

**Comment Response Document (CRD)
to Advance - Notice of Proposed Amendment (A-NPA) 14-2006**

**A CONCEPT FOR BETTER REGULATION IN GENERAL AVIATION
(AIRCRAFT OTHER THAN COMPLEX MOTOR POWERED AIRCRAFT, USED IN
NON-COMMERCIAL ACTIVITIES)**

Explanatory Memorandum

I. General

1. The purpose of the Advance - Notice of Proposed Amendment 14-2006 (A-NPA), dated 16 August 2006 was to propose a concept for the regulation of aircraft other than complex-motor-powered aircraft, used in non-commercial operations. The A-NPA was developed as a first step towards further rulemaking activities. The concept envisaged significant regulatory principles that are not widely used in aviation. Furthermore the aim of the A-NPA was to open the debate at conceptual level thus ensuring that views of the aviation community are taken into account before proposing changes to existing regulations. The text of the A-NPA has been developed by the rulemaking group MDM.032 (Multi-Disciplinary Measures) and is included in the European Aviation Safety Agency's (the Agency) rulemaking programme for 2007.

II. Consultation

2. The A-NPA was published on the Agency's web site (www.easa.europa.eu) on 16 August 2006. In accordance with Article 14 of the Agency's rulemaking procedure¹ a consultation period of 2 months was chosen, to enable the MDM.032 working-group to follow the timescales imposed through the legislative process for the extension of the scope of the Basic Regulation to the regulation to air operations, pilot licensing and third country aircraft. By the closing date of 16 October 2006 the Agency had received 8054 comments from national authorities, professional organisations, private companies and private persons. The total figure includes also replies received from non-EU Member States. The comments were reviewed by Agency staff assisted by external experts, including persons not involved in the drafting of the consultation document, so as to ensure fair treatment of all comments received.

III. Publication of the CRD

3. All comments received have been acknowledged and incorporated into this Comment Response Document (CRD), which contains the following elements:
 - The conclusions that can be drawn from the consultation (Chapter IV hereunder); for the ease of better understanding it is recommended to read this chapter in parallel with the parts of the A-NPA to which each of its sections refers;
 - An inventory of answers containing all comments received for the 7 specific questions posted in the A-NPA (with several Appendices for the identical comments).
4. The Agency will use the results of this consultation when developing new regulatory material for aircraft other than complex motor powered aircraft, not used in commercial activities. This material will be published in upcoming NPAs in the different fields. This new consultation will allow stakeholders to further define and perhaps correct the opinions expressed in this consultation.
5. Nonetheless, should certain stakeholders feel that their comments have been improperly taken into account, they may react to this A-NPA. Such reactions should be received by EASA not later than 09 January 2008 and should be sent to the following address: CRD@easa.europa.eu.

¹ Management Board decision concerning the procedure to be applied by the Agency for the issuing of opinions, certification specifications and guidance material ("Rulemaking Procedure"), EASA MB/08/2007, 13.6.2007

IV. Background

6. In Opinion No 3/2004² that served as the basis for the Commission's legislative proposal, the Agency recognised that the current Joint Aviation Requirement-Flight Crew Licensing Private Pilot Licence (JAR-FCL PPL) may be too demanding for flying only simple aircraft in a simple air traffic environment and considered it appropriate to create an additional level of licence for these types of activities. As a consequence the Agency proposed the creation of a new category of private pilot licence, as an alternative to the existing JAR-FCL PPL. The Opinion also concluded that the operation of General Aviation aircraft needed to be regulated through rules adapted to the complexity of the aircraft rather than to the type of activity, except if such activity affects the related risks.
7. Furthermore, during the consultation that took place for the preparation of Opinion N° 3/2004, several additional issues were highlighted by some stakeholders, who felt that they were overregulated and did not want to be faced with the same situation when the air operations and pilot licensing come into the Agency's scope. Further contacts with the concerned communities took place to investigate the actual difficulties. They showed that the airworthiness regulations needed to be reviewed. The Agency was concerned about the situation highlighted during the consultation and ensuing meetings and decided to address this issue. All the issues raised above were addressed in a single rulemaking task to develop a coherent system adapted to the needs of General Aviation as a whole. It was designated as rulemaking task MDM.032.
8. To address this issue a rulemaking group was set up. It was composed of experts nominated by different stakeholders concerned by the issue, experts of the National Aviation Authorities (NAAs) and the Agency. In the initial phase, the group was asked to think beyond the limits of conventional approaches to regulation in aviation. A number of options were introduced in the regulatory impact assessments³ that were attached to A-NPA 14/2006 to explain the reasons behind these options. Furthermore, in the A-NPA the Agency asked for additional input from affected stakeholders. Through this A-NPA the Agency wanted to initiate a discussion with stakeholders on a possible concept for better regulation in General Aviation and to obtain the necessary feedback.
9. The present CRD summarises the results of the above consultation and defines the measures the Agency intends to propose in order to improve regulation in General Aviation.

V. Result of the consultation

A. Comments of a more general nature

10. The Agency has produced an inventory of answers, which is part of the current CRD. It incorporates the suggestions for improvement of the A-NPA made by stakeholders. The Agency does not intend to incorporate these changes into the A-NPA as it has already been published. Nonetheless the Agency recognises the validity of many of the improvement suggestions received and has used them to develop the explanatory note of the CRD.

² OPINION No 3/2004 OF THE EUROPEAN AVIATION SAFETY AGENCY for amending Regulation (EC) No 1592/2002 of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, to extend its scope to the regulation of pilot licensing, air operations and third country aircraft of 16 December 2004

³ The development of regulatory impact assessments (RIA) is required by the EASA rulemaking procedure. It is a useful process to select options by evaluating their impact on the following factors: safety, economics, social field, environmental protection, international harmonisation and other aviation regulations outside the EASA remit when appropriate.

B. General

11. The A-NPA presented a concept that included four components addressing respectively initial airworthiness, continuing airworthiness, air operations and pilot licensing. The RIAs provided the reasons behind the choice of the options for each component. In some cases, it was not possible to retain only one option without the opinion of all stakeholders; the various possibilities were reflected and open for comments. The final concept will take into account these comments in order to present the more consensual solution as possible. The detailed descriptions of these options can be found in the A-NPA.

1. Initial Airworthiness

12. In this domain, after a review of the options proposed by the rulemaking group and reflected into the RIA for initial airworthiness, the Agency considered more appropriate to maintain the current certification process as prescribed by Regulation EC 1702/2003⁴ for all aircraft with a maximum take-off mass (MTOM) of 2000 kg or more. Three options were proposed to reduce the certification burden for aircraft below this mass. It was also considered more advisable that individual certificates of airworthiness be always issued by NAAs for all aircraft whatever their mass. The options were the following:

- Option 1: relaxation of the current system
- Option 2: industry monitoring
- Option 3: industry monitoring with self declaration

2. Continuing Airworthiness and Maintenance

13. The need to improve Part-M⁵ to reduce the burden on applicants was shown by the Regulatory Impact Assessment (RIA) conducted by the Agency and the views expressed by stakeholders notably during workshops. The group came to the conclusion that the best option was to continue with the ongoing rulemaking tasks already initiated by the Agency on this issue.

3. Air Operations

14. When developing Opinion 3/2004 the Agency explored ways and means of regulating air operations and pilot licensing. The group confirmed the preferred way forward and the conclusions reached at the time: a set of “light” implementing rules and Acceptable Means of Compliance (AMC) to ease the implementation of the Essential Requirements for air operations.

4. Pilot Licensing

15. Here again the Group confirmed the conclusions reached in Opinion 3/2004. There is a need to revise the current PPL licence as defined in JAR FCL to accommodate deficiencies recognised by the majority of stakeholders. The group therefore supported the concept of a Light Aircraft Pilot Licence (LAPL) covering the full scope of aircraft other than complex-motor-powered aircraft, founded on a stepwise approach and on competence based training.

⁴ COMMISSION REGULATION (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations

⁵ Annex 1 to ‘COMMISSION REGULATION (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks’, hereinafter known as Part-M.

16. As can be seen from the description above, there were still a number of points to clarify. In this context the Agency asked the views of stakeholders on the general balance of the envisaged concept, as well as any suitable comment on its content not covered by the following questions. The answers to this question can be summarised as follows:

The majority of stakeholders did not answer the question about their opinion on the envisaged concept. Most of them provided information about their national systems for the regulation of General Aviation and additional comments on the proposed concept.

A notable number of stakeholders expressed their support for the principles of the new concept and mentioned the good balance of the contents. Most of them emphasized a need for further consideration on some of the subjects.

Only a few stakeholders were not in favour of the envisaged concept for better regulation of General Aviation.

Some stakeholders sent comments on subjects which were not covered in this A-NPA.

17. The Agency therefore concludes that there is general support for simplifying regulations and will develop new regulatory material along these lines. As further explained in the document, in so doing the Agency will take into account the answers to the subsequent questions.

18. In many essential elements of the concept above, it was envisaged to make use of assessment bodies and it was stated that such a form of "self administration" has been working in a lot of countries over the last 40 years without generating any significant decrease in safety. Furthermore, the burden of the transfer of responsibility is addressed in the Guide to the implementation of directives based on the New Approach and the Global Approach published by the Commission stating that assessment bodies take over the responsibility only for the certification tasks executed and that subsequently their responsibility is limited as the main burden remains with the regulated organisation. With this background in mind the Agency asked stakeholders and in particular the potential assessment bodies if they agreed on introducing the possibility for approved assessment bodies to issue and administer approvals, certificates or licences, as a means to relax the regulatory framework applicable to General Aviation. The Agency was also interested by comments about having "one-man" assessment bodies similar to the American system. The answers to this question can be summarised as follows:

The vast majority of stakeholders found it feasible in principle to develop a concept of assessment bodies without any restriction of tasks. Most of them also accepted the idea of a "one man" assessment body. Only a few stakeholders wanted to see the tasks of these assessment bodies limited to special areas such as airworthiness or licensing. In addition, they mentioned several issues to be considered before implementation.

Only a minority of stakeholders including 5 National Aviation authorities didn't agree with the concept of assessment bodies or with the introduction of "one-man" assessment bodies at all.

19. In view of this feedback, the Agency continues to support the introduction of assessment bodies for the oversight of General Aviation activities such as the LAPL as stated in Opinion 3/2004. This continues to be a politically sensitive issue which the Agency envisages raising again for the attention of the legislator on the basis, the majority view expressed in this consultation. The empowering of assessment bodies requires changes of the Basic Regulation. As it is necessary to make progress in improving the way general aviation is regulated the Agency will meanwhile propose adjustments to the existing implementing rules that can be achieved without such changes.

C. Initial Airworthiness

20. When considering the envisaged options for initial airworthiness in the A-NPA, the Agency highlighted, beyond simplification of Part-21⁶, regulatory concepts that were well known and tested in many other sectors where the industry plays a significant role in policing itself. The associated options introduced the possibility for Assessment Bodies to issue Type Certificates (or even self-certification for aircraft below 750 kg) and the use of Industry standards to replace inter alia certification specifications, such as those already successfully implemented in several aviation sectors (e.g. Microlights), as well as in the United States (i.e. Light Sport Airplane Rule). In this context it would be necessary to modify the Basic Regulation and its Essential Requirements for airworthiness in particular to give such roles to assessment bodies, to make such industry standards easier to develop and reduce the risks of inconsistencies.
21. In this perspective, stakeholders were invited to inform the Agency which of the options described in the concept was the most suitable for initial airworthiness regulation of General Aviation and to propose possible associated mass limits. The answers to this question lead to the following analysis:

The vast majority of stakeholders is supporting either option 2 (Industry monitoring) or option 3 (Industry monitoring with self certification). Some of the stakeholders supporting option 3 were also supporting option 1 (relaxation of the current system) for aircraft above 2000 kg where the Agency had proposed no changes to Part-21. Some other stakeholders supporting option 3 were considering it more for the long term and would support option 1. in return.

A number of stakeholders proposed the creation of a category comparable to the US light Sport Aircraft rule.

Other stakeholders (including many National Authorities) supported the use of option 1.

Some stakeholders proposed simplified regulations for aircraft using power and weight limits as criteria.

One National Authority was concerned by the potential increase of risk in adopting either of the options 1 to 3 and did not advocate changes.

Mixed views were expressed on the one-man DOA or DER.

Concerning weight criteria, the stakeholders were almost unanimous in accepting an upper limit of 2000 kg for the relaxation of the present system of Part-21. The comments received regarding a weight limit below which a very simple certification process would be acceptable shows no such unanimity. The upper boundary of these suggestions was generally 850 kg (powered sailplanes). Other suggestions supported the A-NPA proposal of 750 kg (Sailplanes and very light Aeroplanes) whilst some stakeholders suggested 600 kg to be consistent with the FAA LSA category.

22. In view of that feedback the Agency continues to support the introduction of assessment bodies as proposed in Option 2 and Option 3. The Agency will therefore consider preparing the necessary changes to the Basic Regulation to allow such an option in the future. In the meantime, the Agency envisages a solution close to Option 3 for aircraft below 1000 kg and nearer to Option 1 for aircraft between 1000-2000 kg. This lighter regulatory regime would be based around a new process for the European Light Aircraft (ELA). ELA is not a new category of aircraft defined by criteria such as stalling speed or certification code, but is a substantially simpler new process for the regulation of aircraft and related products, parts and appliances. Increased reliance on qualified entities would be part of

⁶ Annex to 'COMMISSION REGULATION (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations', hereinafter known as Part-21.

this process to increase proximity with applicants. The NPA to Part-21 corresponding to the ELA should be issued in the 4th quarter of 2007.

D. Continuing Airworthiness and Maintenance

23. Even though the preferred option was to continue work already initiated by the Agency on these issues, additional guidance from stakeholders was requested on the following issues: the involvement of assessment bodies in the oversight of continuing airworthiness, such as the airworthiness review certificate (ARC) renewal, the role of NAAs in this field, the need for the adaptation of continuing airworthiness requirements to the size and type of aircraft, the need for developing standard modifications and repairs that could be embodied without the need for further approvals and the possibility of developing Industry Standards to be used in continuing airworthiness processes. The view of stakeholders may be summed up as follows:

1. *The vast majority support the involvement of assessment bodies in the oversight of continuing airworthiness. Only a small minority (including 6 National Authorities) do not support such involvement.*
2. *The vast majority proposes no or a minimal role for National Authorities. Only a small minority (including 6 National Authorities) support such an involvement*
3. *The vast majority believes that continuing airworthiness requirements should be adapted to the size / type of aircraft. A significant number however did not agree to this idea and proposed other criteria.*
4. *A majority supported the development of standard modification by the TC holders or assessment bodies. A significant number however expressed doubts to the practicality of developing such standard modifications or repairs.*
5. *Stakeholders were almost unanimous in supporting the use of Industry standards. Mixed views were expressed concerning who should develop them: suggestions were TC holders, Assessment Bodies, Associations, Standardisation Bodies.*
6. *Although they did not directly reply to the above questions, a number of stakeholders supported simplified regulations.*

24. In view of this feedback the Agency continues to support the introduction of assessment bodies as in the oversight of continuing airworthiness.

In the meantime, the Agency has noted the strong request for simplification of the regulatory framework. This confirmed the Agency in its intention to further the option 1 for continuing airworthiness envisaged by the A-NPA (Adjusting Part-M to the need of aircraft other than complex aircraft; creating a new level of licence for maintenance engineers in charge with General Aviation; establishing new privileges for maintenance organisations). The replies received on this question have been passed to the group dealing with Task M.017, which was working on improving Part-M based on the Regulatory Impact Assessment commissioned by the Agency in 2005 and developing Acceptable Means of Compliance. The review of the replies by the group M.017 led to the conclusion that most issues raised by the replies to the questions were already being addressed by their work, except for the development of standard modification and standard repairs.

The corresponding NPA 2007-08 (Revised Part-M requirements for aircraft not used in Commercial Air Transport and Pilot owner maintenance) has been published on 25 June 2007. The NPA relative to the new level of licence should be issued in the 4th quarter of 2007.

The development of requirements relative to standard modifications and repairs will be part of the ELA concept.

E. Air Operations

25. As stated in paragraph 14 above a simple set of general operating rules was to be developed. In this regard, stakeholders were asked what should be the content of these “light” Implementing Rules” for air operations. The Agency analysed their views in the following manner:

The vast majority of respondents believed there was a need to develop some kind of “light” implementing rules for air operation in order to further explain how compliance with the Essential Requirements was to be reached. Most of them mentioned the importance of considering the ICAO standards within these requirements.

26. Following this clear position expressed by stakeholders the Agency will develop, within the framework of the extension of community competence to air operations, rules for the implementation of the new Essential Requirements in the field of aircraft other than complex motor powered aircraft used in non-commercial activities.

F. Pilot Licensing

27. Recognising the deficiencies of the current JAR PPL license the commission proposed in its legislative proposal COM (2005) 579 the creation of a new type of licence, now known as Light Aircraft Pilot Licence (LAPL), as several member states have already done. It was considered essential that these licences could be issued by assessment bodies and that medical attestations could be issued by general medical practitioners in order not only to preserve the existing situation in certain Member States but more importantly to involve the regulated persons in the administration of the rules they must comply with. With this in mind the Agency questioned stakeholders on their opinion concerning the conditions and privileges of a LAPL with particular emphasis on the type of aircraft it would allow to be flown and in particular whether an upper mass limit would be appropriate, the ratings that could be attached to such a licence, the way medical assessments could be done and the possible role of general medical practitioners. The stakeholders’ position concerning this question about the future licensing is summarised as follows:

The vast majority of stakeholders highly supported the envisaged new concept for a European Pilot Licence. Most of them mentioned all types of General Aviation aircraft categories. A slight majority of stakeholders considered that the future European Private Pilot Licence should be introduced for aircraft with a MTOM up to 5700 kg. However a considerable number of stakeholders proposed to develop requirements for such a licence for “non-complex” aircrafts only up to 2000 kg MTOW.

Concerning ratings, the vast majority of stakeholders considered that all the existing types of ratings should be introduced for the future European PPL. A significant minority however proposed to create a basic licence and additional ratings for the different aircraft categories.

Concerning medical assessments, the majority of stakeholders considered that medical assessments carried out by a general practitioner accompanied by some form of self declaration would be the right solution for this new European Licence. Many of them mentioned that an approved standard of aviation medicine knowledge for the General

Practitioners must be ensured. Amongst these only a few recommended an initial check by an AME⁷ or AMC⁸ with a subsequent procedure involving general practitioners based on

self declaration. Finally a small number of stakeholders expressed their disagreement with the proposal to introduce a system based on general practitioners.

28. In view of this feedback the Agency has launched the necessary work to develop Implementing Rules and AMC material for a future LAPL. This license will have different types of ratings and will probably not meet ICAO standards on some issues. One of the features in the development of the LAPL is the creation of specific medical requirements.

G. The scope of common rules

29. In the recitals of its legislative proposal COM (2005) 579, the Commission expressed the view that the scope of Annex II should be re-examined. The A-NPA did not propose to modify this annex at this early stage as such a reduction could not be considered in the current regulatory system. Nonetheless, in the A-NPA, the Agency emphasised that reducing the scope of Annex II would have many advantages. The Agency was therefore interested in knowing whether stakeholders thought it was possible to remove certain aircraft from Annex II if the envisaged concept was implemented. The answers received can be outlined as follows:

On this question a massive organised mailing campaign was orchestrated. The numerous identical answers have been merged and are considered as representing one interest group. Considering the above the answers to the question are divided. While half of stakeholders strongly recommended that no aircraft should be removed from Annex II of the Basic Regulation, some of them mentioning especially the category of “microlights”, another half indicated that with the introduction of the proposed changes of the concept for better regulation of General Aviation, in the future, some aircraft categories possibly could be removed from Annex II.

Finally a certain number of stakeholders representing one activity located mainly in one Member State proposed to expand the listed aircraft categories in Annex II and to include some more categories with higher weight limits.

30. The Agency draws the following conclusions from the above summarised answers. Firstly, it would appear that despite the efforts made by the Agency to address the issue of better regulation in general aviation, the members of the microlight community continue to fear overregulation by the European community and have therefore applied strong pressure during this consultation process to leave Annex II unchanged. Secondly a certain portion of aircraft manufacturers have a clear commercial interest in maintaining and extending an un-level playing field that has allowed them to gain a very large portion of the market of very small aircraft. According to Article 2 of the Basic Regulation one of the Agency’s key objectives is to prevent such situations from occurring. It is therefore impossible for the Agency to take the proposal made to extend Annex II to heavier aircraft into account. Finally, considering the divided views on a possible reduction of Annex II, the Agency will analyse, taking into account the new situation that will be created by the new regulations stemming from this activity, the opportunity for any change to Annex II.

⁷ AME stands for Aero Medical Examiner

⁸ AMC stands for Aero Medical Centre

VI. Conclusions

31. From this consultation the Agency plans, as requested by stakeholders, to implement the concepts chosen above. To this end and without prejudice to possible action to promote the use of assessment bodies the Agency has launched the following actions:

- Initial airworthiness: The agency plans to issue the NPA to Part-21 corresponding to the ELA in the 4th quarter of 2007.
- Continuing Airworthiness and Maintenance: NPA 2007-08 (Revised Part-M requirements for aircraft not used in Commercial Air Transport and Pilot owner maintenance) has been published on 25 June 2007. The NPA relative to the new level of licence for maintenance engineers in general aviation should be issued in the 4th quarter of 2007. The development of requirements relative to standard modifications and repairs will be part of the ELA concept.
- Air Operations: The Agency plans to publish an NPA on operations regulatory material as soon as the legislator has adopted the amendment to the Basic Regulation now under discussion. This NPA will include proposals for regulating the operation of aircraft other than complex motor powered aircraft, used in non-commercial activities.
- Pilot Licensing: The Agency plans to publish an NPA on flight crew licensing regulatory material as soon as the legislator has adopted the amendment to the Basic Regulation now under discussion. This NPA will include proposals for regulating the licensing of light aircraft pilots. More specifically the issues of medical assessment and privileges for this category of pilots will be addressed.