



# Notice of Proposed Amendment 2024-105(A)

issued in accordance with Article 6 of MB Decision 01-2022

## Proposed amendments to the acceptable means of compliance and guidance material to Commission Regulation (EU) No 965/2012

### *Regular update of the air operations rules – ICAO alignment*

RMT.0392 — Subtask 1f

<b>EXECUTIVE SUMMARY</b>		
<p>This Notice of Proposed Amendment (NPA) proposes increasing the alignment between the EU air operations regulatory framework and relevant International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs) and Documents related to the ICAO Universal Safety Oversight Audit Programme (USOAP), by proposing non-controversial amendments to the acceptable means of compliance and guidance material to Commission Regulation (EU) No 965/2012. This will improve the effective implementation of ICAO SARPs by the European Union Aviation Safety Agency (EASA) and EU Member States in the area of air operations.</p> <p>The proposed regulatory material is expected to maintain, and in some cases enhance, the level of safety and to provide benefits in terms of efficiency, with a very low economic impact and no environmental or social impact.</p>		
<b>REGULATION(S) TO BE AMENDED/ISSUED</b> n/a	<b>ED DECISION(S) TO BE AMENDED</b> <a href="#">ED Decision 2014/017/R – AMC &amp; GM to Part-ORO</a> <a href="#">ED Decision 2014/015/R – AMC &amp; GM to Part-CAT</a>	
<b>AFFECTED STAKEHOLDERS</b> EASA; Member States and their national competent authorities; aircraft operators; aircrew		
<b>WORKING METHODS</b>		
<b>Development</b>	<b>Impact assessment(s)</b>	<b>Consultation</b>
By EASA	Light	Focused (Advisory Bodies) — NPA
<b>RELATED DOCUMENTS / INFORMATION</b> <a href="#">ToR RMT.0392</a> , issued on 7 October 2020		
<b>PLANNING MILESTONES</b> Refer to the latest edition of Volume II of the <i>European Plan for Aviation Safety</i> <sup>1</sup>		

<sup>1</sup> [European Plan for Aviation Safety \(EPAS\) 2024 - 13th edition | EASA \(europa.eu\)](#)



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## 1. About this NPA

### 1.1. How this regulatory material was developed

The European Union Aviation Safety Agency (EASA) identified the need to increase the alignment between the EU air operations regulatory framework and relevant International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs) and Documents related to the ICAO Universal Safety Oversight Audit Programme (USOAP) (as identified in Chapter 2), and, after assessing the impacts of the possible intervention actions, identified rulemaking as the necessary intervention action.

This rulemaking activity will be included in Volume II of the 2025 edition of the *European Plan for Aviation Safety*<sup>2</sup> under Rulemaking Task (RMT) 0392, Subtask 1f.

EASA developed the regulatory material in question in line with Regulation (EU) 2018/1139<sup>3</sup> (the Basic Regulation) and the Rulemaking Procedure<sup>4</sup>, as well as in accordance with the objectives and working methods described in the Terms of Reference for this RMT<sup>5</sup>.

### 1.2. How to comment on this NPA

The draft regulatory material is hereby submitted to the EASA Advisory Bodies for consultation.

Please submit your comments via email to [air\\_ops@easa.europa.eu](mailto:air_ops@easa.europa.eu).

The deadline for the submission of comments is **31 October 2024**.

### 1.3. Next steps

Following the consultation on the draft regulatory material, EASA will review all the comments received and will duly consider them in the subsequent phases of this rulemaking activity. Depending on the comments received, EASA may request the support of (some of) the members of the Advisory Bodies for its revision.

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<sup>2</sup> [European Plan for Aviation Safety | EASA \(europa.eu\)](#)

<sup>3</sup> Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1535612134845&uri=CELEX:32018R1139>).

<sup>4</sup> EASA is bound to follow a structured rulemaking process as required by Article 115(1) of Regulation (EU) 2018/1139. Such a process has been adopted by the EASA Management Board (MB) and is referred to as the rulemaking procedure. See MB Decision No 01-2022 of 2 May 2022 on the procedure to be applied by EASA for the issuing of opinions, certification specifications and other detailed specifications, acceptable means of compliance and guidance material ('rulemaking procedure'), and repealing MB Decision No 18-2015 (<https://www.easa.europa.eu/the-agency/management-board/decisions/easa-mb-decision-01-2022-rulemaking-procedure-repealing-mb>).

<sup>5</sup> [ToR RMT.0392 - Regular update of air operations rules | EASA \(europa.eu\)](#)



Considering the above, EASA may issue a Decision amending the acceptable means of compliance (AMC) and guidance material (GM) to Regulation (EU) No 965/2012<sup>6</sup>.

This decision will include some elements that were consulted under NPA 2022-11<sup>7</sup>, such as amendments to AMC2 ORO.GEN.200(a)(3) and GM5 ORO.GEN.200(a)(3) related to operations over or near conflict zones.

When issuing the Decision, EASA will also provide feedback to the commentators and information to the public on who engaged in the process and/or provided comments during the consultation on the draft regulatory material, what comments were received, how such engagement and/or consultation was used in rulemaking and how the comments were considered.

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<sup>6</sup> Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012R0965>).

<sup>7</sup> [NPA 2022-11 - Regular update of the Air Operations rules: lessons learnt from standardisation inspections, helicopter operation issues, and transposition of several ICAO SARPs | EASA \(europa.eu\)](#)



## 2. In summary – why and what

### 2.1. Why we need to act

One of the objectives of the Basic Regulation is to assist Member States ‘in exercising their rights and fulfilling their obligations under the Chicago Convention, by ensuring a common interpretation and a uniform and timely implementation of its provisions, as appropriate’<sup>8</sup>.

Regulation (EU) No 965/2012 (the Air Operations Regulation) lays down detailed rules for air operations with aeroplanes and helicopters, which consider the ICAO SARPs, in particular those included in ICAO Annex 6 and related documentation.

All Member States are ICAO Contracting States, and in that quality are subject to the USOAP established by the ICAO to monitor the fulfilment of their safety oversight obligations. EASA is also subject to the USOAP, covering all applicable USOAP continuous monitoring approach protocols, under a working arrangement<sup>9</sup> concluded by EASA and ICAO in 2014.

#### 2.1.1. Description of the issue

The USOAP’s working methodology uses checklists containing ‘protocol questions’ (PQs) to verify compliance with the relevant ICAO SARPs and related ICAO Documents.

While reviewing the ICAO USOAP PQs for air operations, EASA identified several small inconsistencies between the AMC and GM to Regulation (EU) No 965/2012 and relevant ICAO Documents. The main issues identified are the following.

**Minimum equipment list (MEL) assessment.** According to point (c)(2) of point ORO.AOC.110, an operator intending to wet lease-in an aircraft from a third-country operator needs to demonstrate to the competent authority that the safety standards of the third-country operator regarding continuing airworthiness and air operations are equivalent to the applicable requirements in the EASA system. To support the implementation of this requirement, AMC1 ORO.AOC.110(c) contains a list of relevant requirements to which equivalency needs to be demonstrated by the operator. Point (b)(2) of the AMC provides that the operator should demonstrate compliance with the provisions of Subpart ORO.MLR, ‘excluding point ORO.MLR.105’ on the MEL.

The exclusion of the requirements on the MEL has been in place since the initial issue of AMC1 ORO.AOC.110(c)<sup>10</sup>. This exclusion was made to address the concern that demonstrating equivalency to the EU requirements would prove too burdensome considering that, at the time, the concept of operational suitability data, including the master MEL (MMEL), as provided for in Regulation (EU) No 748/2012<sup>11</sup>, was just starting to be implemented.

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<sup>8</sup> Article 1(2)(g).

<sup>9</sup> ‘Working arrangement on continuous monitoring activities between the European Aviation Safety Agency and the International Civil Aviation Organisation’, signed on 30 July 2014 (<https://www.easa.europa.eu/en/document-library/working-arrangements/working-arrangement-continuous-monitoring-activities-between>). See in particular point 6.

<sup>10</sup> [ED Decision 2012/017/R - AMC & GM to Part-ORO | EASA \(europa.eu\)](https://eur-lex.europa.eu/eli/dec/2012/017/r/1/1)

<sup>11</sup> Commission Regulation (EU) No 748/2012 of 3 August 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 (OJ L 224, 21.8.2012, p. 1) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012R0748&qid=1724849523792>).



Point 5.1 of Appendix V to ICAO Annex 6, Part I, and point 5.1 of Appendix I to Annex 6, Part III, on the safety oversight of air operators, require the State to ensure that ‘authority inspectors are provided with technical guidance manuals containing the policies, procedures and standards to be used in the certification and continued surveillance of air operators’. Within the USOAP, compliance with this standard requires the State to have established procedures for the acceptance or approval of aircraft leasing arrangements, which should address several elements, among them the approval of the MEL.

The current provisions of point ORO.AOC.110(c) and its related AMC and GM cover all the elements that should be addressed by the state procedures in accordance with the ICAO, except for this point on the approval of the MEL. This does not constitute a difference between point ORO.AOC.110(c) and ICAO SARPs, since there is no specific SARP requiring it<sup>12</sup>. Nevertheless, this small discrepancy would be enough for the ICAO to consider that the EU regulatory framework does not satisfactorily address the acceptance or approval of wet-lease agreements.

**Changes to the content of the operations manual (OM).** Under point ORO.MLR.100, the operator must establish and maintain an OM containing all necessary instructions, information and procedures for all aircraft operated and for operations personnel to perform their duties. To support the implementation of this provision, AMC3 ORO.MLR.100 contains a list of the information that needs to be included in the OM.

When reviewing in detail the content of this AMC, EASA identified some elements that, despite being required from the operator under the Air Operations Regulation or other EU legislation, are not specifically mentioned in the list of contents of the OM. These inconsistencies could create confusion for operators and therefore hinder the implementation of the Air Operations Regulation. At the same time, they could have a negative impact when compliance with the related ICAO SARPs is being assessed under the USOAP.

**Controlled flight into terrain (CFIT) flight crew training programmes.** Point CAT.OP.MPA.290 establishes that a pilot must take immediate corrective action whenever undue proximity to the ground is detected by a ground proximity warning system (GPWS) or a flight crew member. However, GM1 CAT.OP.MPA.290 currently does not contain any provisions to support the operator when developing flight crew training programmes when the aircraft is not equipped with a terrain awareness warning system (TAWS)<sup>13</sup>.

**Clarification on the term ‘qualification’ in point ORO.FC.005.** Subpart ORO.FC establishes requirements to be met by the operator related to flight crew training, experience and qualification. Currently, the term qualification could be interpreted as referring to only the initial qualification of flight crew, whereas it was originally meant to cover the maintenance of this qualification as well.

### 2.1.2. Who is affected by the issue

This issue affects EASA, Member States and their national competent authorities, aircraft operators, flight crew and other operational staff.

<sup>12</sup> ICAO Annex 6, point 6.1.3, on the MEL, does not contain any specific provisions regarding wet-lease arrangements.

<sup>13</sup> Point CAT.IDE.A.150 establishes in which cases aeroplanes need to be equipped with TAWS.



### 2.1.3. How could the issue evolve

If the issue is not addressed, these inconsistencies could create difficulties for operators when implementing the Air Operations Regulation. Furthermore, they may hinder Member States from fulfilling their obligations towards the ICAO and could cause a negative assessment of PQs during a USOAP audit of EASA or of any of the Member States, even though they do not constitute in themselves a difference between EU requirements and ICAO SARPs.

### 2.1.4. Conclusion on rulemaking needs

EASA concluded, as explained further in Chapter 3 below, that an intervention was necessary and that non-regulatory actions cannot effectively address the issue. Therefore, amendments to the AMC and GM to the Air Operations Regulation are required.

## 2.2. What we want to achieve — objectives

The overall objectives of the EASA system are defined in Article 1 of the Basic Regulation. The regulatory material presented here is expected to contribute to achieving these overall objectives by addressing the issue described in Section 2.1.

More specifically, with the regulatory material presented here, EASA intends to achieve increased harmonisation with the ICAO.

## 2.3. How we want to achieve it — overview of the proposed amendments

The elements of the proposed regulatory material are the following.

**Minimum equipment list (MEL) assessment.** This NPA proposes amending point (b)(2) of AMC1 ORO.AOC.110(c) to no longer exclude point ORO.MLR.105 from the list of relevant requirements to which equivalency between the requirements of the State of operator of the lessee and of the lessor needs to be demonstrated by the operator to the competent authority, to improve consistency with the ICAO requirements. The regulatory proposal includes some limitations on what needs to be demonstrated, with the intent of limiting the burden on operators.

**Changes to the content of the operations manual (OM).** The NPA proposes several amendments, in some cases only editorial, to the content of the OM included in AMC3 ORO.MLR.100, to improve the alignment with the requirements in the Air Operations Regulation, other EU legislation and relevant ICAO documentation. Since the intent of the changes proposed is merely that the content of the OM included in AMC3 ORO.MLR.100 better reflects elements that are already required from operators and should therefore already be included in their OMs, the proposed amendments are likely to have no impact.

**Controlled flight into terrain (CFIT) flight crew training programmes.** This proposed amendment to GM1 CAT.OP.MPA.290 proposes training objectives on CFIT based on ICAO Doc 9995, *Manual of Evidence-based Training*.

**Clarification on the term ‘qualification’ in point ORO.FC.005.** This NPA proposes adding a new GM1 ORO.FC.0005 to clarify that the term ‘qualification’ includes not only the initial qualification, but also its maintenance.



More details on each proposed amendment and how it contributes to addressing the issue are provided in the rationales included in NPA (B).

It is intended that the regulatory material will be applicable immediately. Considering the low impact of the proposals, and the fact that only AMC and GM are affected, EASA sees no need to delay the applicability of the proposed amendments. However, stakeholders are invited to comment on this topic, specifically on whether they see a need for delayed applicability.

The legal base for the proposals made in this NPA is Article 76(3) of the Basic Regulation.

#### **2.4. What are the stakeholders' views**

EASA has so far not discussed the proposed regulatory material with stakeholders. However, considering that the proposals in this NPA intend to support the implementation of the Air Operations Regulation and increase harmonisation with the ICAO, it is expected that they will be supported by stakeholders.





### 3. Expected benefits and drawbacks of the regulatory material

EASA considered that an intervention was required and that new or amended AMC and GM are necessary to effectively address the issue described in Section 2.1, because the objectives described in Section 2.2 cannot be achieved effectively by non-regulatory action.

EASA also assessed the impacts of the proposed regulatory material to ensure that it delivers its full benefits with minimum drawbacks. It is expected that the implementation of the proposals in this NPA will overall bring a low positive safety impact, combined with a low negative economic impact for operators. The main positive benefit, however, will be for competent authorities, since the proposals will support compliance with ICAO SARPs. No social or environmental impacts have been identified. More details on the impacts of each of the proposals can be found in the respective rationale text in NPA (B).

The proposed regulatory material has been developed in view of the 'better regulation' principles, and the regulatory fitness principles in particular.

The proposed regulatory material will:

- alleviate the existing regulatory burden for EASA and Member States by improving the alignment of the EU regulatory framework with the ICAO, thereby reducing the need to produce further material at the national level (e.g. national administrative procedures);
- keep the regulatory burden created by new requirements to the minimum by amending only AMC and GM.



#### 4. Proposed regulatory material

Please refer to **NPA 2024-105(B)**.



## 5. Monitoring and evaluation

EASA plans to monitor whether the objectives described in Section 2.2 have been achieved with the proposed regulatory material by considering the results of the assessment of the related PQs during the USOAP audit of EASA planned for 2025.



## 6. Proposed actions to support implementation

In order to support affected stakeholders in the implementation of the new regulatory material, EASA plans to take the following actions:

- communicating about the regulatory material at advisory body meetings (Air Operations Technical Body, Commercial Aviation Community Steering Group, Activity Group 13);
- providing supporting clarifications through electronic communications to the competent authorities.



## 7. References

- Standardised European Rules of the Air<sup>14</sup>
- EASA, *European Plan for Aviation Safety*, Volume II<sup>15</sup>
- ICAO, Doc 9995, *Manual of Evidence-based Training*, 1st edition, 2013
- ICAO, Annex 6, Part I, Amendment 48
- ICAO, Annex 18, Amendment 12
- ICAO, Doc 9284-AN/905, *Technical instructions for the safe transport of dangerous goods by air*, 2023–2024 edition
- ICAO, USOAP<sup>16</sup>

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<sup>14</sup> Commission Implementing Regulation (EU) No 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010 (OJ L 281, 13.10.2012, p. 1).

<sup>15</sup> <https://www.easa.europa.eu/en/document-library/general-publications/european-plan-aviation-safety-epas-2024>

<sup>16</sup> <https://www.icao.int/safety/CMAForum/Pages/default.aspx>



## Appendix — Quality of the NPA

To continuously improve the quality of its documents, EASA welcomes your feedback on the quality of this document with regard to the following aspects.

Please provide your feedback on the quality of this document as part of the other comments you have on this NPA. We invite you to also provide a brief justification, especially when you disagree or strongly disagree, so that we consider this for improvement. Your comments will be considered for internal quality assurance and management purposes only and will not be published (e.g. as part of the CRD).

### 1. The regulatory proposal is of technically good / high quality

*Please choose one of the options*

Fully agree / Agree / Neutral / Disagree / Strongly disagree

### 2. The text is clear, readable and understandable

*Please choose one of the options*

Fully agree / Agree / Neutral / Disagree / Strongly disagree

### 3. The regulatory proposal is well substantiated

*Please choose one of the options*

Fully agree / Agree / Neutral / Disagree / Strongly disagree

### 4. The regulatory proposal is fit for purpose (achieving the objectives set)

*Please choose one of the options*

Fully agree / Agree / Neutral / Disagree / Strongly disagree

### 5. The regulatory proposal is proportionate to the size of the issue

*Please choose one of the options*

Fully agree / Agree / Neutral / Disagree / Strongly disagree

### 6. The regulatory proposal applies the ‘better regulation’ principles<sup>[1]</sup>

*Please choose one of the options*

Fully agree / Agree / Neutral / Disagree / Strongly disagree

### 7. Any other comments on the quality of this document (please specify)

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[1] For information and guidance, see:

- [https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how\\_en](https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how_en)
- [https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-guidelines-and-toolbox\\_en](https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-guidelines-and-toolbox_en)

