

NOTICE OF PROPOSED AMENDMENT (NPA) No 1/2006

DRAFT OPINION OF THE EUROPEAN AVIATION SAFETY AGENCY,

for amending Commission Regulation (EC) No 2042/2003, on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks

AND

DRAFT DECISION OF THE EXECUTIVE DIRECTOR OF THE AGENCY

amending Decision No 2003/19/RM of the Executive Director of the Agency of 28 November 2003 on acceptable means of compliance and guidance material to Commission Regulation (EC) No 2042/2003

Officially Recognised Standard

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A. EXPLANATORY NOTE

I. General

1. The purpose of this Notice of Proposed Amendment (NPA) is to envisage amending paragraphs M.A.301(2) and 147.A.105(f) to Commission Regulation (EC) No 2042/2003¹ and Decision 2003/19/RM of the Executive Director of the Agency² to develop acceptable means of compliance material (AMC) to paragraphs M.A.402(b), M.A.606(f), M.A.608(b), 145.A.30(f) and 145.A.40(b). The reason for this rulemaking activity is to clarify the meaning of the term “officially recognised standard”.
2. The Agency is directly involved in the rule-shaping process. It assists the Commission in its executive tasks by preparing draft regulations, and amendments thereof, for the implementation of the Basic Regulation³, which are adopted as "Opinions" (Article 14.1). It also adopts acceptable means of compliance and guidance material to be used in the certification process (Article 14.2).
3. The text of this NPA has been developed by the Agency. It is submitted for consultation of all interested parties in accordance with Article 43 of the Basic Regulation and Articles 5(3) and 6 of the EASA rulemaking procedure⁴.
4. This rulemaking activity is included in the Agency's rulemaking programme for 2006. It implements the rulemaking task MDM.013.

II. Consultation

5. To achieve optimal consultation, the Agency is publishing the draft decision of the Executive Director on its internet site. Comments should be provided within 3 months in accordance with Article 6(4) of the EASA rulemaking procedure.

Comments on this proposal may be forwarded (*preferably by e-mail*), using the attached comment form, to:

By e-mail: NPA@easa.eu.int

¹ OJ L 315, 28.11.2003, p. 1.

² Decision No. 2003/19/RM, 28.11.2003

³ Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency. OJ L 240, 7.9.2002, p.1

⁴ Decision of the Management Board concerning the procedure to be applied by the Agency for the issuing of opinions, certification specifications and guidance material (“rulemaking procedure”), EASA MB/7/03, 27.6.2003.

By correspondence: Process Support Unit
Rulemaking Directorate
EASA
Postfach 10 12 53
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Germany

Comments should be received by the Agency before 12th April 2006. If received after this deadline they might not be treated. Comments may not be considered if the form provided for this purpose is not used.

III. Comment response document

6. All comments received in time will be responded to and incorporated in a Comment Response Document (CRD). This may contain a list of all persons and/or organisations that have provided comments. The CRD will be widely available ultimately before the Agency adopts its final decision.

IV. Content of the draft opinion/decision

7. When answering the consultation document for the adoption of Commission Regulation (EC) No 2042/2003 and AMC/GM related material, national authorities as well as industry requested a clarification of the term “officially recognised standard” which is included in paragraphs M.A.301(2), M.A.402(b), M.A.606(f), M.A.608(b), 145.A.30(f), 145.A.40(b) and 147.A.105(f) of the said regulation.
8. Some commenter considered the expression “officially” ambiguous and others pointed out that it was not clear which authority/body will declare the standard as being official. Several solutions were proposed, first of all to clarify this term through AMC/GM material, secondly to replace “officially recognised standard” by the wording “a standard recognised by the competent authority” and finally to add “or national regulations” after “officially recognised standard”. In response to all these comments the Agency recognised that this concept needed to be developed through a decision to introduce AMC/GM material in order to lift doubts that exist in this field.
9. Moreover, during the first year of implementing Commission Regulation (EC) 2042/2003 the text appeared to contain some errors and inconsistencies in two paragraphs included in its annexes that referred to the term “official recognised standard”. This NPA contains proposals to address these issues too. The necessity to correct errors and inconsistencies encountered in paragraphs M.A.301(2) and 147.A.105(f) to Commission Regulation (EC) No 2042/2003 compel the Agency to issue an Opinion in addition to a Decision of the Executive Director which was the original “deliverable” established by TOR MDM-13.

10. After significant analysis to the Commission Regulation (EC) No 2042/2003 it has been noticed that the term “officially recognised standard” is used several times but in four clearly defined scenarios:
 - a) M.A.301(2) Continuing airworthiness tasks *“The aircraft continuing airworthiness and serviceability of both operational and emergency equipment shall be ensured by (...) the rectification to an officially recognised standard of any defect and damage affecting safe operation”*.
 - b) M.A. 402(b), M.A. 608(b) and 145.A.40(b) *“Tools and equipment shall be controlled and calibrated to an officially recognised standard”*.
 - c) M.A.606(f) and 145.A.30(f) *“Personnel who carry out specialised tasks (...) shall be qualified in accordance to an officially recognised standard”*.
 - d) 147.A.105(f) *“The experience and qualifications of instructors, knowledge examiners and practical assessors shall be established as an officially recognised standard”*.
11. Paragraph 21.A.303 of Subpart K “part and appliances” to Commission Regulation (EC) No 1702/2003⁵ established that *“the showing of compliance of parts and appliances to be installed in a type-certificated product shall be made (...) in the case of standard parts, in accordance with officially recognised standards”*. Guidance material was developed to explain the meaning of the term *officially recognised standards* in GM No 2 to 21.A.303 (c) of Decision No 2003/1/RM⁶ *“officially recognised standard means those standards established or published by an official body whether having legal personality or not, which are widely recognised by the air transport sector as constituting good practice”*.
12. The Agency considers the content GM No 2 to 21.A.303 (c) applicable by analogy to paragraphs M.A. 402(b), M.A. 608(b), 145.A.40 (b), M.A. 606(f) and 145.A.30 (f) since this is the same technical context of a technical standard that already exists in the industry. Therefore, AMC material to the above mentioned paragraphs has been developed in this sense.
13. In the case of M.A.301(2), the reference to “officially recognised standard” should be replaced by “in accordance with data specified in M.A.304 and/or M.A.401” as it was the intention of the legislator to mean approved data according to the applicable regulations.
14. Finally, the reference to “officially recognised standard” in paragraph 147.A.105 (f) appears to be an editorial mistake, it reads *“The experience and qualifications of*

⁵ OJ L 243, 27.9.2003, p. 6.

⁶ Decision of the Executive Director to the Agency of 17 October 2003 on acceptable means of compliance and guidance material to Part- 21 (AMC&GM to Part-21).

instructors, knowledge examiners and practical assessors shall be established as an officially recognised standard". The intention of the legislator when adopting Commission Regulation 2042/2003 was that the experience and qualifications of instructors, knowledge examiners and practical assessors be established by the competent authority. Therefore, the sentence "established as an officially recognised standard" should be replaced by "established in accordance with criteria published by the competent authority".

V. Regulatory Impact Assessment

15. Intent of the NPA

The purpose of NPA 1/2006 is to clarify the concept of officially recognised standard through AMC material to Part-M and Part-145 and to modify the Commission Regulation (EC) No 2042/2003 to correct errors and inconsistencies of paragraphs M.A.301(2) and 147.A.105(f).

16. Options

Do nothing: Absence of clarification of the expression officially recognised standard as requested by stakeholders and remaining of errors and inconsistencies encountered in Commission Regulation (EC) No 2042/2003.

Present NPA: It clarifies the meaning of the term officially recognised standard and corrects errors and inconsistencies of Commission Regulation (EC) No 2042/2003.

17. Sectors affected:

Persons or organisations maintaining an aircraft and instructors, knowledge of examiners and practical assessors as well as training organisations.

18. Impacts

Safety: NPA 1/2006 makes clear the situation and reduces doubts and misunderstandings and thus is beneficial to safety.

Economic: both options have no economic effect. In the first case stakeholders will continue as they are doing and the second option make official existing practices.

Environmental: No impact expected

Social: No impact expected

Other aviation requirements outside EASA scope: No impact expected

Foreign comparable regulatory requirements: None.

19. Conclusion of the Regulatory Impact Assessment

Based on this regulatory impact assessment, the Agency considers that the progress of the proposals is justified.

B. DRAFT OPINION

Proposed changes to Commission Regulation (EC) No 2042/2003

a) It is proposed to amend Annex I to Commission Regulation (EC) No 2042/2003 as follows,

In M.A.301(2) the expression “to an officially recognised standard” is replaced by “in accordance with data specified in M.A.304 and/or M.A.401”

b) It is proposed to amend Annex IV to Commission Regulation (EC) No 2042/2003 as follows,

In 147.A.105 (f) the expression “established as an officially recognised standard” is replaced by “established in accordance with criteria published by the competent authority”.

C. DRAFT DECISION

Proposed changes to Decision No 2003/19/RM

a) It is proposed to amend Annex I to Decision No 2003/19/RM as follows,

1. In AMC M.A.301-2- the following paragraph is added “In this context officially recognised standard means those standards established or published by an official body whether having legal personality or not, which are widely recognised by the air transport sector as constituting good practice”.

2. In AMC M.A.606 (f) the following paragraph 11 is added “In this context officially recognised standard means those standards established or published by an official body whether having legal personality or not, which are widely recognised by the air transport sector as constituting good practice”.

3. In AMC M.A.608 (b) the following paragraph 3 is added “In this context officially recognised standard means those standards established or published by an official body whether having legal personality or not, which are widely recognised by the air transport sector as constituting good practice”.

b) It is proposed to amend Annex II to Decision No 2003/19/RM as follows,

1. In AMC 145.A.30 (f) the following paragraph 11 is added “In this context officially recognised standard means those standards established or published by an official body whether having legal personality or not, which are widely recognised by the air transport sector as constituting good practice”.

2. 145.A.40 (b) the following paragraph 3 is added “In this context officially recognised standard means those standards established or published by an official body whether having legal personality or not, which are widely recognised by the air transport sector as constituting good practice”.