operator, but shall consist of at least six tests in the first 12 months following the employee's return to duty.
- (c) Follow-up testing shall not exceed 60 months after the date the individual begins to perform or returns to the performance of a safety-sensitive function. The Operator may terminate the requirement for follow-up testing at any time after the first six tests have been conducted, if the Operator determines that such testing is no longer necessary

13. IN-HOUSE TESTING

- (a) Operators may conduct in-house drug and alcohol tests using non-evidential devices, especially at remote locations, where the burden of maintaining approved testing laboratories, would be significant.
- (b) For subparagraph (a) the Operator shall meet the following requirements;
 1. amend the Drug and Alcohol Management Programme to include;
 - (i) locations approved by the company where such tests may be carried out,
 - (ii) persons approved by the company to carry out such tests, and
 - (iii) the requirement that any devices used in drug or alcohol testing done under the in-house programme must be used in a way that is consistent with the instructions of the manufacturer of those devices.
 2. that any testing done under the in-house programme shall be conducted as follows;
 - (i) for breath and alcohol testing – using a device that meets the Standard mentioned in paragraph (a) of the definition of Standard, or a device that meets the Standard mentioned in paragraph(b) of that definition.
 - (ii) for oral fluid testing – in accordance with the Standard mentioned in paragraph (c) of the definition of Standard,

- (iii) for urine testing – in accordance with the Standard mention in paragraph (d) of the definition of Standard.
- (c) If an in-house test is positive, the Operator shall;
 - 1. arrange for a confirmatory test at an approved testing laboratory as soon as practicable
 - 2. not allow the person to perform an applicable safety-sensitive function until the person has received a confirmatory test in respect of the in-house test.
- (d) If the confirmatory test results in a negative result, then the test result of the in-house test is taken to be a false positive.
- (e) If the confirmatory test results in a positive result, then the test result of the in-house test is taken to be a positive and the Operator shall;
 - 1. ensure the person ceases to perform an applicable safety-sensitive function,
 - 2. inform CAD within 48 hours, and
 - 3. carry out a medical review, as specified in paragraph 14, where applicable.

14. MEDICAL REVIEW

- (a) The Operator shall carry out a medical review with a CAD approved Aviation Medical Examiner (AME);
 - 1. if a drug test conducted under the drug and alcohol testing programme returns a positive result - to determine if the presence and level of a testable drug detected by the test could be the result of legitimate therapeutic treatment or some other innocuous source; and
 - 2. to review medical information concerning a person's failure to give a body sample for drug or alcohol testing because of a medical condition; and
 - 3. to determine if the employee is fit to resume performing or being available to perform a safety-sensitive function.
- (b) A positive result for a drug test conducted on a body sample under a drug and alcohol testing programme mentioned in paragraph 6, is taken to be a verified positive result for the sample if a CAD approved AME has determined that the test results for the sample could not be the result of legitimate therapeutic treatment or some innocuous source.
- (c) A positive result for a drug test conducted on a body sample under a drug and alcohol testing programme mentioned in paragraph 6, is taken not to be a positive result for the sample if a CAD approved AME has determined that the test results for the sample could be the result of legitimate therapeutic treatment or some innocuous source.

15. REPORTING

Each Operator shall notify CAD within 48 hours of any person, who has either refused to submit to a drug or alcohol test required under this Circular or who has shown a verified positive result.

16. OFFENCES

- (a) A person commits an offence if;

1. he performs a safety-sensitive aviation function at a time when his ability to perform the function is impaired because of alcohol or drugs,
 2. he refuses or fails to give a body sample to an approved tester at a time when the person is performing or available to perform a safety-sensitive aviation function,
 3. he interferes with the integrity of the body sample given for a drug or alcohol test,
- (b) CAD may, in writing, vary, suspend or cancel a person's civil aviation authorisation in the interest of safety if a person commits an offence specified in subparagraph (a).

17. PERMANENT DISQUALIFICATION FROM SERVICE

A person who has verified positive drug test results on two drug tests required by this Circular is permanently precluded from performing safety sensitive duties for any Operator.

18. RETENTION OF RECORDS

- (a) Records concerning drug tests confirmed positive shall be maintained by the operator for 5 years. Such records include the medical interviews and any other documentation concerning the operator's verification process.
- (b) Records concerning all other drug tests performed under Circular shall be maintained by the operator for 2 years.

19. RELEASE OF DRUG TESTING INFORMATION

An Operator shall not release information regarding an employee's drug testing results, evaluation, or rehabilitation to a third party, except as required by law and this Circular.

20. ACCESS TO RECORDS

Each Operator shall permit Authorised Persons pursuant to Civil Aviation Regulations Part 3.3, to examine records required to be kept under this regulation.

For the Civil Aviation Department
Abdulla Rasheed
DEPUTY DIRECTOR